



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
18 ELKINS LANE, 22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

JANET T. MILLS  
GOVERNOR

AMANDA E. BEAL  
COMMISSIONER

January 22, 2026

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: 2025 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 2025. 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 summary of the amendments to land use standards adopted by the Commission in 2025 is provided below. Each of these rulemakings also included companion edits to the Commission's Chapter 2, Definitions.

**Activities in Flood-Prone Areas:** Revisions to Chapter 10, Land Use Districts and Standards, and to Chapter 2, Definitions, include updates to standards for development in flood-prone areas. The revisions improve consistency with the Federal Emergency Management Agency's (FEMA) rules and guidance, as well as with the current Maine Model Floodplain Ordinance, and therefore comply with the ongoing requirements for the Commission's membership in the National Flood Insurance Program (NFIP).

Related revisions are illustrated on pages 1 through 23 in the attached document.

BENJAMIN GODSOE  
ACTING EXECUTIVE DIRECTOR  
HARLOW BUILDING, 4<sup>TH</sup> FLOOR



PHONE: (207) 287-2631  
FAX: (207) 287-7439  
WWW.MAINE.GOV/DACF/LUPC

**2025 Miscellaneous Rule Revisions:** Revisions to Chapter 10, Land Use Districts and Standards, and to Chapter 2, Definitions, include updates to improve consistency with statute by updating the definitions of campsite and transient occupancy in response to Public Law PL 2025 Chapters 11 and 61. Additional revisions extend the deadline for applicants to submit a permit application within a Planned Development (D-PD) Subdistrict from 18 months to five years, update citations related to materials incorporated by reference, and clarify provisions related to maximum structure height. The changes also include clerical edits and minor editing for clarity in the included sections.

Related revisions are illustrated on pages 24 through 55 in the attached document.

**Short-Term Rentals:** Revisions to Chapter 10, Land Use Districts and Standards, and to Chapter 2, Definitions, include updates to define short-term rental and require property owners to provide written notice to the Commission if they are renting their dwelling or residential campsite as a short-term rental. In particular, the revisions distinguish between the residential use of a single dwelling unit, bunkhouse, or residential campsite as a short-term rental and the commercial use of two or more short-term rentals on the same lot. As a result, “short-term rental” is listed as a use allowed without a permit, subject to standards in the subdistricts where dwellings or residential campsites are allowed by permit or with a permit by special exception. The standard requires written notice for new and existing short-term rentals. Owners of existing short-term rentals would have 180 days after the effective date of the rule to file a notice with the Commission.

Related revisions are illustrated on pages 56-61 in the attached document.

**Siting of Solar Energy Generation Facilities and Battery Energy Storage Systems:** Revisions to Chapter 10, Land Use Districts and Standards affect permitting for solar energy generation facilities and battery energy storage systems (BESS) facilities. Key changes in this rulemaking include clarification of definitions for solar energy generation facilities and creation of a definition for BESS facilities, and revising the land use subdistricts that allow both types of facilities. The revisions also establish standards addressing impacts on neighboring uses or resources as well as facility decommissioning.

Related revisions are illustrated on pages 62-69 in the attached document.

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

Respectfully submitted,



Benjamin Godsoe, Acting Executive Director  
Land Use Planning Commission

cc via e-mail only:

Millard Billings, Chair, LUPC

Amanda E. Beal, Commissioner, DACF

Nancy McBrady, Deputy Commissioner, DACF

Jo D. Saffeir, Deputy Commissioner, DACF

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

Emily Horton, Director of Policy & Community Engagement, DACF

Enclosures: Adopted 2025 Chapter 10 rule revisions

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

**Chapter 2 and Chapter 10 Rule Revisions:  
Activities in Flood Prone Areas**

*Adopted February 12, 2025  
With edits based on comments received*

The following amendments propose changes to Chapter 2, Definitions and 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 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 [revision notes]. These explanatory notes would not be included in the final rule.

### **Rulemaking Introduction and Overview**

This update to the Commission's standards on development in flood prone areas increases consistency with the Federal Emergency Management Agency's (FEMA) rule and guidance and with the current Maine Model Floodplain Ordinance to comply with the ongoing requirements for the Commission's membership in the National Flood Insurance Program (NFIP). Other proposed changes serve to clarify sections of rule. Updates to increase consistency or clarify sections of rule include those related to:

- Accessory and agricultural structures;
- Utilities;
- Physical changes to the natural landscape;
- Wharves, piers, docks, and breakwaters;
- Engineering certifications;
- Residential structures and manufactured homes;
- Nonresidential structures;
- Development in coastal floodplains; and
- Substantial improvement and substantial damage, among others.

The proposed changes also allow legally existing structures in flood prone areas to exceed limitations on height above grade when elevated to provide additional freeboard, increasing safety and minimizing structural damage during a flood event.

## Chapter 2 - Definitions

...

---

### 2.02 DEFINITIONS

---

...

**[Revision Note:** Definitions of Accessory Structure and Agricultural Structure are added following FEMA's Floodplain Management Bulletin P-2140, "Floodplain Management Requirements for Agricultural Structures and Accessory Structures" and the Maine Model Floodplain Ordinance. See also proposed changes in 10.25,T,2,l on Accessory Structures.]

**1. Accessory Use or Accessory Structure:**

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

...

**#. Agricultural Structure:**

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

...

**[Revision Note:** The definition of containment wall clarifies the application of development standards in 10.25,T,2 for containment walls and has been added to the Maine Model Ordinance.]

**#. Containment Wall**

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

...

**[Revision Note:** References to Zones A1-30 have been deleted throughout as there are no Zones A1-30 in the Commission's service area. The Maine Model Ordinance has also removed references to Zones A1-30.]

**66. Elevated Building:**

A building, without a basement,

- a. built, in the case of a building in FEMA zones ~~A1-30, AE, or AA or AE~~, to have the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones ~~A1-30, AE, or AA or AE~~, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Chapter 10, Section 10.25(T)(2)(~~4~~(n)). In the case of Zone VE, elevated building also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Chapter 10, Section 10.25(T)(2)(~~p~~(r)(2)(b)(iii)).

...

**75. Flood, Area of Special Flood Hazard:**

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

...

**81. Flood, Zones A, AE, ~~A1-30~~, VE:**

The areas identified by FEMA as areas of special flood hazard on Flood Insurance Rate Maps or Flood Hazard Boundary Maps ~~for townships, plantations, or towns~~. The Commission adopts the FEMA maps and incorporates them by reference into the P-FP subdistrict. The adopted maps are referenced ~~for public information in Chapter 10, Appendix E, and noted~~ on the applicable ~~Official~~ Land Use Guidance Maps.

...

**114. Locally Established Datum:**

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

...

**117. Lowest Floor:**

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

...

**[Revision Note: Increasing the limit to 120 consecutive days corresponds to the Commission's criteria for transient occupancy. See also Section 10.25,T,2,k on Recreational Vehicles.]**

**127. Manufactured Home:**

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For purposes of regulating development in flood prone areas, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than ~~90~~ 120 consecutive days.

**132. Mean Sea Level:**

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

**147. National Geodetic Vertical Datum (NGVD):**

The national vertical datum, whose standard was established in 1929, which is used by the ~~National Flood Insurance Program~~(NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (~~MSL~~)".

**159. North American Vertical Datum (NAVD):**

The national datum, established in 1988, which is the new vertical datum used by the ~~National Flood Insurance Program~~(NFIP) for all new Flood Insurance Rate Maps~~FIRMs~~.

**228. Structure:**

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

**[Revision Note:** Changes proposed to the definitions of Substantial Damage and Substantial Improvement are intended to clarify the application of Substantial Damage and Substantial Improvement to structures without walls and roofs such as bridges, containment walls, wharves, piers, docks, and breakwaters as it may be difficult to accurately determine the market value of such structures.]

**237. Substantial Damage:**

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

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

**238. Substantial Improvement:**

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

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

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

...

**272. Zones A, AE, ~~A1-30~~, VE:** See Flood, Zones A, AE, ~~A1-30~~, VE

...

## Chapter 10 – Land Use Districts and Standards

---

### 10.10 VARIANCES

---

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

...

**[Revision Note:** The proposed change adds a section on variances for agricultural structures in flood prone areas, consistent with FEMA's Floodplain Management Bulletin P-2140, "Floodplain Management Requirements for Agricultural Structures and Accessory Structures" and the Maine Model Floodplain Ordinance.]

---

#### B. GRANTING OF A VARIANCE

---

...

