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DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
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January 14, 2021

Senator James F. Dill, Senate Chair
Joint Standing Committee on Agriculture, Conservation and Forestry
Maine Senate
3 State House Station
Augusta, ME 04333

Representative Margaret M. O'Neil, House Chair
Joint Standing Committee on Agriculture, Conservation and Forestry
Maine House of Representatives
2 State House Station
Augusta, ME 04333

RE: 2020 Land Use Standards Rule Changes – Maine Land Use Planning Commission

Dear Senator Dill and Representative O'Neil:

Enclosed are changes to the Maine Land Use Planning Commission's land use standards that went into effect in 2020. According to 12 M.R.S. §685-A(7-A)(B)(6): "Permanent land use standards adopted by the commission are effective immediately, but must be submitted to the next regular or special session of the Legislature for approval or modification. If the Legislature fails to act, those standards continue in full force and effect."

A list of amendments to its land use standards adopted by the Commission in 2020 follows:

- 1) **Chapter 10, Land Use Districts and Standards:** Revisions to update the standards to address odors, lighting, and signs regarding marijuana businesses; to clarify distinctions between constructed ponds, water impoundments, and water bodies; to clarify and simplify terminology within the Planned Recreation Facility (D-PR) Subdistrict; and to implement basic lighting standards to avoid light pollution from lighting within greenhouses. The adopted amendments also implemented numerous clerical edits such as, inconsistencies, updating citations, removing outdated provisions, removing redundancies, alphabetizing certain lists, and revising the usage of "shall".

Each of these items are described in more detail on the second page of the attached document.



Please feel free to contact me should you have questions about these rules.

Sincerely,

A handwritten signature in blue ink that reads "Judith C. East". The signature is written in a cursive style with a large initial "J" and "E".

Judith C. East, Executive Director
Maine Land Use Planning Commission

cc via e-mail only:

Everett Worcester, Chair, LUPC
Emily Horton, DACF
Amanda Beal, Commissioner, DACF

Enclosures: Adopted Chapter 10 rule changes

MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
MAINE LAND USE PLANNING COMMISSION

CHAPTER 10, *LAND USE DISTRICTS AND STANDARDS*

Adopted Rule Revisions:
2020 Miscellaneous Rule Revisions and New Marijuana Standards

July 15, 2020

The following amendments propose changes to Chapter 10, *Land Use Districts and Standards for Areas Served by the Maine Land Use Planning Commission*. This document only includes relevant sections of Chapter 10.

Revisions in Sections 10.21,I Planned Recreation Facility Development Subdistrict; 10.26,D, Minimum Setbacks; 10.27,G Recreational Gold Prospecting; and 10.27,S Commercial Businesses propose to repeal and replace the existing rule language in its entirety. Therefore, the revisions are not shown in strikeout and underline format. However, in some cases, sections intended to be repealed and replaced, the revisions are illustrated only to facilitate public review. Otherwise, proposed changes to other sections of Chapter 10 are shown in strikeout and underline format with additions in underlined text, deletions as ~~strikethroughs~~, and relocations as double underline and double ~~strikethroughs~~.

Many of the proposed revisions can be described as clerical corrections and generally include: factual corrections; improving the structure of citations or the consistency of use listings; and simple clarifications that do not change the meaning of the applicable standard.

*Of the substantive revisions, many are self-explanatory. Where necessary, further explanations of some changes have been included in **[brackets]**. These explanatory notes will not be included in the final rule. A generalized summary of the revisions is provided on the next page.*

Generalized Summary of Proposed Revisions by Topic

Marijuana: The proposed revisions include standards to address odors produced by indoor and outdoor growing operations; protect against light pollution from the lighting within greenhouses; and address now conflicting restrictions for signs advertising activities that are illegal under state or federal laws or regulations. (*see Sections 10.27,J (Signs) and 10.27,S (Commercial Businesses), with cross references in Section 10.27,N (Home-based Businesses).*)

Constructed Ponds: Clarify distinctions between constructed ponds, water impoundments, and water bodies. The proposed revisions also confirm that constructed ponds are not a protected natural resource and therefore setback requirements do not apply. (*see Sections 10.02 (Definitions), 10.26,B (Minimum Shoreline Frontage), 10.26,D (Setback Requirements), 10.27,B (Vegetation Clearing), 10.27,C (Mineral Exploration and Extraction), 10.27,F (Filling and Grading), and 10.27,Q (Recreational Lodging Facilities)*)

Planned Recreation Facility Subdistrict: Clarify and simplify terminology within the D-PR subdistrict (*Section 10.21,I*) to concur with similar prior revisions to the D-PD subdistrict (*Section 10.21,H*).

Greenhouse Lighting: Add new standards for lighting within non-residential (*Section 10.25,F*), agricultural (*Section 10.27,A*), and accessory greenhouses (*Section 10.27,P*) for consistency with new standards for marijuana facilities.

Clerical Edits:

- address inconsistencies – *phrasing of subdivision use listings, removing instances of both narrative and numerical phrasing of numbers (e.g., three (3)), and hyphenation of terms;*
- update or correct citations and references – *such as proper citation to Maine statutes (M.R.S.);*
- remove outdated provisions – *regarding a three-year period that ended in 2016 for certain recreational lodging facilities, and removing references to the P-4 subdistrict (now known as the P-FW subdistrict);*
- reorganize setback requirements for commercial uses to remove redundancies and simplify the standards;
- alphabetize the list of areas closed to motorized recreational gold prospecting;
- clarify assorted provisions – locational criteria, permit expiration, and subdivision standards;
- add several FEMA maps to those listed in Appendix E; and
- revise the usage of “shall” to “must” within those portions of Chapter 10 which are otherwise affected by this rulemaking.

Table of Contents

| | | |
|----------------|--|-----------|
| 10.02 | Definitions..... | 1 |
| 10.06 | Interpretation of Land Use Standards..... | 3 |
| 10.08 | Criteria for Adoption or Amendment of Land Use District Boundaries..... | 4 |
| 10.08-A | Locational Factors for Adoption or Amendment of Land Use District Boundaries .. | 5 |
| 10.11 | Nonconforming Uses and Structures | 6 |
| 10.17 | Expiration of Permit | 7 |
| 10.21 | Development Subdistricts..... | 9 |
| 10.22 | Management Subdistricts..... | 31 |
| 10.23 | Protection Subdistricts | 32 |
| 10.25 | Development Standards..... | 39 |
| | D. Vehicular Circulation, Access, and Parking | |
| | F. Noise and Lighting | |
| | G. Soil Suitability | |
| | I. Subsurface Wastewater Disposal | |
| | P. Protected Natural Resources | |
| | Q. Subdivision and Lot Creation | |
| | S. Common Open Space | |
| | T. Activities in Flood Prone Areas | |
| | U. Affordable Housing | |
| 10.26 | Dimensional Requirements | 48 |
| | D. Minimum Setbacks | |
| 10.27 | Activity-Specific Standards..... | 51 |
| | A. Agricultural Activities | |
| | B. Vegetative Clearing | |
| | C. Mineral Exploration and Extraction | |
| | F. Filling and Grading | |
| | G. Motorized Recreational Gold Prospecting | |
| | H. Driveways Associated with Residential Structures and Uses | |
| | J. Signs | |
| | N. Home-based Businesses | |
| | P. Accessory Structures | |
| | Q. Recreational Lodging Facilities | |

S. Commercial Businesses

Appendix E FEMA Maps.....68

Throughout Chapter 10:

[REVISION NOTE: This rulemaking proposal includes the revision of all instances of “M.R.S.A.” to instead be cited as “M.R.S..” While some revisions in this redline document may illustrate this change, due to the number of these cases, this redline document does not illustrate each instance.]

“...M.R.S.~~A~~...”

10.02 DEFINITIONS

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

...

[REVISION NOTE: Add or revise the following definitions; new definitions will be added in alphabetical order; the numbering of all subsequent definitions will be adjusted accordingly.]

...

##. Body of Standing Water:

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

...

#. Commercial Use:

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

...

##. Constructed Pond:

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

...

##. Flood or Flooding:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Section 10.02, 58, sub-part a, (1) of this definition.

...

##. Impervious Area:

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

...

##. Management Class 2 Lake:

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

...

- b. Relatively Accessible: As of November 17, 1988, having a road passable during the summer months with a two-wheel drive motor vehicle within 1/4 mile of the normal high water mark of the lake.

...

###. Management Class 4 Lake:

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

- a. Two or more "outstanding" resource values as identified in the Maine Wildlands Lake Assessment;
- b. Relatively accessible: As of November 17, 1988, accessible to within 1/4 mile of the normal high water mark of the lake by two-wheel drive motor vehicle during summer months;

...

