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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
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January 29, 2025

Senator Rachel Talbot Ross, Senate Chair
Joint Standing Committee on Agriculture, Conservation and Forestry
Maine Senate
3 State House Station
Augusta, ME 04333

Representative William D. Pluecker, House Chair
Joint Standing Committee on Agriculture, Conservation and Forestry
Maine House of Representatives
2 State House Station
Augusta, ME 04333

RE: 2024 Land Use Standards Rule Changes – Maine Land Use Planning Commission

Dear Senator Talbot Ross and Representative Pluecker:

Enclosed are changes to the Maine Land Use Planning Commission's land use standards adopted in 2024. 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 2024 follows:

Accessory Structures Revisions: Revisions to Chapter 10, *Land Use Districts and Standards*, include updates to improve landowner compliance with land use standards and resource protections. They maintain the ability of landowners to construct certain accessory structures without obtaining a permit from the Commission. Specifically, the standards now require a notice and self-verification to be submitted.

Related revisions are illustrated on pages 1 through 5 within the attached document.

Lighting and Lighted Signs Revisions: Revisions to Chapter 10, *Land Use Districts and Standards*, include updates to reflect the changes in lighting technology since they were

adopted in 2004 and to help ensure no undue adverse impacts to natural or scenic resources from unnecessary or inappropriate lighting. Specifically, the revisions require lights be less than or equal to 3,000 Kelvin; require fully shielded light fixtures for lights over 1,800 lumens; address ski areas and outdoor recreation venues; amend the list of exempted activities; require fully shielded and downward directed lighting for externally illuminated signs; and require a black or dark background for internally illuminated signs. The changes also included clerical edits and minor editing for clarity and conciseness in the included sections.

Related revisions are illustrated on pages 6 through 13 within the attached document.

Please contact me if you have any questions about the rule revisions.

Sincerely,

A handwritten signature in black ink that reads "SR Beyer". The letters are cursive and slanted to the right.

Stacie R. Beyer, Executive Director
Land Use Planning Commission

cc via e-mail only:

Betsy Fitzgerald, Chair, LUPC

Amanda Beal, Commissioner, DACF

Randy Charette, Deputy Commissioner, DACF

Nancy McBrady, Deputy Commissioner, DACF

Judith East, Director, Bureau of Resource Information & Land Use Planning, DACF

Emily Horton, Director of Policy & Community Engagement, DACF

Enclosures: Adopted 2024 Chapter 10 rule revisions

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

MAINE LAND USE PLANNING COMMISSION

Chapter 10 Rule Revisions: Accessory Structures

Adopted by the Commission on June 12, 2024

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

Rulemaking Overview and Introduction

Background:

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

Administration:

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

10.11 NONCONFORMING USES AND STRUCTURES

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C. NONCONFORMING STRUCTURES

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

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

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

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10.27 ACTIVITY-SPECIFIC STANDARDS

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

P. ACCESSORY STRUCTURES

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

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

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

1. Written notice required. Notice pursuant to Chapter 4, Section 4.05,C has been completed prior to constructing or placing the accessory structure. Notice must include self-verification by the landowner or lessee that the standards listed in Section 10.27,P will be met.
2. The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two-year period is not more than 750 square feet, except that freestanding accessory solar energy generation facilities are limited to not more than 750 square feet in total.
3. The accessory structure(s) ~~will~~must:
 - a. ~~be~~Be located in a subdistrict that allows the principal use;
 - b. Be accessory to a legally existing principal structure or use;
 - c. Meet the definition of accessory structure in Chapter 2 of the Commission's rules;
 - d. ~~Conform with the General Criteria for Approval in Section 10.24;~~
 - e.d. Meet the development standards in Sections 10.25-25,B, F, H, and M, as applicable; and the activity specific standards in Section 10.27, as applicable;
 - f.e. Conform with any applicable permit conditions, or deed restrictions recorded for the property;
 - g.f. Meet all of the applicable dimensional requirements in Sections 10.26,D through F;
 - h.g. Have unfinished interiors and not be used for human habitation;
 - i.h. Be consistent with the use of the principal structure and not add a new activity to those currently permitted at the site or facility;

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

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

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

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AGRICULTURE, CONSERVATION AND FORESTRY
MAINE LAND USE PLANNING COMMISSION

**Chapter 2 and Chapter 10 Rule Revisions: Lighting
and Lighted Sign Standards**

Adopted by the Commission on September 11, 2024

The following amendments adopted changes to Chapter 2, *Definitions* and 10, *Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission*. This document only includes relevant sections of Chapter 10 and indicates additions in underline, deletions with a ~~strikethrough~~, and relocated text in double underline and double ~~strikethrough~~. Most revisions are self-evident. Where necessary, further explanations of some changes have been included in [brackets]. These explanatory notes were not included in the final rule.