5. In addition to the provisions of Section 10.10,B above, in flood prone areas, variances:
  - a. ~~Shall~~Must not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. ~~Shall~~Must be granted only upon:
    - (1) A showing of good and sufficient cause; and,
    - (2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, ~~or~~ public expense; ~~or~~ create nuisances; ~~or~~ cause fraud or victimization of the public; and,
    - (3) A showing that the issuance of the variance will not conflict with other state or federal laws.
  - c. ~~Shall~~Must only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Commission may impose such conditions to a variance as it deems necessary.
  - d. May be issued for development for the conduct of a functionally dependent use provided that:
    - (1) Other criteria of Section 10.10 and Section 10.25,T,2,~~k-m~~ are met; and,
    - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
  - e. May be issued for Historic Structures upon the determination that the development:
    - (1) Meets the criteria of ~~Section 10.10,B,5,a-d~~Sections 10.10,B,5,a through c above; and,

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

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

(1) Meets the criteria of Sections 10.10,B,5,a through c; and  
(2) Meets the criteria of Sections 10.25,T,2,m, and n.

---

## C. ISSUANCE

---

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

---

## D. VARIANCES IN SPECIAL FLOOD HAZARD AREAS

---

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

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
2. Such construction below the base flood level increases risks to life and property; and
3. The applicant must agree in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the state against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the state from any claims the applicant may have against the state that are related to the use of land located in a floodplain.

...

---

## 10.23 PROTECTION SUBDISTRICTS

---

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

...

---

### C. FLOOD PRONE AREA PROTECTION SUBDISTRICT (P-FP)

---

#### 1. Purpose

The purpose of the P-FP subdistrict is to regulate in all flood prone areas, including areas of special flood hazard, certain land use activities in order to minimize the human, environmental, and financial costs of floods and flood cleanup programs, by protecting on-site, adjacent, upstream and downstream property from flood damage; and by minimizing danger from malfunctioning water supply and waste disposal systems in flood prone areas; and to comply with the cooperative agreement between the Land Use Planning Commission and the Federal Emergency Management Agency (FEMA) regarding the regulation of land use according to the requirements of 44 CFR Part 60.3 of the National Flood Insurance Program, so that flood insurance can be made available to persons in flood prone areas.

#### 2. Description

Areas located within the 100-year frequency floodplain, also known as areas of special flood hazard, as identified by the Commission after consideration of relevant data including, without limitation, areas determined to be flood prone by state or federal agencies, including ~~the~~ Flood Insurance Studies, ~~and accompanying~~ Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency, historical data, and the National Cooperative Soil Survey.

The areas identified by FEMA as areas of special flood hazard (Zones A, AE, ~~A1-30, and~~ VE) on Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps ~~for townships, plantations, or towns~~ qualify as flood prone areas appropriate for protection within this subdistrict. The Commission adopts the FEMA maps ~~as listed in Appendix E~~, and a note on the corresponding Official Land Use Guidance Maps must refer to the FEMA maps so adopted. In any case where the boundaries of ~~thea~~ Commission-mapped P-FP subdistrict on the Commission map an Official Land Use Guidance Map differ from the boundaries of the FEMA zones, the FEMA boundaries must also apply. The FEMA zones must be regulated according to the provisions of the P-FP subdistrict.

#### 3. Land Uses

##### a. Uses Allowed Without a Permit

The following uses are allowed without a permit from the Commission within P-FP subdistricts ~~or FEMA zones A, AE, A1-30, or VE~~:

...

**b. Uses Allowed Without a Permit Subject to Standards**

The following uses are allowed without a permit from the Commission within P-FP subdistricts ~~or FEMA zones A, AE, A1-30, or VE~~ subject to the applicable requirements set forth in Sub-Chapter III:

...

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-FP subdistricts ~~or FEMA zones A, AE, A1-30, or VE~~ upon issuance of a permit from the Commission pursuant to 12 M.R.S., §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

...

**[Revision Note:** The requirement for trails has been moved to a new section on trails in the development standards for flood prone areas, 10.25,T,2,s.]

- (17) Trailered ramps:
  - (a) Commercial ~~and~~ trailered ramps; and
  - (b) ~~Public~~ public trailered ramps;
- (18) Trails, ~~provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;~~

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-FP subdistricts ~~or FEMA zones A, AE, A1-30, or VE~~ as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III:

...

**[Revision Note:** The addition of lobster sheds and fish sheds to the Special Exception list follows from the current requirement in 10.25,T,2 that under the circumstances listed below, lobster sheds and fish sheds are permitted as a Special Exception.]

- (3) Lobster sheds and fish sheds located on a wharf, pier, or dock; that are seaward of the reach of the mean high tide; and that meet the criteria in Sections 10.25,T,2,r,(6),(a),(i) through (ix);
- (3)(4) Recreational lodging facilities: Level B except as provided for in Section 10.23,C,3,c, and Level C having not more than 10,000 square feet of gross floor area for all principal buildings; provided that any recreational lodging facility must rely upon the water resource for their existence, including their reconstruction, relocation, or replacement; new construction, reconstruction or replacement of a permanent foundation; substantial improvement or accessory structures;
- (4)(5) Residential: Single family dwellings, including their reconstruction, relocation, or replacement; new construction, reconstruction or replacement of a permanent foundation; substantial improvement or accessory structures;

~~(5)(6)~~ Trailered ramps: Private trailered ramps, in accordance with Section 10.27,L,1; and  
~~(6)(7)~~ Water-access ways, in accordance with Section 10.27,L,1.

...

**f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, must be prohibited in P-FP subdistricts ~~and FEMA zones A, AE, A1-30, and VE.~~

---

**N. WETLAND PROTECTION SUBDISTRICT (P-WL)**

---

...

**3. Land Uses**

...

**c. Uses Requiring a Permit**

Except as provided for in Sections ~~s~~ 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. § 685-B and subject to the applicable requirements set forth in Sub-Chapter III:

...

**d. Special Exceptions**

Except as provided for in Sections ~~s~~ 10.23,N,3,b,(3) and (5), the following uses, and related accessory structures, may be allowed within P-WL subdistricts as special exceptions upon issuance of a permit from the Commission according to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III:

...

**[Revision Note: The proposed change clarifies the circumstances under which lobster sheds and fish sheds are a special exception in the P-WL subdistrict following existing language in 10.25,T,2.]**

- (4) Lobster sheds and fish sheds ~~located on a pier, wharf, or dock; in the P-FP subdistrict; that are seaward of the reach of the mean high tide;~~ ~~as provided for in Section 10.25,T,2,p,(6)~~ and that meet the criteria in Sections 10.25,T,2,r,(6),(a),(i) through (ix);
- (5) Marinas;
- (6) Mineral exploration activities: Level A mineral exploration activities, except as provided for in Section 10.23,N,3,b,(7), and Level B mineral exploration activities;
- (7) Road projects: Level C road projects;
- (8) Trailered ramps: Trailered ramps except as provided in Section 10.23,N,3,b and c;

- (9) Utility facilities, including service drops except as provided for in Section 10.23,N,3,b; and
- (10) Water-access ways, in accordance with Section 10.27,L,1.

...

---

## **10.25 DEVELOPMENT STANDARDS**

---

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

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

...

---

### **T. ACTIVITIES IN FLOOD PRONE AREAS**

---

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

#### **1. Procedural Requirements.**

- a. Where a special flood hazard area is indicated solely by a ~~Commission-mapped~~ P-FP subdistrict, the area will be regulated according to standards applicable to the A zone.
- b. Determinations of base flood elevations (bfe) in ~~Commission-mapped~~ P-FP subdistricts, ~~and~~ A zones, and ~~other~~ flood prone areas ~~shall~~must be made in a consistent manner, according to methods outlined in the document "Dealing with Unnumbered A Zones in Maine Floodplain Management," (Maine Floodplain Management Program, September 25, 2013).
- c. Base flood elevations for ~~A1-30~~, AE and VE zones ~~shall~~must be those determined by FEMA in a Flood Insurance Study, where available.
- d. If ~~Commission-mapped~~ P-FP zones and ~~A1-30, AE, A, or VE, AE, or VE~~ zones apply to an area where FEMA has issued a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) to an applicant determining that the structure or property is not located in the area of special flood hazard, the requirements of Sections 10.23,C and 10.25,T, ~~shall~~do not apply to the structure or property specified in the LOMA or LOMR.
- e. Applicants ~~shall~~must notify adjacent towns, plantations and townships in writing prior to any alteration or relocation of a watercourse when project applications propose alterations or relocations of flowing waters in a ~~Commission-mapped Flood Prone Area Protection (P-FP)~~ Subdistrict or FEMA zone.