###. Natural Resource Extraction:

... Natural resource extraction also does not include timber harvesting, mineral processing equipment, or portable mineral processing equipment.

#. Net Developable Shorefront Area:

For the purposes of this section, "Net developable shorefront area" is land that:

- a. Meets the minimum water body setback requirements of Section 10.26,D and is within 250 feet of a non-tidal water body or coastal wetland;
- b. Does not have a low or very low soil potential rating; and

- c. Contains or is part of a land area that contains at least 40,000 contiguous square feet in size of which no more than 20 percent is comprised of sensitive areas including, but not limited to, slopes exceeding 20 percent, non-tidal water bodies or wetlands.

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

...

###. Residential Campsite:

... designed to contain not more than one ~~(4)~~ camping site for transient occupancy by 12 or fewer people.

...

10.06 INTERPRETATION OF LAND USE STANDARDS

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

...

- H. “Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, aA permit is not required for those aspects of a project approved by the Department of Environmental Protection under Title 38 if the commission determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. Notice of the intent to develop and a map indicating the location of the proposed development must be filed with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection;” 12 M.R.S.~~A.~~ §_685-B(1-A)(B).

...

10.08 CRITERIA FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

...

B. LOCATION OF DEVELOPMENT

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

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

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

...

3. **Exceptions.**

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

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

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

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

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

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

...

C. PRIMARY AND SECONDARY LOCATIONS

1. **Primary Location.** Each of the following areas within the unorganized and deorganized areas of the State, is within the primary location:
 - a. Land within seven miles of the boundary of a rural hub that also is within one mile of a public road;
 - b. Land within a township listed in Section 10.08-A,C,4, town, plantation, or rural hub that also is within one mile of a public road; and
 - c. Land within 700 feet of a Management Class 3 lake where the lake has no existing or potential water quality problems and soils are suitable for development.
2. **Secondary Location.** The following area within the unorganized and deorganized areas of the State is within the secondary location:
 - a. Land within a rural hub, or in a town, township, or plantation bordering a rural hub, that is also ~~is~~-within three miles of a public road and outside the primary location;

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

D. LOCATION-DEPENDENT ACTIVITIES

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

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

...

E. LEGAL RIGHT OF ACCESS

...

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

...

10.11 NONCONFORMING USES AND STRUCTURES

...

E. NONCONFORMING LOTS

...

7. **Residential Accessory Structures.** Notwithstanding the limits on the creation and development of ...
 - b. The accessory lot is separated from the residential lot by a roadway. The accessory lot would be contiguous with the residential lot but for the roadway or right-of-way~~right-of-way~~ between them;

...

10.17 EXPIRATION OF PERMIT

If a development or use ~~requiring approved in~~ a permit is not substantially started or substantially completed within the time period specified in the permit conditions of approval, ~~or is not substantially completed within the time period specified,~~ the permit lapses. Upon lapse, any fFurther development or activity, including, ~~in the case of an approved subdivision,~~ offering ~~lots~~ for sale or lease lots in an approved subdivision, is prohibited ~~thereafter~~ unless and until a new permit is granted, or the Commission otherwise specifically authorizes.

A. EXPIRATION DATE

~~1. Unless-Except as provided in Sections 10.17,A,1 through 4 below or as~~ otherwise authorized by the Commission in the permit conditions of approval, development or uses authorized by a permit must be substantially started within two years of the effective date of the permit and substantially completed within ~~5~~ five years of the effective date of the permit, ~~except as provided in Sections 10.17,A,2 through 5 below:~~

- ~~21. Permits Issued Prior to July 1, 2003. With respect to permits issued prior to July 1, 2003, that do not specify any expiration date, that date shall be October 1, 2004. For permits issued prior to July 1, 2003 with no specified expiration dates, the expiration date is October 1, 2004.~~
- ~~32. Special Flood Hazard Areas.~~ In special flood hazard areas, development or uses authorized by a permit must be substantially started within 180 days of the effective date of the permit and substantially completed within five years of the effective date of the permit.
- ~~43. Subdivisions. In the case of approved subdivisions, the proposed d~~Development authorized by a Commission approved subdivision permit must be substantially started within four years of the effective date of the permit and substantially completed within seven years of the effective date of the permit.

Upon determining that a subdivision's ~~approval permit~~ approval permit has expired under this paragraph, ~~the Commission must have a notice placed~~ notice of such expiration must be recorded in the appropriate Registry of Deeds ~~to that effect.~~

- ~~54. Multi-phased Projects.~~ For multi-phased projects or project expansions that are permitted separately, final Commission approval of each phase or expansion must be treated as a separate permit for the purposes of determining "substantial start" and "substantial completion" for each phase or expansion.

B. SUBSTANTIAL START

“Substantial start” means:

1. Except as provided in Sections 10.17,B,2 ~~through and~~ 3, the first placement of a permanent structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent structures include buildings that are custom-built, manufactured, or modular; and mobile homes.

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

2. **Special Flood Hazard Areas.** For substantial improvements in special flood hazard areas, ~~substantial start the actual start of construction~~ means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
3. **Subdivisions.** For approved subdivisions:
 - a. The ~~approved signed~~ subdivision plat has been recorded at the ~~appropriate County~~ Registry of Deeds for the county in which the project is located; and
 - b. The completion of a portion of the permitted improvements, which represents ~~no less than at least~~ 10 percent of the costs of the permitted improvements within the subdivision, in accordance with the approved plan. ~~Subdivision For the purposes of Section 10.17(B)(3)(b),~~ permitted improvements may include internal subdivision roads, docks and boat ramps or launches, structural stormwater and erosion control practices, utilities, and other similar infrastructure. A substantial start for subdivisions is not made by land preparation, such as clearing, grading, or filling.

...

10.21 DEVELOPMENT SUBDISTRICTS

Pursuant to 12 M.R.S. § 685-A and consistent with the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

A. COMMERCIAL INDUSTRIAL DEVELOPMENT SUBDISTRICT (D-CI)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall be~~are prohibited in ...

...

B. EXTENDED SETTLEMENT DEVELOPMENT SUBDISTRICT (D-ES)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed without a permit from the Commission within D-ES subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lots as, any legally existing principal structures and uses, provided that:
- (a) The accessory structure is located in a subdistrict that allows the principal use; and
 - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2)-year period is not more than ...

...

c. Uses Requiring a Permit

...

- (17) Subdivisions: ~~Level 1 subdivisions for commercial~~ Commercial and ~~light~~ industrial subdivisions for uses allowed in this subdistrict.

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit, notification, or by special exception, ~~shall be~~ are prohibited in ...

...

C. GENERAL DEVELOPMENT SUBDISTRICT (D-GN)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~ are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~ are allowed...

...

c. Uses Requiring a Permit

...

[REVISION NOTE: In addition to the individual edits proposed below, this rulemaking package intends to revise subdivision types to be listed in alphabetical order.]

(21) Subdivisions:

~~(a) Residential subdivisions: High- and moderate- density subdivisions; and~~

~~(b)~~ Commercial and industrial subdivisions for uses allowed in this subdistrict;

~~(a)~~ Residential subdivisions: High- and moderate-density subdivisions; and

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall be~~ prohibited in ...

...

D. COMMUNITY CENTER DEVELOPMENT SUBDISTRICT (D-GN2)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~ allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~ allowed...

...

c. Uses Requiring a Permit

...

(20) Subdivisions:

~~Residential level 1 subdivisions; and (a) Commercial and industrial~~ subdivisions for ~~commercial~~ uses allowed in this subdistrict, provided that the ~~commercial~~ subdivision is integrated with the community center and designed to promote pedestrian access; and

(b) Residential subdivisions: High- and moderate- density subdivisions;

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit, notification, or by special exception, ~~shall be~~ prohibited in ...

...

E. RURAL SETTLEMENT DEVELOPMENT SUBDISTRICT (D-GN3)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~ allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~ allowed...

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit, notification, or by special exception, ~~shall be~~ prohibited in ...

...

F. LOW-DENSITY DEVELOPMENT SUBDISTRICT (D-LD)

1. Purpose

... The D-LD subdistrict is designed to allow for the location of low-density subdivisions in areas that are easily accessible from towns and villages, but are not within the growth areas of towns or villages, or in other areas where land is in high demand, such as near ~~bodies of standing water greater than 10 acres or major flowing waters~~ major water bodies.

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

d. Special Exceptions

The following uses, and related accessory structures, may be allowed within the D-LD subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall be~~are prohibited in ...

...

G. MARITIME DEVELOPMENT SUBDISTRICT (D-MT)

...

3. Land Uses**a. Uses Allowed Without a Permit**

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

d. Special Exceptions

...