Rulemaking Introduction and Overview

What are the goals of this rulemaking?

Currently, the Land Use Planning Commission (LUPC) has standards for exterior lighting associated with development that requires a permit ([Chapter 10](#), Section 10.25,F,2). There are also standards for lighted signs ([Chapter 10.27,J](#)). The proposed rulemaking aims to update the standards to reflect the changes in lighting technology since the standards were adopted and help ensure there are no undue adverse impacts to natural or scenic resources, including Maine's dark sky resource, from unnecessary or inappropriate lighting.

Why make these rule changes now?

The current standards are 20 years old and are outdated. They do not reflect the changes in lighting technology that have occurred since the standards were adopted in 2004.

How would the rules change?

This rulemaking proposes to update standards for exterior lighting and lighted signs to reflect current best industry practices, including:

- **Correlated Color Temperature** - Light sources would be rated on a scale known as Correlated Color Temperature, which indicates the warmth or coolness of the light, ranging from 1,000 to 10,000 Kelvin. The changes would require lights be less than or equal to 3,000 Kelvin, as recommended by scientists and public health officials.¹
- **Fully Shielded Light Fixtures** – The changes would replace references to cut off fixtures with fully shielded light fixtures, which have tops and sides that cover the bulb and direct light downward. A definition of fully shielded light fixtures would be included in Chapter 2 and a new diagram illustrating these fixtures would be included in Chapter 10.
- **Lumens** - Current LUPC standards refer to wattage, a measure of the amount of electricity a light consumes that does not indicate the bulb's brightness or light output. The lighting industry uses lumens more commonly now, a measure of light output. Fully shielded light fixtures would be required for lights over 1,800 lumens.
- **Lighting for Ski Resorts and Similar Outdoor Recreation Facilities** - Currently, LUPC lighting standards do not specifically consider ski areas or outdoor recreation facilities. New standards would continue allowing for safe operations without undue adverse impacts on surrounding uses.
- **Exemptions** - The proposed updates to the list of exempt lighting would incorporate, refine, or clarify exemptions for: roadway and airport lighting; lighting required by the Federal Aviation Administration for air traffic safety; temporary lighting for events; emergency operations; and land management operations (e.g., forestry or agriculture), among other activities.
- **Lighted Signs** – The proposed changes reorganize and refine standards for lighted signs. Permits are required for any sign with moving or changing lights, including electronic message displays.
- **Clerical Edits** – The proposed changes include corrections and minor editing for conciseness in the sections of Chapter 10 included in this rulemaking.

¹ See [Council on Science and Public Health 2 \(ama-assn.org\)](#); and [Threats to Birds: Collisions - Nighttime Lighting | U.S. Fish & Wildlife Service \(fws.gov\)](#)

Chapter 2 - Definitions

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#. Light Fixture, Fully Shielded.

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

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Chapter 10 – Land Use Districts and Standards

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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 ~~are~~is prohibited.

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

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F. NOISE AND LIGHTING

1. Noise.

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

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

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

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[Revision notes: This rulemaking proposes to repeal and replace the provisions of Section 10.25,F,2; however, individual revisions are illustrated below for reader convenience.]

2. **Exterior Lighting Standards, standards for exterior light levels, glare reduction, and energy conservation.**

a. All new exterior lighting sources for residential, commercial, and industrial development must have a Correlated Color Temperature of 3,000 Kelvin (K) or less. building exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part. Figure 10.25,F-1 illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).