## 2. Development Standards.

- a. Development in flood prone areas, including areas of special flood hazard, ~~shall must be reasonably safe from flooding and must~~:
  - (1) Be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) Use construction materials that are resistant to flood damage;
  - (3) Use construction methods and practices that will minimize flood damage; and
  - (4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located ~~so as~~ to prevent water from entering or accumulating within the components during flooding conditions.
- b. **Water Supply.** All new and replacement water supply systems ~~shall must~~ be designed to minimize or eliminate infiltration of flood waters into the systems.
- c. **Sanitary Sewage Systems.** All new and replacement sanitary sewage systems ~~shall must~~ be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- d. **On-Site Waste Disposal Systems.** On-site waste disposal systems ~~shall must~~ be located and constructed to avoid impairment to them or contamination from them during floods.
- e. **Watercourse Carrying Capacity.** All development associated with altered or relocated portions of a watercourse ~~shall must~~ be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

**[Revision Note:** The new section on utilities is a new section in the Maine Model Ordinance intended to meet FEMA requirements.]

- f. **Utilities.** New construction or substantial improvement of any structure (including manufactured homes) must:
  - (1) ~~Have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated:~~
    - (a) ~~To at least one foot above the base flood elevation; or~~
    - (b) ~~In the absence of all data described in Sections 10.25,T,1,b, and c, to at least two feet above the highest adjacent grade to the structure; and~~
  - (2) ~~When located within Zone VE, meet the requirements of Section 10.25,T,2,r,(2),(c).~~

**[Revision Note:** The new section on physical changes to the natural landscape is a new section in the Maine Model Ordinance and is added to meet a community's obligation to monitor development that may affect any aspect of a Flood Insurance Rate Map.]

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

- (1) All development in Zones AE and VE that causes physical changes to the natural landscape must be reviewed by a professional engineer to determine whether the project changes the base flood elevation, flood zone, or the flood hazard boundary line. Review may be waived for projects that are unlikely to change the base flood elevation, the flood zone, or the flood hazard boundary line, such as those that are too small or are located at grade.
  - (a) If the professional engineer determines, through the use of standard practices, that the project would not necessitate a LOMR, a certified statement must be provided to that effect.
  - (b) If the professional engineer determines that the project may cause a change to the base flood elevation, the flood zone, or the flood hazard boundary line, a technical hydrologic and hydraulic analysis that meets FEMA standards for flood hazard mapping must be performed.
- (2) If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, flood zone, or the flood hazard boundary line:
  - (a) The applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to FEMA for assurance that the as-built project will result in a change to the FIRM. Once the development is completed, a request for a LOMR must be initiated; or
  - (b) as soon as practicable, but no later than 6 months after the completion of the project, the applicant must submit the technical data to FEMA in the form of a LOMR request.

**[Revision Note:** The changes proposed to the sections on residential structures, nonresidential structures, and manufactured homes incorporate the option that in the absence of all information on base flood elevation, property owners may elect to elevate 2 ft above the highest adjacent grade. This option is included in the document "Dealing with Unnumbered A Zones in Maine Floodplain Management" (Maine Floodplain Management Program September 25, 2013), was incorporated into the Maine Model Ordinance in 2017, and has been reviewed and approved by FEMA during review of the Maine Model Ordinance. See also 10.25,T,1,b.]

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

- (1) ~~have~~Have the lowest floor (including basement) ~~and utilities~~ elevated:
  - (a) ~~to~~To at least one foot above the base flood elevation, ~~and~~; or
  - (b) In the absence of all data described in Sections 10.25,T,1,b, and c to at least two feet above the highest adjacent grade to the structure; and
- (2) ~~when~~When located within Zone VE, meet the requirements for ~~Coastal~~coastal ~~floodplains~~floodplains in Section 10.25,T,2,~~pr~~.

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

- (1) Have the lowest floor (including basement) elevated to at least one foot above the base flood elevation and comply with Section 10.25,T,2,f, or
- (2) Together with attendant utility and sanitary facilities:
  - (a) Be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - (b) Have structural components capable of resistingdesigned to resist hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - (c) Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 10.25,T. Such certification shall be provided with the application for any permit and shall must include a record of the elevation above mean sea level to which the structure is floodproofed.
- (3) When located within Zone A and in the absence of all data described in Sections 10.25,T,1,b, and c:
  - (a) Have the lowest floor and utilities elevated to at least two feet above the highest adjacent grade to the structure; or
  - (b) Together with attendant utility and sanitary facilities, be floodproofed to at least two feet above the highest adjacent grade to the structure and meet the floodproofing standards of Sections 10.25,T,2,i,(2),(b), and (c).
- (3)(4) When located within Zone VE, meet the requirements for Coastal Floodplaincoastal floodplains in Section 10.25,T,2,pr.

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

- (1) Be elevated such that the lowest floor (including basement) and utilities of the manufactured home is are:
  - (a) at At least one foot above the base flood elevation; or
  - (b) When located within Zone A and in the absence of all data described in Sections 10.25,T,1,b, and c, at least two feet above the highest adjacent grade to the structure.
- (2) Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and

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

- Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or ~~by~~
- Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

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

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

**[Revision Note: Increasing the limit to 120 consecutive days corresponds to the Commission's definition for transient occupancy.]**

**h.k. Recreational Vehicles.** Recreational vehicles ~~shall~~must either:

- Be on the site for fewer than ~~90-120~~ consecutive days, and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in Section 10.25,T,2,~~hj~~.
- When located within Zone VE, be on the site for fewer than ~~90-120~~ consecutive days and be fully licensed and ready for highway use, or meet the requirements for ~~Coastal Floodplains~~coastal floodplains in Section 10.25,T,2,~~pr~~.

**[Revision Note: Changes to the section on Accessory Structures are proposed following FEMA's Floodplain Management Bulletin P-2140, "Floodplain Management Requirements for Agricultural Structures and Accessory Structures."]**

**i.l. Accessory Structures.** Accessory structures, as defined, ~~and agricultural structures meeting the definition of accessory structure located within Zones A1-30, AE, and A, shall bear~~ exempt from the required elevation criteria if all other requirements of Sections 10.25,T and ~~the following 10.25,T,2,1,(1) through (7)~~ are met. Exempt accessory ~~and agricultural~~ structures ~~shall~~must:

- ~~Be 500 square feet or less and have a value less than \$3,000; Be limited in size:~~
  - ~~Within Zones A and AE, to a one-story building with a floor area of no more than 600 square feet; and~~
  - ~~Within Zone VE, to a one-story building with a floor area of no more than 100 square feet;~~

- (2) Have unfinished interiors and not be used for human habitation;
- (3) Have hydraulic openings, as specified in Section 10.25,T,2,~~ln~~,(2), in at least two different walls of the accessory structure;
- (4) Be located outside the floodway, as determined by the provisions of Section 10.25,T,2,~~km~~;
- (5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; ~~and~~
- (6) Have only ground fault interrupt electrical outlets; ~~and~~
- (7) ~~The~~ Have the electric service disconnect ~~shall be~~ located:
  - (a) At least one foot above the base flood elevation; or
  - (b) In the absence of all data described in Sections 10.25,T,1,b, and c to at least two feet above the highest adjacent grade to the structure; and
  - (c) when~~When~~ possible outside the Area of Special Flood Hazard.

**[Revision Note:** FEMA allows technical evaluation to be waived for projects that are unlikely to cause an increase in the base flood level, such as projects that are too small or that are located at grade.]