(4) Residential

The following residential use ~~shall~~must be permitted as a special exception in the D-MT2 subdistrict:

- (a) Single family detached dwelling units, home-based businesses, and transient accommodations of less than six ~~(6)~~ units per principal building.

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall be~~are prohibited in ...

...

H. PLANNED DEVELOPMENT SUBDISTRICT (D-PD)**1. Purpose**

...A petition to establish a D-PD subdistrict will be granted when the Commission concludes the location of the site is the best reasonably available for the proposed use and that the goals and policies of the Comprehensive Land Use Plan are served. ~~Where a D-PD subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for subsequent redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.~~

[REVISION NOTE: The deleted statement above is instructive to the prior application of the adjacency principle; due to the current rules, this statement is no longer necessary. This same statement is also proposed to be deleted from Sections 10.21,I (D-PR) and 10.21,L (D-RF).]

...

8. Zoning Petition and Associated Development Plan**a. Petition Components**

...

- (3) Statements ~~showing satisfy the Commission~~demonstrating that the project is realistic,...

...

I. PLANNED RECREATION FACILITY DEVELOPMENT SUBDISTRICT (D-PR)

[REVISION NOTE: In 2018, the Commission revised the D-PD subdistrict. The following revisions to Section 10.21, I are focused on making corresponding updates to the D-PR subdistrict. Section 10.21, I is proposed be **REPEALED AND REPLACED; revisions are illustrated below to facilitate public review only.]**

1. 1. Purpose

The purpose of the D-PR subdistrict is to allow for large scale, well-planned recreation lodging and facility ~~developments that otherwise do not meet the requirements of any of the subdistricts in Section 10.21, development (Planned Recreation Facility Development)~~. The Commission's intent is to consider ~~development~~ Planned Recreation Facility Development proposals, including those separated from existing developed areas, provided ~~that~~ they can be shown to be of high quality and not detrimental to other values established in the Comprehensive Land Use Plan, and provided they depend on a particular natural feature or location, ~~or combination of features or locations, which that~~ that is available at the proposed site. ~~A rezoning~~ A petition to establish a D-PR subdistrict will be granted when the Commission ~~is persuaded by a preponderance of all evidence that concludes~~ the location of the site is the best reasonably available for the proposed use and that the goals and policies of the Comprehensive Land Use Plan are served, including a careful consideration of the classification of any waterbodies contained within or located near the proposed development. ~~Where a D-PR subdistrict petition is granted, the development within the subdistrict shall not provide the basis for subsequent redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.~~

The D-PR Subdistrict is ~~also designed~~ intended to encourage creative ~~site design by allowing and site planning, to promote efficient use of the land, and to accommodate well-designed, natural feature dependent recreation facility development in appropriate locations.~~

Development within a D-PR subdistrict must be consistent with a Development Plan approved as part of the subdistricting process. A Development Plan identifies land uses allowed within the subdistrict, specifying which uses require a development permit, and outlines the nature, location, and design of the Planned Recreation Development for which the subdistrict was created. ~~for the substitution, on a case-by-case basis, of performance-based standards for the Commission's established land use standards.~~

2. 2. Description

~~Areas~~ D-PR subdistricts include areas potentially separated from existing development patterns, ~~proposed primarily for for which the Commission has approved a Development Plan.~~ ~~Recreational~~ lodge facilities and recreational uses, but including and any associated commercial development, or some combination of these uses, may be allowed in the subdistrict. A D-PR Subdistrict ~~shall~~ must contain a maximum of 40,000 square feet of building floor area. ~~No~~ All development, other than access roads, utility lines, trails, and waterfront structures ~~shall~~ must be ~~less than~~ at least 400 feet from any property line. (This dimension may be increased or decreased, at the Commission's discretion, provided good cause can be shown.)

Level E Recreational Lodging Facilities in existence as of (May 1, 2013) may also be a basis for rezoning to the D-PR subdistrict, provided that any proposed expansions of or additions to ~~of~~ the existing structures and uses can be shown to meet the criteria for approval.

3. Allowed Uses

All uses approved in the ~~Final~~ Development Plan ~~shall~~will be allowed. No other use ~~shall~~will be allowed except where the Commission determines that such additional use is consistent with ~~such~~the Development Plan and with the ~~purposes hereof~~purpose of the D-PR subdistrict.

4. Ownership

~~An application~~A petition for the creation of a D-PR subdistrict may be filed only by the owner or lessee of all lands to which the ~~application~~petition pertains, or by the staff with the owner or lessee's consent.

5. Burden of Proof

The burden of proof is upon the ~~applicant~~petitioner to show by substantial evidence that the proposal satisfies the criteria established for the creation of ~~a~~D-PR subdistricts.

6. Procedure for Review of Planned Recreation Development

- a. The Planned Recreation Facility review procedure ~~shall~~must consist of three stages:
- (1) Preapplication ~~Conference~~conference (see Section 10.21,I,6);
 - (2) Submission of ~~Preliminary~~a zoning petition, including the accompanying Development Plan ~~/Zoning Petition~~; (see Section 10.21,I,7); and
 - ~~(3)~~—Submission of ~~Final Development Plan~~.

~~(4)(3) The Preapplication Conference serves to inform the prospective applicant, prior to formal a permit application, of to either the Commission or the Maine Department of Environmental Protection (the DEP) (see Section 10.21,I,8), the proposed plan's filing requirements. Formal application is made by submitting a Preliminary Development Plan / Zoning Petition that meets the requirements specified herein. The Commission shall provide notice of the application as described in Chapter 4 of the Commission's rules, and a hearing may or may not be held. Thereafter, the Commission may approve or deny the petition. An approval will amend the subdistrict(s) to a D-PR subdistrict and will include a preliminary development approval that specifies under what conditions, if any, the Commission will accept the Preliminary Development Plan proposal as the standard against which the Final Development Plan is judged. No development will be allowed except for activities necessary to gather site data for the Final Development Plan until a Final Development Plan is submitted and approved. Necessary site data gathering activities must be consistent with the proposed description as submitted in the Preliminary Development Plan and are allowed without a permit.~~

7. Preapplication Conference

A preapplication conference ~~shall~~must be held with the staff of the Commission and ~~if warranted for the particular proposal~~, representatives from other relevant agencies ~~prior to submission of a zoning petition and related Development Plan. The Commission must notify the DEP of any preapplication conference and provide the DEP the opportunity to attend the conference.~~ At this conference the procedures, regulations, and policies that will govern the ~~D-PR application~~zoning process and Planned Recreation Facility Development review ~~shall~~must be discussed. The conference ~~shall~~must provide a forum for an informal discussion on the acceptability of all aspects of the project proposal, prior to ~~its~~a person filing a zoning petition and associated Development Plan with the Commission. The conference proceedings ~~shall~~must be summarized in writing and

made available to the ~~petitioner, applicant. The conference shall be held pursuant to the rules established in Chapter 5, Section 5.07,(1) of the Commission's Rules and Regulations.~~

8. Preliminary Zoning Petition and Associated Development Plan

~~a. Application~~

a. Petition Components

The ~~Preliminary Development Plan / Zoning Petition zoning petition must~~ shall include: Evidence that the proposal ~~conforms is consistent~~ with the Commission's Comprehensive Land Use Plan and the purpose and description of a Planned Development as contained herein the D-PR subdistrict; evidence ~~showing that the permit criteria set forth in proposed subdistrict will have no undue adverse impact on existing uses or resources as required by 12 M.R.S.A. § 685-B(4) will be satisfied, including consistency with the Comprehensive Land Use Plan; A(8-A)~~; and the submission of various written and illustrative documents, as described ~~hereinafter below~~. Prior to any decision ~~relative to such application~~, the staff ~~shall must~~ make known its findings and recommendations, in writing, to the Commission.

The following items are required to be submitted with any ~~Preliminary Development Plan application petition~~. The staff, at its discretion, may waive portions of the ~~application petition~~ requirements for existing Recreational Lodging Facilities that are proposing expansions that increase floor area by not more than 25%:

The following items must be submitted with any D-PR zoning petition:

Written Statements

- ~~(1) A legal description of the property boundaries proposed for redistricting, including a statement of present and proposed ownership.~~
- ~~(2)~~(1) A statement of the objectives to be achieved by locating the development in its proposed location distant from existing patterns of development. As it is a general policy of the Commission to encourage new development to locate with or adjacent to existing development, the rationale for promoting development away from such locations must be well documented. The statement should describe why the site is considered the best reasonably available for the proposed use(s). The fact that the applicant owns or leases the property ~~shall must~~ not, of itself, be sufficient evidence to satisfy this last requirement.
- ~~(3)~~(2) The expected development schedule that indicates the periods of time required to complete the project, and an approximate start date for construction.
- ~~(4)~~(1) ~~A statement of the applicant's intentions with regard to future selling, leasing or subdividing of all or portions of the project. The statement should describe the type of covenants, restrictions or conditions that are proposed to be imposed upon buyers, lessees or tenants of the property.~~
- ~~(5)~~(3) Statements ~~to satisfy the Commission demonstrating~~ that the project is realistic, and can be financed and completed. Such statements ~~shall must~~ demonstrate that the applicant has the financial resources and support to achieve the proposed development.
- ~~(6)~~(4) A statement of the compatibility of the proposed development with existing uses and resources, the reasonably foreseeable adverse effects on those existing uses and resources, and measures to be taken by the applicant to minimize such effects.
- ~~(7)~~(5) A general statement that indicates how the natural resources of the area will be managed and protected so as to reasonably assure that those resources currently

designated within protection subdistricts will receive protection that is substantially equivalent to that under the original subdistrict designation.