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

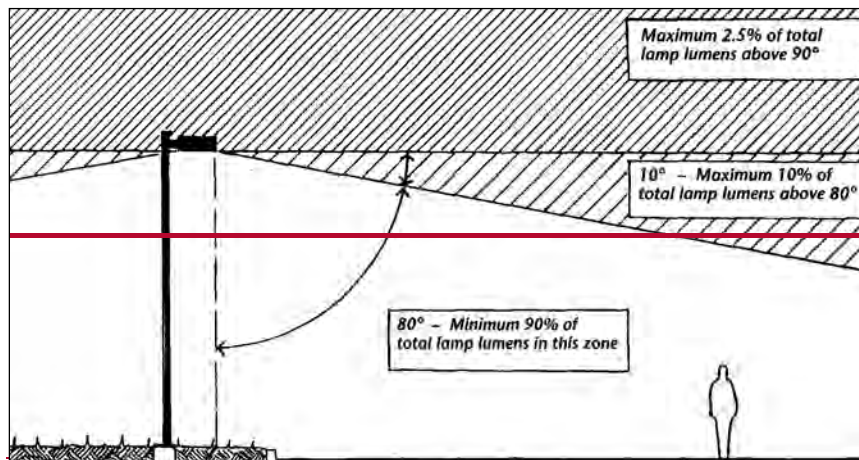
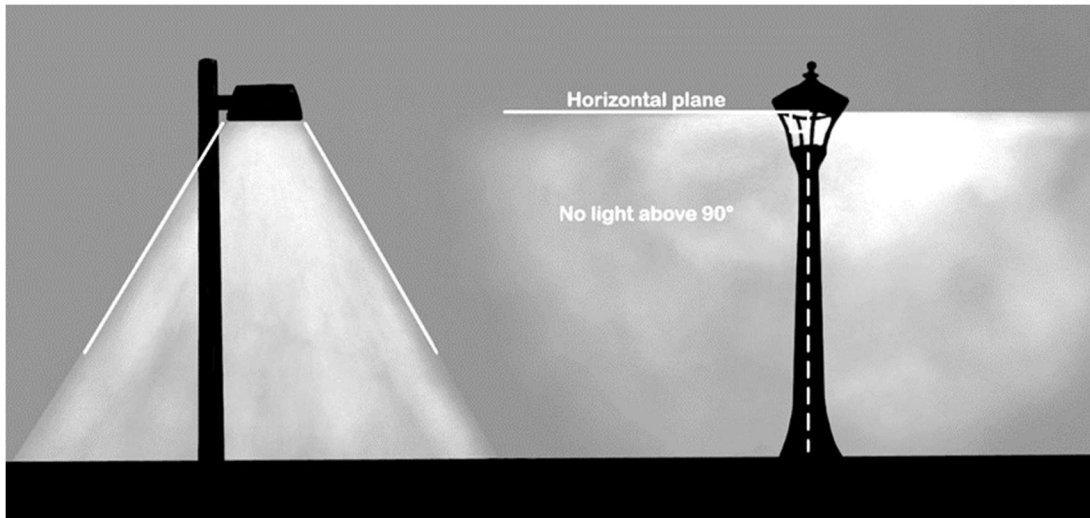


Figure 10.25,F-1. Cut-off fixture as defined by IESNA Fully shielded light fixtures.

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

the canopy. ~~Alternatively, canopies may be indirectly lit using light beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.~~

- ~~e.d.~~ All exterior lighting ~~shall~~must be designed, located, installed, and directed ~~downward 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, ~~onto~~ any water bodies ~~with a significant or outstanding scenic resource rating~~, or ~~onto~~ any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.
- ~~d.e.~~ For commercial, industrial, and other non-residential development, all non-essential lighting ~~shall~~must be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non-essential” applies, without limitation, to display, aesthetic, and parking lighting ~~that is not motion-activated~~.
- ~~f.~~ An exterior lighting plan must be submitted for proposed subdivisions and proposed non-residential, commercial, or industrial projects with structural development requiring a permit. The exterior lighting plan must include the following information for each existing and proposed exterior light fixture: the location, type of fixture, bulb lumens, and Correlated Color Temperature, and whether it is a motion activated fixture. The lighting plan must also include the cumulative total lumens for the project.
- ~~e.g.~~ In addition to the lighting standards in Section 10.25,F,2, lighted signs ~~shall~~must also comply with the standards in Section 10.27,J ~~or applicable permit conditions~~.
- ~~f.h.~~ The following activities are exempt from the lighting standards of Section 10.25,F,2,a through ~~de~~:
- ~~(1) Roadway and airport lighting, and H~~ Lighting required by the Federal Aviation Administration ~~for air traffic safety~~;
 - ~~(2) Temporary fair, event, or civic uses;~~Use of exterior lighting sources for temporary events such as sporting events, public festivals, celebrations, or the observance of holidays;
 - (3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;
 - ~~(4) Lighting that is activated by motion sensors; and~~Lighting emitting brightness less than 500 lumens;
 - (5) Lighting that was in place on ~~April 1, 2004~~[insert the effective date]; and
 - ~~(6) Temporary lighting associated with road construction or repair; or agricultural management or forest management activities as defined in Chapter 2.~~

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

- ~~a.~~ Ski resorts and similar outdoor recreational facilities are exempt from the fully shielded standard of Section 10.25,F,2,b during the ski season when snow is on the ground.
- ~~b.~~ If exterior lights are used during non-snow seasons, then fixtures must comply with the fully shielded standard of Section 10.25,F,2,b unless otherwise exempt pursuant to Section 10.25,F,2,h.