#### j-m. Development in Floodways.

- (1) In ~~Zones A1-30 and Zone~~ AE adjacent to areas of flowing water, encroachments, including fill, new construction, substantial improvement and other development ~~shall not be~~ ~~not~~ permitted within a regulatory floodway which is designated on the township's, plantation's, or town's "Flood Insurance Rate Map" or "Flood Boundary and Floodway Map,"<sup>2</sup> unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels ~~within the township, plantation, or town~~ during the occurrence of the base flood discharge. Technical evaluation may be waived for projects that are unlikely to cause an increase in the base flood level due to small size or location at grade.
- (2) In Zones ~~A1-30, AE, and AA and AE~~ adjacent to areas of flowing water, for which no regulatory floodway is designated, encroachments, including without limitation fill, new construction, substantial improvement and other development ~~shall not be~~ ~~not~~ permitted in the floodway as determined in Section 10.25,T,2,~~km~~,(3) below unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
  - (a) Will not increase the water surface elevation of the base flood more than one foot ~~at any point within the township, plantation, or town~~; and
  - (b) Is consistent with the technical criteria contained in ~~Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study Guidelines and Specifications~~

~~for Study Contractors. FEMA. (37/ January 1995)FEMA's guidelines and standards for flood risk analysis and mapping.~~

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

(3) In Zones ~~A1-30, AE, and AA and AE~~ adjacent to areas of flowing water for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other flowing water and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

**k.n. Enclosed Areas Below the Lowest Floor.** New construction or substantial improvement of any structure in Zones ~~A1-30, AE, and AA and AE~~ that meets the development standards of Section 10.25,T, including the elevation requirements, and is elevated on posts, columns, piers, piles, stilts, or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

- (1) Enclosed areas are not basements as defined in ~~Section 10.02 Chapter 2 of the Commission's rules;~~
- (2) Enclosed areas ~~shall~~must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - (a) Be ~~engineered and~~ certified by a registered professional engineer or architect; or
  - (b) Meet or exceed the following minimum criteria:
    - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (ii) The bottom of all openings ~~shall~~must be below the base flood elevation and no higher than one foot above the lowest grade; and
    - (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
- (3) ~~The enclosed area shall~~Enclosed areas must not be used for human habitation; and
- (4) ~~The enclosed~~Enclosed areas are usable solely for building access, parking of vehicles, or storage.

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

- (1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
- (2) A registered professional engineer ~~shall~~must certify that:

- (a) The structural design and methods of construction ~~shall~~ meet the elevation requirements of Section 10.25,T,2,~~mo~~,(1) above and the floodway standards of Section 10.25,T,2,~~km~~; and
- (b) The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used ~~shall~~must be those associated with the base flood.

**~~m-p.~~ Containment Walls.** New construction or substantial improvement of any containment wall ~~shall~~must:

- (1) Have the ~~top of the~~ containment wall elevated to at least one foot above the base flood elevation;
- (2) Have structural components ~~capable of resisting~~designed to resist hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 10.25,T. ~~Such certification shall be provided with the application for a permit.~~

**[Revision Note:** The proposed change requiring engineering certification for all wharves, piers, and docks is consistent with the Maine Model Ordinance. Engineering certification is proposed to be required in coastal AE and VE zones and the standards of certification are added, following existing standards for certification of bridges, containment walls, and nonresidential structures.

Breakwaters are added as a use requiring engineering certification.]

**~~n-q.~~ Commercial Wharves, Piers, and Docks, and Breakwaters.** New construction or substantial improvement of wharves, piers, docks, and breakwaters is permitted in and over water and seaward of the mean high tide if the following requirements are met: ~~A registered professional engineer shall develop or review the structural design, specifications, and plans for the new construction or substantial improvement of commercial wharves, piers, and docks.~~

- (1) In coastal floodplains, A registered professional engineer shall develop or review the structural design, specifications, and plans for the new construction or substantial improvement of commercial wharves, piers, and docks. must certify that the design:-
  - (a) Resists flotation, collapse, and lateral movement due to the effects of wind and water loads, including the effects of buoyancy, acting simultaneously on all structural components during a base flood;
  - (b) Meets the standards in Sections 10.25,T,2,a,2 through 4 and does not increase flood risk; and
  - (c) Is in accordance with accepted standards of practice for meeting the provisions of Section 10.25,T and ensuring that development is reasonably safe from flooding.
- (2) In non-coastal floodplains, wharves, piers, and docks must meet the standards in Section 10.25,T,2,a and must not increase flood risk.

**[Revision Note:** FEMA has clarified the requirement that development be located landward of the mean high tide applies to new construction only. This change is consistent with the latest version of the Maine Model Ordinance, as are the proposed requirements for utilities in VE Zones. Proposed changes to the section on lobster sheds and fishing sheds serve to clarify the rule.]

**o-r. Coastal Floodplains.**

- (1) ~~All development shall~~New construction must be located landward of the reach of mean high tide except for wharves, piers, ~~and~~ docks, and breakwaters or as provided in Section 10.25,T,2,~~pr~~,(6) below.
- (2) New construction or substantial improvement of any structure located within Zone VE, ~~with the exception of accessory structures meeting the requirements for wet floodproofing in Section 10.25,T,2,l, must shall:~~
  - (a) Be elevated on posts or columns such that:
    - (i) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation; and
    - (ii) The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and.
    - (iii) Water loading values used ~~shall~~must be those associated with the base flood. Wind loading values used ~~shall~~must be ~~those contained in~~based on the “Coastal Construction Manual” (FEMA P-55), ~~Federal Emergency Management Agency (August 2011)~~ or equivalent Maine building standards.
  - (b) Have the space below the lowest floor:
    - (i) Free of obstructions; or
    - (ii) Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or
    - (iii) Constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
  - (c) Have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation. Systems, fixtures, equipment, and components must not be

mounted on or penetrate through walls intended to break away under flood loads.

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

- (i) Develop or review the~~The~~ structural design, specifications, and plans for the planned methods of construction, which must meet or exceed the technical criteria contained in the “Coastal Construction Manual” (FEMA P-55) Federal Emergency Management Agency (FEMA P-55, August 2011); and that
- (ii) Certify that the~~The~~ design and planned methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Section 10.25,T,2,pr,(2).
- (3) The use of fill for structural support in Zone VE is prohibited.
- (4) Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
- (5) Enclosed areas~~Areas~~ below the lowest floor may be used solely for parking vehicles, building access, and storage.
- (6) Lobster sheds and fishing sheds~~A~~ lobster shed or fishing shed on a wharf, pier, or dock:
  - (a) may~~May~~ be located seaward of mean high tide and shall be exempt from the elevation requirement only if permitted as a special exception, and if if the requirements of Section 10.23,C,3,d and all of the following requirements and those of Section 10.25,T,2,a,k, and l are met:
    - (i) The special exception shall be limited to low value structures such as metal or wood sheds~~shed is~~ 200 square feet or less and shall does not exceed more than one story;
    - (ii) The shed is a low value structure such as a metal or wood shed;
    - (ii)(iii) The structure shall be~~shed is~~ securely anchored to the wharf, or pier, or dock to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components;
    - (iii)(iv) The structure~~shed~~ will not adversely increase wave or debris impact forces affecting nearby buildings;
    - (iv)(v) The structure~~shall have~~ has an unfinished interiors~~interior~~ and shall is not be used for human habitation;
    - (v)(vi) Any mechanical~~Mechanical equipment~~, utility equipment, and fuel storage tanks must be~~are~~ securely anchored and either elevated or floodproofed to one foot above the base flood elevation;
    - (vi)(vii) All electrical outlets shall be~~are~~ ground fault interrupt type; The electrical service disconnect ~~shall be located on shore above the base~~

~~flood elevation and when possible outside the Special Flood Hazard Area.~~

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

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

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

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

s. Trails. Trails must:

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

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

...

---

## 10.26 DIMENSIONAL REQUIREMENTS

---

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

...

---

### F. MAXIMUM STRUCTURE HEIGHT

---

1. Except as provided for in Section 10.26,F,2, 4, and 5 below, the maximum structure height must~~shall~~ be:
  - a. 75 feet for residential uses, campsites, and residential campsites; and
  - b. 100 feet for commercial, industrial, and other non-residential uses involving one or more structures.
2. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater or coastal wetland ~~shall~~must be no higher than 30 feet. The Commission may apply this provision at greater distances from the normal high water mark of bodies of standing water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Bodies of standing water having such scenic values are shown in Appendix C.

3. Features of structures which contain no floor area such as chimneys, towers, ventilators and spires and freestanding towers and turbines may exceed these maximum heights with the Commission's approval.

**4. Structure Height in Prospectively Zoned Areas.**

- a. In areas beyond 500 feet of the normal high water mark of a body of standing water 10 acres or greater, structure height in the D-GN, D-GN2, D-GN3, D-RS, D-RS2, D-RS3, D-CI, and D-ES in prospectively zoned areas ~~shall must~~ be limited to 35 feet. Structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission's approval.
- b. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater in size ~~shall must~~ conform to the provisions of Section 10.26,F,2 above.

5. **Structure Height in Trescott Township.** Structures within 500 feet of State Route 191 in Trescott Township ~~shall must~~ be no higher than 40 feet.