Maps

- ~~(8)~~(6) A location map showing all existing subdistricts and the proposed D-PR subdistrict boundaries, drawn on a Commission Land Use Guidance Map that indicates the area for which a D-PR subdistrict designation is sought.
- ~~(9)~~(7) Maps showing the existing and proposed lot lines, noting the names of adjoining lot owners, and any lots in the project area proposed to be placed in common or private ownership ~~(see Section 10.21, I, 8, a, (1) and (4))~~.
- ~~(10)~~(8) Maps showing the soils and slope at the development site, at a mapping intensity sufficient to show that the site has suitable soils to support the ~~proposed~~ development.

Development Plan

The Development Plan is a document that identifies the future use of a property proposed for rezoning to a D-PR subdistrict and outlines the nature, location, and design of future development with sufficient specificity to allow the Commission to evaluate the consistency of the proposed zoning with the purpose of the D-PR subdistrict. A Development Plan must include the following:

- (9) A legal description of the property boundaries proposed for redistricting, including a statement of present and proposed ownership.
- (10) Statements establishing which land uses will be allowed in the D-PR subdistrict; whether each allowed use will be allowed without a permit, allowed without a permit subject to standards, allowed with a permit, or allowed by special exception; and where each land use will be allowed within the subdistrict. All existing and proposed land uses must be addressed. Any activities necessary to gather site information or data to be included in a subsequent permit application to either the Commission or the DEP must be identified among the land uses included in the Development Plan. If the petitioner proposed that activities other than the gathering of site information and data be allowed in the subdistrict prior to issuance of a permit for the Planned Recreation Development, a statement explaining how these activities will be conducted in a manner consistent with the purpose of the subdistrict must be included in the Development Plan.
- (11) A statement of the petitioner's intentions with regard to future selling, leasing or subdividing of all or portions of the project. The statement should describe the type of covenants, restrictions or conditions that are proposed to be imposed upon buyers, lessees or tenants of the property.
- (12) If the proposed D-PR subdistrict would be located on a portion of a larger parcel, a statement of the anticipated future use of the remainder of the parcel outside the D-PR subdistrict.
- ~~(11)~~(13) A site plan showing existing features within the development site, including the locations of:
 - (a) Buildings, roads, parking areas, and bridges;
 - (b) Above- and below-ground utility lines, and sewage disposal facilities;

- (c) Drinking water wells serving the site, and any major water withdrawal sources; ~~if applicable;~~
- (d) Recreational areas ~~and~~ open spaces, and conservation areas;
- (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
- (f) Stormwater drainage areas and an approximation of the expected phosphorus contribution to the watershed; and
- (g) The vegetated edge of the cleared areas.

~~(12)~~(14) _____ A site plan showing proposed features, with the approximate locations of:

- (a) Buildings, roads, parking areas, and bridges;
- (b) Utility lines, if known, and areas to be used for sewage disposal facilities (Note: If a public sewage disposal system will be used, evidence that the system can support the proposed development must be supplied);
- (c) New drinking water wells, and other major water withdrawal sources; ~~if applicable;~~
- (d) Recreational areas, open spaces, and conservation areas;
- (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
- (f) Stormwater drainage areas and an approximation of the expected phosphorus contribution to the watershed; and
- (g) The vegetated edge of the cleared areas.

(15) A statement of any steps the petitioner will take to avoid or minimize the effects of the rezoning for the Planned Recreation Development on existing uses or resources.

(16) A statement of any design requirements or other standards that will ensure future development and uses meet the purposes of the subdistrict.

Where the ~~applicant~~petitioner is proposing a phased ~~development in the Preliminary Planned Recreation Development Plan / Rezoning,~~ and maps showing the level of detail required in Section 10.21, ~~III~~, 8, a, ~~(12)~~(14) are not feasible for all future phases of the development, the ~~applicant~~petitioner ~~shall must~~ submit ~~such~~ maps for the first phase of development. For all future phases of development, the ~~applicant~~petitioner ~~shall must~~ submit a narrative describing the intended future use, along with information and sketch ~~maps~~plans sufficient for the Commission to determine if the area proposed to be rezoned can support the entire development with regard to: the subdivision rules, if applicable; soil suitability and slope; subsurface waste water disposal; access and traffic circulation; drinking water supply; ~~and~~ any other proposed major water withdrawal source ~~along with a narrative describing its intended use;~~ and the 400 foot setback from the proposed D-PR subdistrict boundaries. A narrative describing the anticipated timeline for all phases of the full development must accompany the sketch ~~maps (see Section 10.21, I, 8, a, (3))~~plans.

b. Criteria for the Approval of a Preliminary Zoning Petition and Associated Development Plan

After following the procedures for petitions for Subdistrict changes, consistent with Chapter 4 and 5 of the Commission's rules, the Commission may approve, approve with conditions, or deny the application in writing. In making this decision, the Commission ~~shall must~~ ensure that the proposal:

~~(1) — Conforms with 12 M.R.S.A. Chapter 206-A, including the objectives and policies of the Comprehensive Land Use Plan;~~

- (1) Satisfies the statutory rezoning standards in 12 M.R.S. § 685-A(8-A);
- (2) Incorporates, where the land proposed for inclusion in the D-PR subdistrict is in a protection subdistrict, a substantially equivalent level of environmental and resource protection as was afforded under ~~such~~the protection subdistrict;
- (3) Utilizes the best reasonably available site for the proposed use;
- ~~(3)~~(4) Conserves productive forest and/or farm land;
- ~~(4)~~(5) Incorporates high quality site planning and design in accordance with accepted contemporary planning principles;
- ~~(5)~~(6) Envisions a project that ~~does not substantially increase their~~ reasonably self-sufficient in terms of necessary public services ~~required in the area;~~ and
- ~~(6)~~(7) Provides for safe and efficient traffic circulation.

c. Performance-based Standards

The applicant may propose that certain of the Commission's land use standards, as described in Chapter 10 of the Commission's rules, be replaced with alternative standards that measure the performance of a particular design or technology in achieving the relevant goals. The applicant may propose such a substitution for all or portions of the project area. In making such a proposal, the applicant must consult with Commission staff regarding the purpose of the particular standard and must demonstrate that the alternative standard will provide substantially equivalent or increased effectiveness.

d. Approval or Denial of Preliminary Zoning Petition and Associated Development Plan

- (1) If, after weighing all the evidence, the Commission approves the Preliminary zoning petition and associated Development Plan ~~application~~, the D-PR subdistrict ~~shall~~must be designated on the official district map and recorded in accordance with the provisions of Section 10.04. ~~Simultaneously with such approval, a preliminary development permit will be issued. The preliminary development permit~~The approval may contain such reasonable conditions as the Commission deems appropriate and will specify the conditions for approval of ~~the Final Development Plan~~subsequent Commission permits or certifications. The terms of the ~~preliminary development permit~~approval will be in writing and ~~shall~~must be deemed to be incorporated in the D-PR subdistrict and the Development Plan.
- (2) If, after weighing all the evidence, the Commission finds the submission does not meet the criteria established above for its approval, the ~~application~~petition shall~~must~~ be denied and the reasons for the denial ~~shall~~must be stated in writing.
- (3) Within a maximum of 18 months following a Commission decision to designate an area as a D-PR subdistrict, the ~~applicant~~petitioner, or another person with title, right, or interest, shall ~~must~~ file a development permit application with the ~~Maine Department of Environmental Protection Commission~~ or a Site Location of Development Law (Site Law) permit application with the DEP for development, ~~or to consistent with the Commission a Final approved~~ Development Plan, ~~containing the information required in Section 10.21, I, 9 below. At its discretion, and for~~ Upon a showing of good cause ~~shown~~, the Commission may, ~~at its discretion~~, extend the deadline for filing ~~of the Site Law development application to the Maine Department of Environmental Protection, or of the Final Development Plan to a permit application with the Commission or the DEP~~, and may exempt from the filing deadline those plan areas where the area designated as a D-PR subdistrict is already developed.
- (4) ~~If the applicant fails, for any reason to apply for final approval by submitting to the Maine Department of Environmental Protection an application for development or to the Commission a Final~~ If no person files a permit application for the planned recreation development Development Plan within the prescribed time, the Commission

will deem the D-PR subdistrict designation ~~shall be deemed~~ to be revoked and the original subdistrict(s) ~~shall will~~ again apply.