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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 standards apply to all small-scale agritourism in all subdistricts where such activities are allowed:

- a. **Parking.** Adequate parking ~~shall~~must be provided for the vehicles of employees and visitors. On-street or off-street parking areas must be designed to ensure safe conditions and must be sized to accommodate the number of employees and visitors expected during peak times.
- b. **Lighting.** All exterior lighting fixtures must be fully ~~shielded~~ ~~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 ~~must~~ ~~shall~~ produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, or onto any roadway so as to impair the vision of the driver of any vehicles upon that roadway or to create nuisance conditions. Additionally, all non-essential lighting ~~must~~ ~~shall~~ be turned off after business hours, leaving the minimum necessary for site security.

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J. SIGNS

Signs not in conformance with the standards of Section 10.27,J may be allowed upon issuance of a permit from the Commission, provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit ~~shall~~must show by a preponderance of the evidence that the proposed sign, which is not in conformance with the standards of Section 10.27,J, ~~shall~~will be erected and maintained in a manner which produces no undue adverse impact upon the resources and uses in the area.

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[Revision notes: The following section would be restructured to group provisions that apply to all signs, and then group standards for illuminated signs. This rulemaking proposes to repeal and replace the provisions of Section 10.27,J,2; however, individual revisions are illustrated below for reader convenience.]

2. Regulations Applying to All Signs.

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

a. General Provisions.

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

- ~~a. (1) Interferes with, imitates, or resembles any official traffic control sign, signal, or device, or attempts or appears to attempt, to direct the movement of traffic;~~
- ~~b. (2) Prevents the driver of a motor vehicle from having a clear and unobstructed view of official traffic control signs and approaching or merging traffic;~~
- (3) Has any animated or moving parts:
 - ~~e. Contains, includes, or is illuminated by any flashing, intermittent or moving light, moves or has any animated or moving parts, except that this restriction shall not apply to a traffic control sign;~~
 - ~~d. Has any lighting, unless such lighting is shielded so as to effectively prevent beams or rays of light from being directed at any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof;~~
 - ~~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. (4) Is in violation of, or at variance with, any other applicable federal or state State-law or regulation;~~
- ~~g. (5) With the exception of Except for marijuana businesses, advertises activities which that are illegal under any state or federal law applicable at the location of the sign or of the activities;~~
- ~~h. (6) Is not clean or in good repair; or~~
- ~~i. (7) Is not securely affixed to a substantial structure.~~

Any sign which is a combination of exempt and/or non-exempt signs ~~shall be~~ regulated by the most protective standards applicable.

b. Lighted Signs.

- (1) Lighted signs, whether internally or externally illuminated, must not cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof;
- (2) Other than traffic control or emergency signage, signs must not include any flashing, intermittent, moving, or changing light, including electronic message displays;
- (3) Lighting for externally illuminated signs must be fully shielded and directed downward so as to illuminate only the target area and effectively prevent beams or

rays of light from being directed upward or toward any portion of a traveled way of a roadway or neighboring property;

(4) Internally illuminated signs must have a black or dark background; and

(5) Internally illuminated signs must be turned off after business hours.

3. Criteria for Sign Approval.

In approving, conditionally approving, or denying any application for a sign permit, ~~the Commission shall require that~~ the applicant **must** demonstrate that the proposed sign complies with those criteria set forth in 12 M.R.S. § 685-B(4) as well as the following:

- a. That the sign is compatible with the overall design of the building height, color, bulk, materials, and other design and occupancy elements;
- b. That the color, configuration, height, size, lighting, and other design elements of the sign will fit harmoniously into the surrounding natural and man-made environment;
- c. That the sign will not constitute a hazard to the flow of traffic; and
- d. That the applicant sufficiently demonstrates the need for any non-conformity with the size, height, lighting, and other limitations set forth in Section 10.27,J,1.

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S. COMMERCIAL BUSINESSES

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3. Recreation Supply Facilities.

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b. Standards for Recreation Supply Facilities without Structural Development. In addition to the standards listed in Section 10.27,S,3,a recreation supply facilities that do not have structures must comply with the following:

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(4) Noise and Lighting.

(a) Noise. Facilities must meet the standards for noise included in Section 10.25,F,1.

(b) Lighting. ~~Facilities must meet the standards for lighting included in Sections 10.25,F,2,a through e. All exterior lighting must be fully shielded cut-off and designed, located, installed, and directed in such a manner as to illuminate only the target area, to the extent practicable. Activities must not produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, water bodies, or onto any roadway so as to impair the vision of the driver of any vehicles upon that roadway or to create nuisance conditions. Additionally, all non-essential lighting must be turned off after business hours, leaving the minimum necessary for site security.~~

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