6. **Structures in Flood Prone Areas.** Notwithstanding the provisions of Sections 10.11,C,1,a; 10.11,C,1,b; 10.26,F,1; and 10.26,F,2, the applicable maximum structure height may be increased for any structure in a P-FP subdistrict to allow for raising the structure a maximum of either:

- a. two feet above the nearest adjacent grade; or
- b. two feet above the base flood elevation as determined by any method given in Sections 10.25,T,1,b, or c.

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

**Rule Revisions: Chapter 2, Definitions; and Chapter 10, Land  
Use Districts and Standards**

**2025 Miscellaneous Rule Revisions**

*October 8, 2025*

The following amendments propose changes to Chapter 2, Definitions and 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 ~~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 would not be included in the final rule.

### **Summary of Proposed Rule Revisions:**

#### *Response to Statutory Changes:*

Certain revisions would align LUPC rules with recent changes to statute ([Public Law 2025 Chapter 11](#)), which changed the defined term “campsite” to “minor campground” in Title 12 M.R.S. §682(15) and amended 12 M.R.S. §685-B(1-A)(C) to state that a permit is not required for a minor campground in a management subdistrict. The following changes are proposed to reflect the updated statutory language:

- Update Chapter 2, Section 2.02 to replace the current definition of “campsite” with “minor campground,” which allows four campsites of up to 12 people each;
- Create a new definition of “campsite” as a single camping location for up to 12 people in Chapter 2, Section 2.02 based on existing language in the current definition, and which would continue to apply in all subdistricts where campsites are currently allowed;
- Revise Chapter 10, Section 10.22 to add “minor campground” to the lists of uses allowed without a permit subject to standards in M-GN, M-HP, and M-NC subdistricts.

#### *Miscellaneous Rule Revisions:*

In addition to the changes to Chapter 2 above, the following revisions are also proposed for Chapter 2:

- Slightly modify language for several additional definitions in Chapter 2, Section 2.02 to improve clarity and consistency with the LUPC statute and with 2022 LUPC rulemaking regarding solar energy generation facilities; and
- Add new definitions in Chapter 2, Section 2.02 for “community-based off-shore wind project,” “moratorium,” “planned subdistrict,” and “real estate.”

In addition to the changes to Chapter 10 above, the following revisions are also proposed for Chapter 10:

- Slightly modify the language for several definitions in Chapter 10, Sections 10.06, 10.11, and 10.21 to improve clarity and consistency with statute;
- Modify Section 10.16 to confirm where documents incorporated by reference can be accessed or copies thereof may be acquired;
- Modify language in Chapter 10, Section 10.21 to change the deadline for filing a development permit following the establishment of a D-PD or D-PR subdistrict from 18 months to five years and adding a provision that, if the Commission concludes that a legally existing nonconforming use has become a legally existing conforming use pursuant to the designation of the D-PR subdistrict, the deadline does not apply;
- Add a new use listing in Section 10.22,A as part of the implementation of Public Law 2025 Chapter 11;

- In Chapter 10, Section 10.23, add examples of types of Trailered ramps and making minor edits to improve clarity, and update a document incorporated by reference to the most recent available version;
- Modify Chapter 10, Section 10.25,T,2,K to change the limit for transient occupancy of RVs in the P-FP subdistrict from 120 to 150 days, in accordance with [Public Law 2025 Chapter 61](#), which revises 12 M.R.S. § 682(18);
- Slightly modify language in Chapter 10, Section 10.25 to improve clarity and to update documents incorporated by reference to more recent available versions;
- Modify language in Chapter 10, Section 10.26 to improve clarity and to add “major flowing water” to the list of types of bodies of water subject to shoreland zoning requirements;
- Modify language in Chapter 10, Section 10.27 to improve clarity and consistency with statute, and to allow for greater flexibility in the tools given as examples to help comply with the requirements of 10.27,D,2,a;
- Slightly modify language in Chapter 10, Appendix G to improve clarity and consistency with statute.

## Chapter 2, Definitions

---

### 2.02 DEFINITIONS

---

...

**[Revision Note:** The following item would be edited in response to [Public Law 2025 Chapter 11](#), which revises Title 12 M.R.S. § 682(15). This item will also be relocated to be in alphabetical order. Additionally, a new definition of campsite is proposed.]

##. **Campsite****Minor campground:**

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

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

...

**[Revision note:** In follow up to PL 2025 Chapter 11, add a new definition for “campsite” that employs familiar concepts and metrics without perpetuating the issues from the prior statutory definition.]

##. **Campsite:**

**A camping location containing tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. A campsite must not have access to a pressurized water system or permanent structures other than outhouses, fireplaces, picnic tables, picnic tables with shelters or lean-tos. A campsite must be designed and utilized for transient occupancy by 12 or fewer people.**

**The term “tents” includes but is not limited to tents with ground level platforms not to**

exceed 150 square feet in area. The shelters for picnic tables shall not exceed 120 square feet in area. Outhouses shall not exceed 36 square feet in area.

...

**##. Community-based off-shore wind project:**

"A wind energy development, as defined by Title 35-A, section 3451, subsection 11, with an aggregate generating capacity of less than 3 megawatts that meets the following criteria: the generating facilities are wholly or partially located on or above the coastal submerged lands of the State; the generating facilities are located within one nautical mile of one or more islands that are within the unorganized and deorganized areas of the State and the project will offset part or all of the electricity requirements of those island communities; and the development meets the definition of "community-based renewable energy project" as defined by Title 35-A, section 3602, subsection 1." 12 M.R.S. § 682.

...

**[Revision Note: Edit will improve clarity and transparency.]**

**##. Cross-Sectional Area:**

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

...

**##. Development:**

"Any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, excluding, however, such specific uses or classes and categories of uses which by the terms of this chapter do not require a permit, as the Commission may by regulation determine do not need regulating to achieve the purpose, intent and provisions of this chapter." 12 M.R.S. § 682.

...

**[Revision Note: Clerical edit to remove incomplete and unnecessary gender references.]**

**##. Home Child Day Care Provider:**

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

...

**[Revision Note: Update definition to accurately reflect statute, and add a new sentence regarding interpretation.]**

**##. Land Use Subdistrict:**

"The area located within the boundaries of air, land or water delineated vertically or horizontally by the Commission to provide for distinct categories of uses or resources." 12 M.R.S. § 682.

District and subdistrict may be used interchangeably.

...

**##. Manufactured Home:**

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For purposes of regulating development in flood prone areas, the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 120 150 consecutive days.

...

**##. Moratorium:**

“A temporary land use regulation or ordinance approved by the commission or a municipal legislative body which prevents development or subdivision by withholding authorization or approval necessary for development.” 12 M.R.S. § 682.

...

**##. Planned subdistrict:**

“A delineated area for which a specific land use plan and standards have been agreed to by the owner of the land within the delineated area and approved by the commission.” 12 M.R.S. § 682.

...

**##. Real Estate:**

“Land and structures attached to it.” 12 M.R.S. § 682.

...

**##. Road Projects, Level B:**

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

...

**##. Septage:**

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

...

**##. Setback:**

“The minimum horizontal distance from the lot line, shoreline, upland edge of a wetland, or road to the nearest part of the structure or other regulated area such as a driveway or parking area..” 12 M.R.S. § 682.

...

**[Revision Note:** Clerical edit to concur with Title 12 § 682.]

**##. Shoreline:**

“The normal high water mark of tidal waters, a coastal or inland wetland, a standing body of water, or flowing water or non-tidal water body, or the upland edge of a freshwater wetland.” 12 M.R.S. § 682.

**[Revision Note:** Clerical edit to remove incomplete and unnecessary gender references. Additionally, continue to replace usage of “shall” to more appropriate terminology or phrasings.]

**##. Sign:**

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

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

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

**Sign, On Premises:**

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

**Sign, Projecting:**

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

**Sign, Roof:**

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

**Sign, Residential Directional:**

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

**Sign, Wall:**

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

...

**[Revision Note:** Clerical edit to reflect revisions adopted within 2022 rulemaking.]

**##. Solar Energy Generation Facility:**

- a. **Accessory Solar Energy Generation Facility.** A freestanding or standalone solar energy system that is intended to convert solar energy into electric or thermal energy for on-site use or off-site use, and which has a project area of 750 square feet or less; excluding rooftop installations over existing footprint.
- b. **Small-scale Solar Energy Generation Facility.** A solar energy system that is intended to convert solar energy into electric or thermal energy for on-site use or off-site use, and which has a project area of more than 750 square feet but not more than one acre.
- c. **Mid-scale Solar Energy Generation Facility.** A solar energy system that generates electricity for on-site use or off-site use, and which has a project area of more than one acre but not more than ten acres.
- d. **Large-scale Solar Energy Generation Facility.** A ~~Solar Energy System~~solar energy system that generates electricity primarily or solely for commercial sale for off-site use, and has project area of more than ten acres.