9. Permit for Planned Recreation Development

Land uses within a D-PR subdistrict that are allowed by permit or by special exception pursuant to an approved Development Plan must be permitted either by the Commission or by the DEP. For land uses within D-PR subdistricts created prior to September 1, 2012 and within D-PR subdistricts created September 1, 2012 and later where the development within the subdistrict does not trigger Site Law permitting, the Commission possesses permitting authority. The DEP is responsible for permitting development triggering Site Law in D-PR subdistricts created September 1, 2012 or later. The procedures set forth in Section 10.21.I.8, apply to Commission permitting of activities within a D-PR subdistrict.

a. Application

9. Final Development Plan

~~The procedures set forth in Section 10.21.I.9 apply to development within D-PR subdistricts that does not require review under Site Law.~~

a. Application

The ~~final Development Plan~~ development permit application procedure serves to ensure that an applicant's detailed design and construction plans conform with the approved ~~preliminary development permit issued zoning petition and Development Plan.~~

- (1) An application for ~~final approval~~ development permit may be for all of the land ~~which that~~ is the subject of the ~~Preliminary~~ Development Plan or for a section thereof. The application, once deemed complete for processing by the staff, ~~shall must~~ be reviewed and acted upon by the Commission within 90 days.
- (2) ~~The Final~~ The development permit application ~~Development Plan~~ shall must include statements, drawings, specifications, covenants and conditions sufficient to fully detail the nature and scope of the proposed development. Without limitation of the foregoing, the ~~Final Development Plan~~ submission shall must include:
 - (a) Drawings that include all the information required on the site plan under the ~~Preliminary~~ Development Plan [Section 10.21.I.8, a, ~~(1214)~~] plus the dimensions and heights, foundation design, material specifications, and elevations and colors of all buildings and structures. If the plan proposes any subdivision, all boundaries of easements and lots are to be surveyed and plotted.
 - (b) Drawings that illustrate all roads, parking service and traffic circulation areas. The dimensions of curve radii, grades and number of parking spaces are to be specified. Any structures (such as bridges) related to the street system should be shown as scaled engineering plans and sections. Detailed traffic volume estimates and traffic studies may be required, at the discretion of the Commission.
 - (c) If individual sewage disposal systems are proposed, an on-site soil report for each proposed lot is required from the applicant. The reports are to be on Maine Department of Health and Human Services form HHE-200 or any amended or replacement version thereof. Where a central sewage collection and/or treatment system or central or public water supply system or fire hydrant

- system is proposed, reasonably full engineering drawings ~~shall~~must be required to conform with all applicable governmental requirements.
- (d) High intensity soil surveys and drawings that indicate all surface water runoff and storm drainage systems, soil stabilization procedures, and landscape plans for planting, screening, revegetation and erosion control and lighting of outdoor spaces.
 - (e) To the extent reasonably available, copies of the restrictions, covenants, conditions, and/or contractual agreements that will be imposed upon persons buying, leasing, using, maintaining, or operating land or facilities within the ~~planned area~~Planned Recreation Development.

b. Review Process and Criteria for Approval

- ~~(3)~~(1) The ~~items submitted as part of the Final Development Plan~~development permit shall~~must~~ comply with the ~~conditions of approval of the Preliminary~~approved zoning petition and Development Plan and ~~shall~~must conform with applicable state ~~regulations~~law, including 12 M.R.S.A. § 685-B(4). ~~In addition, the Final Development Plan shall conform with progressive site planning standards which permit flexibility and imagination in the layout of different building types), and applicable Commission rules, including Chapter 10.~~
- ~~(4)~~(2) A public hearing ~~shall~~is not ~~be held~~required on a ~~Final Development Plan~~development permit application provided ~~if the proposed activity~~ is in substantial compliance with the ~~Preliminary~~ Development Plan. The burden ~~shall~~must, nevertheless, be on the applicant to show good cause for any variation between the ~~Preliminary~~ Development Plan and activity proposed in the Final Plan submitted for final approval~~development permit application~~.
- ~~(5)~~ — The staff, at its discretion, ~~may waive portions of the application requirements for existing Recreational Lodging Facilities that are proposing expansions that are limited in scope.~~

b.c. Approval or Denial of Final Development Plan Permit Application

Upon accepting a ~~Final Development Plan~~development permit application as complete for processing, the Commission ~~shall issue a permit pursuant to 12 M.R.S.A. § 685-B, for the Final Development Plan. Such permit may contain reasonable~~ must review and, in writing, approve, approve with conditions ~~as, or deny the application. Commission may deem appropriate.~~

e.d. Amendments to the Final Development Plan Permit

~~Minor changes in~~ After issuance of the location, siting, height, or character of buildings and structures ~~may be authorized by~~initial development permit authorizing Planned Recreation Development within a D-PR subdistrict, the Director of the Commission ~~if required by engineering or other circumstances not foreseen at the time of Final Development Plan approval~~may issue permit amendments. No change ~~shall~~will be so authorized which ~~may~~will cause any of the following:

- (1) The addition of a land use not previously approved in the ~~Preliminary~~ Development Plan;
- (2) A material change in the site, scope, or nature of the project;
- (3) A material increase in traffic volume;

- (4) A material reduction in open space, landscaping, or parking; or
- (5) A material change giving rise to adverse environmental impact.

All ~~other~~ amendments to the ~~Final~~ Development Plan proposed by the applicant ~~shall~~must require submission to and the approval of the Commission after consultation with the staff and due consideration of the standards set forth in Section 10.21,I,8,b.

d.e. Time for Construction

If no substantial ~~development~~start has occurred pursuant to the ~~Final Development Plan~~ initial development permit by the later of: (a) 24 months after the date of approval by the Commission or (b) expiration of any extension of time for ~~starting development~~making a substantial start granted by the Commission, the approved ~~plan~~permit and previously approved Development Plan ~~must~~shall become null and void and the D-PR subdistrict designation ~~shall~~must be deemed to be revoked and the original subdistrict(s) ~~shall~~must again apply. The deadline for making a substantial start on development authorized in any permit amendment must be specified in the amendment or, if not, must be governed by Section 10.17.

...

J. RURAL BUSINESS DEVELOPMENT SUBDISTRICT (D-RB)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall~~bear allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall~~bear allowed...

...

c. Uses Requiring a Permit

...

(2) Commercial and industrial:

(a) Aroostook County: Rural businesses in conformance...

(b) Washington County: Rural businesses in conformance...

...

(16) Recreational lodging facilities:

- ...
- ~~(e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;~~

...

[REVISION NOTE: As part of the 2013 Recreational Lodging rulemaking, this use listing was added to the D-RF and M-GN subdistricts as a means to enable existing facilities to become more conforming. When it was created in 2016, the D-RB Subdistrict also included this use listing. As illustrated by the date and period included in the use listing, this period has long since passed. All three instances in the D-RF, M-GN, and D-RB subdistricts would be removed.]

- (23) Subdivisions: Commercial and industrial subdivisions for rural businesses within Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Garfield Plt., ...;

...

[REVISION NOTE: The following is proposed to be deleted as other use listings include the possibility for the storage of related trucks and equipment. Further, the purpose of the subdistrict is focused on particular commercial activities; a stand alone truck and equipment storage use is not contemplated for this subdistrict. Additionally, reference to the cited standards is confusing and contradictory. The numbering of all subsequent provisions will be adjusted accordingly.]

- ~~(26) Truck and equipment storage in accordance with Sections 10.27,R,1,a,(6); 10.27,R,1,b,(6); and 10.27,R,1,c,(6);~~

d. Special Exceptions

...

- (2) Commercial and industrial:
 (a) Aroostook County: Rural businesses in conformance...
 (b) Washington County: Rural businesses in conformance...

...

- (7) Subdivisions: Commercial and industrial subdivisions for rural businesses within Forkstown Twp., ...;

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in ...

...

- i. **Management Class 1 and 6 Lakes** (Least Accessible, Undeveloped High Value Lakes and Remote Ponds) as shown on the Commission's Land Use Guidance Maps. Areas around these lakes are not eligible ~~to be zoned for the~~ D-RB subdistrict (see Section 10.21,J,2).

...

K. RESOURCE-DEPENDENT DEVELOPMENT SUBDISTRICT (D-RD)

...