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

...

**##. Subdivision:**

“Except as provided in 12 M.R.S. § 682-B, “subdivision” means a division of an existing parcel of land into 3 or more parcels or lots within any five-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of land or by leasing. The term “subdivision” also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a five-year period.” <sup>12</sup> M.R.S. § 682(2-A).

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

**[Revision note:** Subdivisions may be residential, non-residential, or mixed use. While most subdivisions processed by the Commission are residential projects, these definitions were not intended to be limited to residential subdivisions.]

- ##. **Subdivision Density, Low-density Subdivision:** A ~~residential~~-subdivision with a minimum lot size of 11 acres, maximum lot size of 25 acres, and an average lot size of greater than 15 acres.
- ##. **Subdivision Density, Moderate-density Subdivision:** A ~~residential~~-subdivision with a minimum lot size of one acre, maximum lot size of 10 acres, and an average lot size between two and four acres.
- ##. **Subdivision Density, High-density Subdivision:** A ~~residential~~-subdivision with a minimum lot size of 20,000 square feet, maximum lot size of three acres, and an average lot size of less than two acres.

...

**##. Subsurface Wastewater Disposal System:**

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

...

**##. Transient Occupancy:**

“Occupancy that does not exceed 120-150 days in a calendar year” 12 M.R.S. §682(18). With respect to campsites and residential campsites occupancy is measured by the length of time the tent, trailer, camper, recreational vehicle, or similar device used for camping is located on the site. There is no limit to the number of days a person may store an unoccupied camping device at a lawfully existing camping location within a lawfully existing campground.

**##. Unorganized and Deorganized Areas:**

“Unorganized and deorganized areas includes:

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

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

...

## Chapter 10 – Land Use Districts and Standards

---

### 10.06 INTERPRETATION OF LAND USE STANDARDS

---

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

- A. The description of permitted uses herein does not authorize any person to unlawfully trespass, infringe upon or injure the property of another, and does not relieve any person of the necessity of complying with other applicable laws and regulations.
- B. Unless otherwise specified herein, accessory uses and structures which are permitted in a subdistrict must conform to the requirements for the principal use or structure to which they relate.
- C. Whenever a provision of this Chapter conflicts with or is inconsistent with another provision of this Chapter or of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants, the more protective of existing natural, recreational and historic resources shall control.
- D. Where two or more protection subdistricts apply to a single land area, the combination of the more protective standards for each subdistrict shall apply. Where another protection subdistrict applies to the same land area as a P-FW subdistrict, any activities within such area which are not in conformance with the applicable standards of Section 10.27 shall require a permit.
- E. Wherever an M-NC subdistrict surrounds another management or protection subdistrict, no commercial, industrial, or residential development shall be allowed in such management or protection subdistricts except as allowed in such M-NC subdistrict.
- F. Notwithstanding any other provisions contained in this chapter, a “land use standard may not deprive an owner or lessee or subsequent owner or lessee of any interest in real estate of the use to which it is lawfully devoted at the time of adoption of that standard.” 12 M.R.S. § 685-A(5)
- G. Subdivisions are prohibited unless allowed with a permit pursuant to the standards set forth for the subdistrict involved, except as provided in Section 10.25,Q,3,d,(6).
- H. “Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, a permit is not required for those aspects of a project approved by the Department of Environmental Protection under Title 38 if the commission determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. Notice of intent to develop and a map indicating the location of the proposed development must be filed with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection.” 12 M.R.S. § ~~685-B(1-A)(B)~~  
~~685-B(1-A)(G)~~
- I. If a proposed activity other than timber harvesting requires a permit and will alter 15,000 or more square feet of a mapped wetland (P-WL1, P-WL2, or P-WL3 subdistrict), or 1 acre or more of overall land area, the applicant must delineate on the ground and in a site plan all wetlands within the general project area using methods described in the “Corps of Engineers Wetlands Delineation Manual” U.S. Army Corps of Engineers. (1987) and the “Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region.” U.S. Army Corps of Engineers. (Version 2.0, January 2012).

---

## **10.11 NONCONFORMING USES AND STRUCTURES**

---

...

---

### **C. NONCONFORMING STRUCTURES**

---

...

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

...

---

## **10.16 ~~(RESERVED)~~MATERIALS INCORPORATED BY REFERENCE**

---

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

...

## **10.21 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**

...

##### **c. Uses Requiring a Permit**

...

(20) Trailered ramps:

- (a) Commercial; and
- (b) private Private trailered ramps;

...

---

### **G. MARITIME DEVELOPMENT SUBDISTRICT (D-MT)**

---

...

#### **3. Land Uses**

...

##### **d. Special Exceptions**

...

(3) Marine

The following marine uses must be permitted as special exceptions in both the D-MT1 and D-MT2 subdistricts:

- (a) Fabrication of marine related goods, including fishboat equipment, provided that a location on the water is essential for their production; and
- (b) Fish by-products processing.

The following marine uses must be permitted as special exceptions in the D-MT2 subdistrict:

- (c) Harbor and marine supplies and services, such as ship chandler, provided that sales are primarily for purpose of serving water-dependent uses or that the applicant can demonstrate that the business is essential to water dependent uses;

- (d) Excursion services which do not displace existing water dependent uses, or occupy docking and berthing space which had been actively and substantially used by commercial fishing boats and vessels within the preceding ~~twelve (12)~~ ~~month~~twelve-month period; and which do not sell any product except for the excursion service; and which provide for all parking space outside of this zone or district; and
- (e) Publicly owned wharves for general public access to the shore, provided that the facility or facilities do not unreasonably interfere with permitted commercial fishing uses and which provide for all parking space outside of this zone or district.

...

---

## **H. PLANNED DEVELOPMENT SUBDISTRICT (D-PD)**

---

...

### **8. Application for Zone Change and Associated Development Plan**

...

#### **c. Approval or Denial of an Application for Zone Change and Associated Development Plan**

...

**[Revision Note:** As originally established in 1977, Chapter 10 has included a deadline between the establishment of a D-PD or D-PR subdistrict and subsequent filing of a development permit application, in-part to avoid unused or ‘ghost subdistricts.’ Conversely, all Commission permits are afforded two years for substantial start and five years for substantial completion. In light of the required minimum size requirements for D-PD and D-PR subdistricts, and that their purposes allow for/encourage “well-planned development,” an 18-month deadline is difficult to meet and is less compatible with productive outcomes. Further, concept plans and resource plans can be equally customized and complex land use and regulatory documents but are not encumbered by similar timing requirements. In rare cases, some D-PD or D-PR subdistricts may serve as a mechanism to transform a legally existing nonconforming use into a legally existing conforming use. The following edits serve to address these circumstances.]

- (3) Within a maximum of ~~18 months~~five years following a Commission decision to designate an area as a D-PD subdistrict, the applicant, or another person with title, right, or interest, must file a development permit application with the Commission or a Site Location of Development Law (Site Law) permit application with DEP for development consistent with the approved Development Plan. Upon a showing of good cause, the Commission may, at its discretion, extend the deadline for filing a permit application with the Commission or DEP. In cases where the Commission concludes that a legally existing nonconforming use has become a legally existing conforming use, pursuant to the designation of the D-PD subdistrict, the deadline stated above does not apply.
- (4) If, for any reason, no person files a permit application for the Planned Development within the prescribed time, the D-PD subdistrict designation must be deemed to be revoked and the original subdistrict(s) must again apply.

...

---

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

---

...

### 8. Application for Zone Change and Associated Development Plan

...

#### d. Approval or Denial of an Application for Zone Change and Associated Development Plan

...

(3) Within a maximum of ~~18 months~~five years following a Commission decision to designate an area as a D-PR subdistrict, the applicant, or another person with title, right, or interest, must file a development permit application with the Commission or a Site Location of Development Law (Site Law) permit application with the DEP for development consistent with the approved Development Plan. Upon a showing of good cause, the Commission may, at its discretion, extend the deadline for filing 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.

In cases where the Commission concludes that a legally existing nonconforming use has become a legally existing conforming use, pursuant to the designation of the D-PR subdistrict, the deadline stated above does not apply.

(4) If no person files a permit application for the planned recreation development within the prescribed time, the Commission will deem the D-PR subdistrict designation to be revoked and the original subdistrict(s) will again apply.

...

---

## O. RESIDENTIAL RECREATION DEVELOPMENT SUBDISTRICT (D-RS3)

---

...

### 3. Land Uses

The provisions of the D-RS3 subdistrict will not apply to any applications that have been received and deemed complete for processing by the Commission staff on or before January 1, 2001.

...

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within D-RS3 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,1 through 3, and subject to the applicable requirements set forth in Sub-Chapter III, and, where within 500 feet of

Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.25,A:

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Trailered ramps: Private trailered ramps, in accordance with Section 10.27,L,1; and
- (3) Water-access ways associated with residential ~~level 1~~-subdivisions, in accordance with Section 10.27,L,1.

...

**[Revision Note:** Pursuant to Public Law 2025 Chapter 11, add minor campground as a use allowed without a permit in each management subdistrict, and as needed clarify the existing use listing for Level A Recreational Lodging Facility accordingly.]

## **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**

...

##### **b. Uses Allowed Without a Permit Subject to Standards**

The following uses are allowed without a permit from the Commission within M-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

...

(13) Minor campground;

...

##### **c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within M-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

...

(16) Recreational lodging facilities:

Level A (except as provided for in Section 10.22,A,3,b);

Level B;  
Level C; and  
Level D (inside the geographic allowance area);  
...

---

## **B. HIGHLY PRODUCTIVE MANAGEMENT SUBDISTRICT (M-HP)**

---

...

### **3. Land Uses**

...

#### **b. Uses Allowed Without a Permit Subject to Standards**

The following uses are allowed without a permit from the Commission within M-HP subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

...

(2) Campsites;

...

(7) Minor Campground;

...

#### **c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within M-HP subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

(2)(1) Campsites;

...

---

## **C. NATURAL CHARACTER MANAGEMENT SUBDISTRICT (M-NC)**

---

...

### **3. Land Uses**

...

#### **b. Uses Allowed Without a Permit Subject to Standards**

The following uses are allowed without a permit from the Commission within M-NC subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

...

**(7) Minor Campground;**

...

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within M-NC subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

...

**(6) Recreational lodging facilities: Level A (except as provided for in Section 10.22,C,3,b);**

...

---

## **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**

**d. Special Exceptions**

...

**(5) Trailered ramps:**

**(a) Commercial trailered ramps;**

**(b) Private trailered ramps, not in conformance with Section 10.27,L,1; and**

**(c) Public trailered ramps;**

...

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

---

...

### **2. Description**

This subdistrict must include wildlife and fishery habitat the Commission determines are in need of special protection pursuant to the following standards:

- a.** Significant fish spawning nursery and feeding areas, critical habitat of endangered and threatened fish and wildlife species ascertained by state or federal agencies, and habitat of fish or wildlife species needing special protection by other means, including by a state fish or wildlife conservation plan.
- 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 subdistrict within the applicable WMD must not exceed 3.5%~~percent~~ of the area of that WMD; and

...

### **3. Land Uses**

...

#### **c. Uses Requiring a Permit**

...

- (12)** Utility facilities~~s~~, excluding service drops;

...

#### **d. Special Exceptions**

...

- (8)** Trailered ramps:

- (a)** Commercial trailered ramps;
  - (b)** Private trailered ramps, not in conformance with Section 10.27,L,1; and
  - (c)** Public trailered ramps;

...

## **E. GREAT POND PROTECTION SUBDISTRICT (P-GP)**

---

...

### **3. Land Uses**

...

#### **c. Uses Requiring a Permit**

...

(20) Utility facilities ~~other than, excluding~~ service drops;

...

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

---

...

### **3. Land Uses**

...

#### **g. Allowed Densities**

...

(3) Phosphorous control. All development must be designed in accordance with ~~“Maine Stormwater Management Design Manual, Volume II, Phosphorus Control Manual”~~ ~~Maine Department of Environmental Protection. (March 2016)~~ ~~the Maine Department of Environmental Protection’s “Maine Stormwater Best Management Practices Manual, Volume II, Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development.”~~ Development density must conform to the requirements of this manual.

---

## **10.24 GENERAL CRITERIA FOR APPROVAL OF PERMIT APPLICATIONS**

---

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

...

## B. CRITERIA FOR PERMIT APPLICATIONS INVOLVING SPECIAL EXCEPTIONS

---

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

...

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

...

---

## 10.25 DEVELOPMENT STANDARDS

---

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

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

...

---

## D. VEHICULAR CIRCULATION, ACCESS, AND PARKING

---

...

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

...

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

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

...

---

## L. PHOSPHORUS CONTROL

---

...

### 2. General Standards.

- a. Provision ~~shall-must~~ be made to limit the export of phosphorus from the site following completion of the development or subdivision so that the project will not exceed the allowable per-acre phosphorus allocation for the water body, determined by the Commission according to the ~~“Maine Stormwater Best Practices Manual, Volume II, Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development” Maine Department of Environmental Protection, 2008”~~ ~~“Maine Stormwater Management Design Manual, Volume II, Phosphorus Control Manual”~~ ~~“Maine Department of Environmental Protection. (March 2016),~~ and hereafter cited as the 2016 Phosphorus Design Control Manual.
- b. **Impact Analysis.** The phosphorus impact analysis and control plan for a proposed subdivision or development on a water body ~~shall-must~~ be prepared using the procedures set forth in the 2016 Phosphorus Design Control Manual, including all worksheets, engineering calculations, and construction specifications and diagrams for control measures as may be required by the manual, except as allowed in Section 10.25,L,2,d, below.

...

### 3. Alternative Buffer Standard.

...

- b. **Vegetated Buffers.** Vegetated buffers for phosphorus control are undisturbed strips of dense vegetation located adjacent to and down gradient of developed areas, and that provide storage and treatment for stormwater that enters them in diffuse overland flow. Five types of vegetated buffers are allowed under the alternative standard as listed in Section 10.25,L,3,b,(1) through (5) below. All vegetated buffers must be appropriately used, located, designed, sized, constructed, and maintained as specified in the ~~“Maine Stormwater Best Practices Manual, Volume III, BMP Technical Design Manual, Chapter 5, Vegetated Buffers”~~ ~~“Maine Department of Environmental Protection, June 2010”~~ ~~“Maine Stormwater Management Design Manual, Volume III, Technical Design Manual”~~ ~~“Maine Department of Environmental Protection. (May 2016),~~ and hereafter cited as the Technical Design Manual. Where the Technical Design Manual allows for a variation in the design specification with approval from the Department of Environmental Protection, approval from the Land Use Planning Commission is required for projects located in the unorganized and deorganized areas of Maine.

...

### 4. Design and Maintenance Standards.

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

~~Best Practices Manual, Volume III. BMP Technical Design Manual, Chapter 11. Designing for Operation and Maintenance” Maine Department of Environmental Protection, 2008~~, and hereafter cited as the Technical Design Manual.”

...

---

## **T. ACTIVITIES IN FLOOD PRONE AREAS**

---

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

...

### **2. Development Standards.**

...

#### **k. Recreational Vehicles.** Recreational vehicles must either:

- (1) Be on the site for ~~fewer no more~~ than ~~120-150~~ consecutive days and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (2) Be permitted in accordance with the elevation and anchoring requirements for manufactured homes in Section 10.25,T,2,j.
- (3) When located within Zone VE, be on the site for ~~fewer no more~~ than ~~120-150~~ consecutive days and be fully licensed and ready for highway use, or meet the requirements for coastal floodplains in Section 10.25,T,2,r.

...

---

## **10.26 DIMENSIONAL REQUIREMENTS**

---

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

...

---

### **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~~traveled portion of the roadway.

...

---

## F. MAXIMUM STRUCTURE HEIGHT

---

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

- a. 75 feet for residential uses, campsites, and residential campsites; and
- b. 100 feet for commercial, industrial, and other non-residential uses involving one or more structures.

**[Revision Note:** Improving protection of scenic values of major flowing waters is warranted and would concur with shoreland zoning guidelines.]

2. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater, major flowing water, or coastal wetland ~~shall~~must be no higher than 30 feet. The Commission may apply this provision at greater distances from the normal high water mark of bodies of standing water and major flowing water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Bodies of standing water having such scenic values are shown in Appendix C.

...

---

## 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.

...