[REVISION NOTE: Section 10.21,K,2,a,(3) is proposed to be revised to match the phrasing in Section 10.27,S. Section 10.21,K,2,a,(4) (shown below) is currently structured as one paragraph; this proposed revision only reformats what is now one paragraph into separate lines to improve readability or otherwise simplify the provisions.]

2. Description

The D-RD Subdistrict ~~shall~~must include:

- a. Areas the Commission determines meet the applicable criteria for redistricting to this subdistrict in Section 10.08, are generally suitable for the development activities proposed, and are proposed for one of the following land uses meeting the ~~following associated~~ locational requirements:
- (1) Natural resource extraction or natural resource processing, except that no area ~~shall~~will be designated a D-RD subdistrict for ~~any either~~ of these uses, other than gravel extraction, if the area is less than one-half mile from: (i) the normal high-water mark of any major water body or (ii) four or more dwellings within a 500-foot radius.
 - (2) Recreation day use facilities near a topographic feature or natural resource that is generally ~~is not found in all locations throughout the Commission's service area,~~ and on which the facility depends, or within one-quarter mile of a publicly accessible water access point ~~that is publicly accessible to for~~ a Management Class 4, 5, or 7 lake, and not within one-quarter mile of a Management Class 1 or Management Class 2 lake, and not within one-half mile of a Management Class 6 lake.
 - (3) Recreation supply facilities 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.~~one-quarter mile of a water access point that is publicly accessible on a Management Class, 4, 5, or 7 lake or within one-quarter mile of trailheads serving permanent trails that support motorized vehicles, nonmotorized vehicles, or equestrian use. Recreation supply facilities must not be located within one-quarter mile of a Management Class 1 or Management Class 2 lake, and not within one-half mile of a Management Class 6 lake. The proposed commercial development must have adequate parking that is separate from designated parking for trail use when existing~~

~~space cannot accommodate both trail users and all activity as a result of the proposed development.~~

- (4) Grid-scale solar energy facilities in an area:
- (i) accessible from a public road by a legal right of access satisfying Section 10.08-A,E;
 - (ii) located a reasonable distance from emergency service providers to allow for adequate response in the event of an emergency; and
 - (iii) within one mile of the proposed point of interconnection with the existing transmission grid if no other area suitable for the facility and closer to a point of interconnection is reasonably available to the petitioner seeking to establish a D-RD subdistrict, unless the petitioner demonstrates that redistricting an area no more than three miles from the point of interconnection would result in a project location that is compatible with current land uses and does not expand the pattern of development beyond already developed areas.

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

c. Uses Requiring a Permit

...

- (3) Commercial and Industrial:
- (a) Natural resource processing facilities that may involve structural development, in conformance with the requirements ~~for such activities in of~~ Sections ~~10.27, R and S~~;

...

- (13) Portable mineral processing ~~or rock crushing equipment~~;

...

- (19) Subdivisions:

- (a) Commercial and industrial subdivisions for uses allowed in this subdistrict; and

(b) Maple ~~Sugar sugar Processing~~ processing subdivisions;

...

[REVISION NOTE: The following is proposed to be deleted as other use listings include the possibility for the storage of related trucks and equipment. Further, the purpose of the subdistrict is focused on particular commercial activities; a stand alone truck and equipment storage use is not contemplated for this subdistrict. Additionally, reference to the cited standards is confusing and contradictory. The numbering of all subsequent provisions will be adjusted accordingly.]

~~(22) Truck and equipment storage in accordance with Sections 10.27,R,1,a,(6); 10.27,R,1,b,(6); and 10.27,R,1,c,(6);~~

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall be~~ prohibited in ...

...

L. RECREATION FACILITY DEVELOPMENT SUBDISTRICT (D-RF)

...

1. Purpose

...

The D-RF Subdistrict is designed to allow for the location of moderate intensity recreation facilities in areas that are distant from other development, but where the location of such a facility would not unreasonably interfere with existing uses such as forestry and agriculture activities, fish and wildlife habitat or other recreation opportunities; and will not substantially increase the demand for public services in areas that are distant from existing patterns of development. ~~Where a D-RF subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for subsequent redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.~~

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

c. Uses Requiring a Permit

...

(9) Recreational lodging facilities:

...

~~(e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;~~

...

(13) Subdivisions: Commercial and industrial subdivisions for uses ~~permitted~~allowed in this subdistrict;

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall be~~are prohibited in ...

...

M. RESIDENTIAL DEVELOPMENT SUBDISTRICT (D-RS)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

c. Uses Requiring a Permit

...

(18) Subdivisions, Residential:

(a) Moderate-density subdivisions; and

(b) High-density subdivisions in primary and secondary locations, or within applicable concept plan areas;

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall be~~are prohibited in ...

N. COMMUNITY RESIDENTIAL DEVELOPMENT SUBDISTRICT (D-RS2)

...
3. Land Uses

...
a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

c. Uses Requiring a Permit

...

(20) Subdivisions, Residential: High- and moderate-density subdivisions~~Residential level 1 subdivisions;~~

...

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall beare~~ prohibited in ...

O. RESIDENTIAL RECREATION DEVELOPMENT SUBDISTRICT (D-RS3)

...
3. Land Uses

...
a. Uses Allowed Without a Permit

The following uses ~~shall beare~~ allowed...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall beare~~ allowed...

c. Uses Requiring a Permit

(16) Subdivisions, ~~Residential: High- and moderate-density subdivisions~~ Residential level
+ subdivisions;

e. Prohibited Uses.

All uses not expressly allowed, with or without a permit or by special exception, ~~shall beare~~ prohibited in ...

10.22 MANAGEMENT SUBDISTRICTS

Pursuant to the Commission's Comprehensive Land Use Plan, the following management subdistricts are established:

A. GENERAL MANAGEMENT SUBDISTRICT (M-GN)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

- (5) Commercial: Natural resource processing facilities that do not involve structural development, in conformance with the requirements ~~for such activities in~~of Section 10.27,S;

c. Uses Requiring a Permit

...

(3) Commercial~~Development~~:

- (a) Natural resource processing facilities that do not involve structural development, not in conformance with the requirements ~~for such activities in~~of Section 10.27,S;
- (b) Natural resource processing facilities that may involve structural development, in conformance with the requirements ~~for such activities in~~of Sections-10.27,~~R and~~ S; and

...

(16) Recreational lodging facilities:

- ...
- ~~(e) — Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;~~

...

10.23 PROTECTION SUBDISTRICTS

Pursuant to the Commission's Comprehensive Land Use Plan, the following protection subdistricts are established:

A. ACCESSIBLE LAKE PROTECTION SUBDISTRICT (P-AL)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

- (9) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

...

c. Uses Allowed by Permit

...

- (16) Trails which are not in conformance with the standards of Section 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F;

...

D. FISH AND WILDLIFE PROTECTION SUBDISTRICT (P-FW)

...

2. Description

- b. The shelter portions of deer wintering areas when the following conditions are met:

- (3) The combined area of the shelter portions of deer wintering areas designated as P-FW ~~or P-4~~ subdistricts within the applicable WMD must not exceed 3.5% of the area of that WMD; and

...

- e. The Commission may change a P-FW subdistrict by reducing its size or by changing it to another subdistrict designation if it finds by substantial evidence that:

...

Notwithstanding the above, where a ~~P-4~~ or P-FW subdistrict has been established for the purposes of protecting a deer wintering area, that subdistrict ~~shall~~ must not be reduced in size as a result of timber harvesting activities which would cause such subdistrict to no longer satisfy the requirements of Section 10.23,D,2,b,(1),(b).

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~ are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~ are allowed...

...

E. GREAT POND PROTECTION SUBDISTRICT (P-GP)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~ are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~ are allowed...

...

- (13) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

...

c. Uses Allowed by Permit

...

- (18) Trails which are not in conformance with the standards of Section 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F;

...

F. SEMI-REMOTE LAKE PROTECTION SUBDISTRICT (P-GP2)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

- (11) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

...

c. Uses Requiring a Permit

...

- (16) Subdivisions:
 - ~~Level-1 subdivisions~~
 - (a) Commercial subdivisions for uses ~~permitted-allowed~~ in this subdistrict; and
 - (b) Residential subdivisions: Moderate-density subdivisions;

...

- (18) Trails which are not in conformance with the standards of Section 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F;

H. RESOURCE PLAN PROTECTION SUBDISTRICT (P-RP)

...

6. Criteria for Review

The Commission may approve a Resource Plan and any associated redistricting only if it finds that all of the following criteria are satisfied:

...

- d. The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the ~~adjacency~~ location of development criteria in Section 10.08,B is matched by comparable conservation measures;

...

8. Duration of Plan

...

At the termination of a plan, the Commission will, in conformity with its comprehensive plan, statutes, and standards, designate appropriate zoning in accordance with Section 10.08.A, which is reasonably consistent with zoning of equivalent areas. Any variation from existing regulations or development occurring as a result of a resource plan cannot be used to justify a subsequent re-zoning, to meet adjacency requirements, or to otherwise change the zoning on property either within or outside the resource plan area upon its expiration.

I. RECREATION PROTECTION SUBDISTRICT (P-RR)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~ are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~ are allowed...

...

- (6) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

...

c. Uses Allowed by Permit

...

- (8) Trails which are not in conformance with the standards of Section 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F;

...

J. SPECIAL RIVER TRANSITION PROTECTION SUBDISTRICT (P-RT)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

- (8) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

...

c. Uses Allowed by Permit

...

- (13) Trails which are not in conformance with the standards of Section 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F;

...

L. SHORELAND PROTECTION SUBDISTRICT (P-SL)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

- (13) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

...

c. Uses Allowed by Permit

...

- (21) Trails which are not in conformance with the standards of Section 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F;

...

N. WETLAND PROTECTION SUBDISTRICT (P-WL)

...

3. Land Uses

...

a. Uses Allowed Without a Permit

The following uses ~~shall be~~are allowed...

...

b. Uses Allowed Without a Permit Subject to Standards

The following uses ~~shall be~~are allowed...

...

- (12) Trailered ramps: Public trailered ramps within a P-WL2 or P-WL3 subdistrict or extending below the normal high water mark of flowing waters or bodies of standing water;
- (13) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and

...

c. Uses Requiring a Permit

Except as provided for in Section 10.23,N,3,b,(3) and (5), the following uses, and related accessory structures, may be allowed within P-WL subdistricts upon issuance of a permit from the Commission according to 12 M.R.S.~~A.~~ §_685-B and subject to the applicable requirements set forth in Sub-Chapter III:

...

- (13) Trailered ramps: ~~Public t~~Public tTrailered ramps addressed in Section 10.23,N,3,b which are not in conformance with the standards of Section 10.27,L;
- (14) Trails which are not in conformance with the standards of Section 10.27,B,1,~~b-c~~ and ~~ed~~,2, and 4 and 10.27,F;

...

d. Special Exceptions

...

- (6) Mineral explo-ration activities: Level A mineral exploration activities, except as provided for in Section 10.23,N,3,b,(~~78~~), and Level B mineral exploration activities;

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 ~~shall~~ preclude^s the Commission from imposing additional reasonable terms and conditions in its permits as the Commission may deem appropriate in order to satisfy the criteria for approval and purposes set forth in the Commission's statutes, rules and the Comprehensive Land Use Plan.

...

D. VEHICULAR CIRCULATION, ACCESS, AND PARKING

...

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

...

d. Additional Subdivision Road Standards.

...

(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 ~~shall~~ **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.

[REVISION NOTE: The following section requires all lot owners and lessees to be members of the related association. While some governmental entities may experience legal or political challenges to being association members, public use of related roads should not be overlooked. In order to ensure that these public uses can be carried out, this revision proposes a fair alternative.]

(4) Road and Infrastructure Maintenance.

...

- (b) If an association is proposed for maintenance of roads and common infrastructure, documents necessary for establishing the association must be ~~created~~~~drafted and implemented~~. The documents must ~~provide for mandatory~~~~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.

...

F. NOISE AND LIGHTING

...

3. 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 ~~shall~~~~must~~ be determined by a site-specific soil survey, according to the "Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping" Maine Association of Professional Soil Scientists, 2009. The soil survey class ~~shall~~~~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 ~~both level 1 and 2~~~~all~~ subdivisions, a Class B high intensity soil survey ~~shall~~~~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 ~~1/4~~

one-quarter acre for dissimilar soils. For proposed access roads, driveway locations and utility lines, a Class L soil survey ~~shall~~must be used. A Class C soil survey may be used to identify soils elsewhere within the project area.

...

I. ~~SUBSURFACE WASTE WATER~~WASTEWATER DISPOSAL

1. No permit will be issued for a project with subsurface ~~waste water~~wastewater disposal unless an acceptable plan to construct the absorption area is prepared. Where ~~wastewater~~waste water is to be disposed on-site by a subsurface ~~wastewater~~waste water system, the system ~~shall~~must be designed by a licensed site evaluator or a Maine Licensed Professional Engineer, in accordance with the Subsurface ~~Waste Water~~Wastewater Disposal Rules, or ~~shall~~must be licensed by the Maine Department of Environmental Protection pursuant to 38 M.R.S.~~A.~~ § 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~~waste water 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~~waste water is to be collected and treated off-site by a municipal or quasi-municipal sewage treatment facility, the applicant ~~shall~~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~~waste water disposal systems are proposed, adequate provision ~~shall~~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~~Waste Water Disposal Rules.

...

P. PROTECTED NATURAL RESOURCES

...

2. Water Bodies and Wetlands.

...

a. Procedural Requirements.

...

(2) Level of Permit Review.

...

- (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~~effect on the freshwater wetlands or other

...

Q. SUBDIVISION AND LOT CREATION

...

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

...

- 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:

...

- (4) Divisions by Inheritance, Court Order, or Gifts. Divisions of land accomplished solely by inheritance, or by court order, ~~to a person related to the donor by blood, marriage, or adoption~~ are not counted as lots for the purposes of this subsection.

A division of land accomplished by bona fide gift, without any consideration paid or received, to a spouse, parent, grandparent, child, grandchild or sibling of 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 ~~5~~five years immediately preceding the division by gift and the lot or parcel is not further divided or transferred within ~~5~~five years from the date of division. 12 M.R.S. § 682-B(1)

...

3. General Standards for All Subdivision Layouts.

a. Locations and Layouts.

...

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

~~(2) General Management Subdivisions.~~

...

~~(f) Is a high-density or moderate density subdivision as defined in Section 10.02, and is designed consistent with Table 10.25,Q-1, Location and Layout Overview; and~~
 ...

Table 10.25,Q-31. Location and Layout Overview

| Commercial, Industrial, and Residential Subdivisions¹ | Allowed Subdivision Layouts | | | |
|--|------------------------------------|-----------|------------|--------------------|
| | Basic | Clustered | FlexDesign | Rural Lot |
| | <i>High- and Moderate-Density</i> | | | <i>Low-Density</i> |
| Inland (More than one half mile from a major water body) | Yes | Yes | Yes | Yes |
| Shoreland <u>with Heavy Development</u> (Lakes exceeding CLUP density guidelines^{2,3} Management Class 3 and 7 Lakes) | No Yes | Yes | Yes | No |
| Shoreland <u>within 250 feet of</u> (Management Class 4 Lakes) | No | Yes | Yes | No |
| Shoreland <u>within 250 feet of all other major water bodies and coastal wetlands with Heavy Development</u> (Lakes exceeding CLUP density guidelines^{4,5}) | No Yes | Yes | Yes | No |
| General Management Subdivisions | | | | |
| Inland | Yes | Yes | Yes | No |

(2) General Management Subdivisions.

~~...~~
~~(f) Is a high-density or moderate density subdivision as defined in Section 10.02, and is designed consistent with Table 10.25,Q-1, Location and Layout Overview; and~~
 ...

¹ 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.

² 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.

³ This category includes, but is not limited to, Management Class 5 lakes.

⁴ 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.

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

- (3) Maple Sugar Processing Subdivisions.

...

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

...

4. Layout Specific Standards.

...

a. Basic Subdivision Layouts.

...

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

...

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

...

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.

...

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

- (2) Common Open Space

...

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

...

c. Rural Lot Subdivision Layouts. ...

d. FlexDesign Subdivision Layouts. ...**(1) Subdivision Objectives:...**

- (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...

(4) 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 ~~shall~~ **must** be at least 50 percent of the net developable land area, and 50 percent of the net developable shoreline area for shoreland developments.

...

5. Procedural Requirements.

...

c. Conveyance of Lots or Dwelling Units.

...

- (3) Monumentation. All subdivision and lot boundary corners and angle points ~~shall~~ **must** be marked by suitable, permanent monumentation in accordance with rules adopted by the Board of Licensure for Professional Land Surveyors, 02-~~369~~ 360 CMR 90, Standards of Practice.

...

d. Recording of Large Lot Land Divisions.

...

- (2) The Commission ~~shall~~ **must** determine whether the plan qualifies under 12 M.R.S. § 682-B, ordinarily within 15 days of receipt of ~~the~~ a complete plan.
- (3) ...unless the Commission's certification that the division qualifies under 12 M.R.S. § ~~685~~ 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 ~~is considered a subdivision~~. 12 M.R.S. § 682-B

...

S. COMMON OPEN SPACE

...

4. ~~Homeowners~~ Association Bylaws.

...

[REVISION NOTE: the provisions of Section 10.25,S,4 apply to "lot owners and lessees". As a result, the title should be clarified.]

T. ACTIVITIES IN FLOOD PRONE AREAS

2. Development Standards.

...

- h. Manufactured Homes.** New manufactured homes or substantial improvements of any manufactured home ~~shall~~must:

...

All components of the anchoring system described in (a) and (b) above ~~shall~~must be capable of carrying a force of 4,800 pounds.

...

U. AFFORDABLE HOUSING

...

- 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 ~~and~~/or maintain affordable housing lots ...

10.26 DIMENSIONAL REQUIREMENTS

...

B. MINIMUM SHORELINE FRONTAGE

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

...

[REVISION NOTE: All of Section 10.26,D is proposed to be **REPEALED AND REPLACED. Generally, changes include the reorganization of the section to avoid duplicating phrasing and to otherwise simplify the rule. Specifically, the section would first describe how setback requirements will be applied, then within the standards for single-family residential uses and for all other uses shoreline setbacks and road setbacks are grouped.]**

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 travelled 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 10.26,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 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.

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, 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.

...

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

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2. Small-scale Agritourism.

The following ~~requirements shall standards~~ apply to...

...

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

...

1. A vegetative buffer strip ~~shall-must~~ be retained within:

...

- 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

...

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

- a. There ~~shall-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 ~~(6)~~ feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.

...

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

- d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
 - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings ~~shall~~ must be established with native tree species.
3. At distances greater than one hundred ~~(100)~~-feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ~~ten~~ ~~(10)~~ year period. In no instance ~~shall~~ 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 ~~ten~~ ~~(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.

...

C. MINERAL EXPLORATION AND EXTRACTION

...

2. **Mineral Extraction.** The following standards ~~shall~~ apply to mineral extraction activities for non-metallic minerals in all subdistricts:
- a. A vegetative buffer strip ~~shall~~ 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.

...

F. FILLING AND GRADING

...

6. Where filled or graded areas are in the vicinity of water bodies or wetlands, such filled or graded areas ~~shall~~ 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

...

[REVISION NOTE: All of Section 10.27,G is proposed to be REPEALED AND REPLACED. Other than reorganizing features listed in Sections 10.27,G,7,e through m into alphabetical order for user convenience and correcting instances of "shall" to "must", no other changes have been made.]

G. MOTORIZED RECREATIONAL GOLD PROSPECTING

The following motorized recreational gold prospecting requirements ~~shall~~ 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 ~~shall~~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, ~~shall~~must be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

2. Motorized recreational gold prospecting may only be performed from June 15 to September 15, and only with written permission of the landowner(s).
3. 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.
4. **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.
5. **Prohibition of Chemicals.** Use of mercury, nitric acid or other chemicals for extraction is prohibited.
6. **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.
- 7. 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 Plt, 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: T17 R4 WELS
- (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) Wytopotlock 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 Plt, 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) Wytovitlock 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

I. 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

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H. DRIVEWAYS ASSOCIATED WITH RESIDENTIAL STRUCTURES AND USES

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1. Applicability.

The following requirements apply to the construction of driveways for ~~single-single~~-family and ~~two~~ 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,4,2, 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.

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J. SIGNS

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2. Regulations Applying to All Signs.

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

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- e. Is in violation of, or at variance with, any federal law or regulation, including, but not limited to, one containing or providing for conditions to, or affecting the allocation of federal highway or other funds to, or for the benefit of, the State or any political subdivision thereof;
- f. Is in violation of, or at variance with, any other applicable State law or regulation;
- g. With the exception of marijuana businesses, a Advertises activities which are illegal under any state or federal law applicable at the location of the sign or of the activities;

...

N. HOME-BASED BUSINESSES

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1. Minor Home-based Businesses

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- j. **Marijuana Businesses.** Minor home-based businesses involving a marijuana business are allowed in compliance with Section 10.27,S.4.

2. Major Home-based Businesses

...

- j. **Marijuana Businesses.** Major home-based businesses involving a marijuana business are allowed in compliance with Section 10.27,S.4.

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, 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:

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14. If the accessory structure is a 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.

...

Q. RECREATIONAL LODGING FACILITIES

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Table A: Facility Level Determination.

| Factors | Facility Level | | | | |
|---|----------------|----------|----------|----------|----------|
| | A | B | C | D | E |
| ... | | | | | |
| (4) Footprint of clearing within 250 feet of any body of standing water <u>not including a constructed pond</u> , 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. <i>(in square feet) Section 10.27,B still applies:</i> | ≤ 6,000 | ≤ 36,000 | ≤ 54,000 | ≤ 90,000 | No limit |
| ... | | | | | |

...

[REVISION NOTE: Section 10.27,S is proposed to be **REPEALED AND REPLACED; revisions are illustrated below to facilitate public review only. Primarily, the revisions will restructure Section 10.27,S to improve the organization of the standards. This section will now identify standards for all commercial uses in a format that contemplates possible additional items in the future. Then each subset is organized to list standards for all uses, then standards for only some uses; etc.]**

S. COMMERCIAL BUSINESSES

The standards in Section 10.27,S apply to commercial businesses. Natural Resource Processing ~~F~~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 ~~shall~~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 ~~shall~~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 ~~for All Commercial Development.~~

Except as provided in Section 10.27,S,1,b,(1) through (3), 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.

~~a.~~ (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 ~~shall~~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.

~~b.(2)~~ (2) Notwithstanding Section 10.27,S,1,a, 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.

~~e.~~ (3) Permit applications for commercial businesses required to meet this standard ~~shall~~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.

1.2. Standards for All 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 Section 10.02. 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,e and f.

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 Businesses.

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 businesses ~~shall~~must provide adequate trash and recycling receptacles for use by customers, and ~~shall~~must provide for regular collection and disposal of site-generated solid wastes at a State-approved landfill or transfer station.
 - (b) Recreation supply businesses that sell food ~~shall~~must meet all requirements of the Maine Food Code, and ~~shall~~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 Businesses without Structures

Structural Development. In addition to the standards listed in Section 10.27,S,~~53~~53.a, recreation supply businesses 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 ~~shall~~must not locate within one-half mile of a recreational lodging facility, as defined in Section 10.02, which already serves food or already rents ~~or sells~~ gear to the public, except ~~where the owner of the recreational lodging facility has given permission in writing 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 Section 10.02. The facility and all appurtenant components must not be in the same location for more than 120 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 businesses must be self-contained, and all temporary fixtures or signs related to the facility ~~shall~~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 a recreation supply business ~~shall~~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. All exterior lighting must be full cut-off and designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. ~~No activity shall~~Activities must not 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 ~~shall~~must be turned off after business hours, leaving the minimum necessary for site security.

(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 ~~shall~~must be sufficient for the proposed use, and ~~shall~~must not remove parking capacity needed for public use of trailheads or water access points, and ~~shall~~must otherwise meet the design requirements described in Section 10.25,D,3.

c. **Recreation Supply Businesses with ~~Structures~~Structural Development.** In addition to the standards listed in Section 10.27,S,53,a, recreation supply businesses that have structures must comply with the following:

(1) Scale. Recreation Supply Businesses with structures as defined in Section 10.02 ~~shall~~must not have more than 2,500 square feet of gross floor area.

(2) Exterior storage. Recreation supply businesses with structures ~~shall~~must have no more than 200 square feet of area used for exterior storage.

4. Marijuana Businesses.

Except as specified below, the following standards apply to medical marijuana and adult use marijuana 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 marijuana 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.

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APPENDIX E FEMA MAPS FOR THE LUPC JURISDICTION
 (FOR PUBLIC INFORMATION ONLY)

| Title | Community or Map # | Effective Date |
|--|---|-------------------|
| ... | | |
| HANCOCK COUNTY | | |
| <u>FIRM, Osborn, Township of, ME, Hancock County</u> | 23009C | 07/20/2016 |
| | Panels <u>0430D, 0435D, 0437D, 0439D,</u> <u>0441D, 0442D, 0443D, 0444D,</u> <u>0475D, 0606D, 0607D, 0630D,</u> <u>0650D</u> | |
| ... | | |
| PISCATAQUIS COUNTY | | |
| <u>FIRM, Atkinson, Town of, ME, Piscataquis County</u> | 230407 | 12/04/1985 |
| | <u>Panel 0005B</u> | |
| ... | | |
| SOMERSET COUNTY | | |
| <u>FIRM, Rockwood Strip, Township of, ME, Somerset County</u> <u>(T2 R1 NBKP)</u> | 230467A | 12/01/1987 |