---

### B. VEGETATION CLEARING

---

Vegetation clearing activities not in conformance with the standards of Section 10.27,B may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit ~~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,B, ~~shall~~must be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements ~~shall-must~~ apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

...

**[Revision Note: Minor edits to improve administration of the rule.]**

5. When revegetation is required: (i) in response to violations of the vegetation standards set forth in Section 10.27,B,1 through 4; (ii) to address the removal of non-native invasive species of vegetation; (iii) as a mechanism to allow for development by permit that exceeds the vegetation standards of Section 10.27,B or the cleared opening standards of Section 10.27,Q,1,Table A,(4), ~~including;~~ (iv) to address the removal of vegetation in conjunction with a shoreline stabilization project; or (iv)(v) as part of a mitigation plan for clearing associated with a recreational lodging facility, ~~for which~~ the revegetation must comply with the following requirements.

...

---

#### **D. ROADS AND WATER CROSSINGS**

---

Roads and water crossings not in conformance with the standards of Section 10.27,D may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such a permit ~~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,D, will be conducted in a manner that produces no undue adverse impact upon the resources and uses in the area.

The following standards apply to roads and water crossings for any purpose other than land management roads and water crossings on/for land management roads where those uses are regulated by the Maine Forest Service; repair and maintenance of legally existing road culverts or replacement of legally existing road culverts in accordance with 12 M.R.S. §685-B(1-A)(AH); and driveways associated with residential structures and uses, except as provided in Section 10.27,H. The following requirements ~~shall-must~~ apply to construction and maintenance of roads:

...

2. **Water Crossings of Flowing Waters.** Except as provided in Section 10.27,D,2,~~dc~~,(17) for trail crossings, the following standards apply to crossings of flowing waters:

...

- c. **Permanent Crossings.**

...

- (8) Provided they are properly applied and used for circumstances for which they are designed, methods including but not limited to the following are acceptable to the Commission as means of calculating 25-year and 100-year frequency storm events and thereby determining crossing sizes as required in Section 10.27,D,2:

- (a) ~~The~~A currently supported version of a tool or methodology published by the USDA Natural Resources Conservation Service (NRCS) ~~for calculating watershed runoff based on precipitation; or Method: “Urban Hydrology for~~

~~Small Watersheds.” (Technical Release #55). USDA Soil Conservation Service (June 1986).~~

(b) ~~The USDA NRCS Method: “TR 20—Computer Program for Project Formulation—Hydrology,” Second Edition, U.S. Department of Agriculture, Soil Conservation Service (March 1986).~~

(be) ~~Provided that the only design storm severity estimate used for sizing the crossing is a 100-year frequency storm event, the Commission may also allow use of the United States Geological Survey (USGS) method: tool such as StreamStats, (a Web-based Geographic Information Systems application) or similar replacement tool provided by the USGS(Geological Survey, U. S. (2019, April 19). USGS. Retrieved from StreamStats: <https://streamstats.usgs.gov/ss/>).~~

...

(12) If work is performed in a flowing water that is ~~less-more~~ than 3 feet deep at the time of the activity and at the location of the activity, the applicant must provide for temporary diversion of flow to the opposite side of the channel while work is in progress.

...

3. **Wetland Crossings.** The design and construction of roads, other than those located in areas below the normal high-water mark of standing or flowing waters, must avoid wetlands unless there are no reasonable alternatives, and must maintain the existing hydrology of wetlands.

To maintain the existing hydrology of wetlands, road drainage designs must provide cross drainage of the water on the surface and in the top 12 inches of soil in wetlands during both flooded and low water conditions so as to neither create permanent changes in wetland water levels nor alter wetland drainage patterns. This must be accomplished through the incorporation of culverts or porous layers at appropriate levels in the road fill to pass water at its normal level through the road corridor. Where culverts or other cross-drainage structures are not used, all fills must consist of free draining granular material.

To accomplish the above, the following requirements apply:

...

**b. Wetland crossings on soils with organic layers in excess of 4 feet in thickness.**

...

(3) Cross drainage must be provided by either a continuous porous layer, or appropriate placement of culverts or other cross-drainage structures and ditching as specified below:

...

(b) Cross drainage culverts or other cross-drainage structures must be placed at points where they will receive the greatest support. Culverts or other cross-drainage structures must be a minimum of 18 inches in diameter, or the functional equivalent, and have the bottom ~~embedded-embedded~~ at least 6 inches below the soil surface of the wetland. Where necessary to maintain existing

water flows and levels in wetlands, ditches parallel to the roadbed on both sides must be used to collect surface and subsurface water, carry it through the culvert(s), and redistribute it on the other side. Such ditches must be located three times the depth of the organic layer from the edge of the road fill. Unditched breaks must be left midway between culverts to prevent channelization.

...

5. **Written Notice Required.** Written notice of all road and water crossing construction activities, except level A road projects and exempt trail crossings as provided in Section 10.27,D,2,~~dc~~,(17) above, must be given to the Commission prior to the commencement of such activities. Such notice must conform to the requirements of Chapter 4, Section ~~4.05(C)~~4.05,C and must state the manner in which the water crossing size requirements of Section 10.27,D will be satisfied.

---

## L. TRAILERED RAMPS, HAND-CARRY LAUNCHES, AND WATER-ACCESS WAYS

---

Except as hereinafter provided, trailered ramps, hand-carry launches, and water-access ways not in conformance with the standards of standards of Section 10.27,L may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved.

Except as provided for in Section 10.27,L,4, trailered ramps, hand-carry launches, and water-access ways require a permit from the Commission. Where a permit is required, the proposal must meet the general Criteria for Approval, Section 10.24, and the Criteria for Wetland Alterations, Section 10.25,P, in addition to any applicable requirements set forth in these rules.

...

**[Revision note:** the first paragraph is confusing and not necessary if “public” is clarified in the second paragraph.]

### 4. Notification for Trailered Ramps and Hand-carry Launches.

~~Public trailered ramps and public hand-carry launches are allowed without a permit within the shoreland zone of all water bodies except those identified as P\_AL, P\_RR, P\_WL, and Management Class 1, 2, and 6 Lakes.~~

The following notification provision applies to construction of new or replacement public trailered ramps and public hand-carry launches where such projects are allowed without a permit. If a proposed project fails to meet any notification requirement or other applicable rule, the project requires a permit.

...

**5. Design and Construction Standards for Trailered Ramps and Hand-carry Launches.**

Unless otherwise stated, the following standards apply to trailered ramps and hand-carry launches that are subject to the notification provisions in Section 10.27,L,4, and to all commercial or private trailered ramps and hand-carry launches.

...

**e. Trailered Ramps.**

- (1) A public trailered ramp having a slope in excess of ~~8%8 percent~~ must be hard-surfaced except where the agency responsible for maintaining the facility anticipates a level of use that does not justify the expense of a hard surface facility. Should the level of use increase such that erosion problems become evident, the responsible agency ~~shall insure~~must ensure that appropriate measures are taken to repair such erosion and avoid any further erosion.

...

---

**N. HOME-BASED BUSINESSES**

---

Except as hereinafter provided, home-based businesses not in conformance with the standards of Section 10.27,N are prohibited.

**1. Minor Home-based Businesses.**

- a. **Purpose.** The intent of Section 10.27,N,1 is to allow minor home-based businesses under the conditions stated herein in certain subdistricts without requiring a permit.
- b. **Size.**

- (1) A minor home-based business must not utilize ~~net~~ more than 50 percent of all floor area of all principal and accessory structures up to a limit of 1,500 square feet.

...

**2. Major Home-based Businesses.**

...

- d. **Exterior effects.** There must be no exterior display, no exterior storage of materials, and no other exterior indications of a major home-based business with the following exceptions:

- (1) Outdoor activity areas are allowed for home child day care providers and home adult day services programs;
- (2) Signs are allowed in conformance with Section 10.27,J except in D-RS, D-RS2 and D-RS3 subdistricts where one unlighted sign no greater than four square feet in area is allowed for the home-based business; and
- (3) Vehicles and equipment as defined below in Section 10.27,N,~~12~~,h.

...

---

## Q. RECREATIONAL LODGING FACILITIES

---

All new recreational lodging facilities, and reconstruction of or substantial improvements to existing recreational lodging facilities, must be developed in conformance with the standards of Section 10.27,Q or in accordance with other applicable provisions of this Chapter. If the requirements in the standards below are at variance with the requirements of any other provisions of this Chapter, or other lawfully adopted rules, regulations, standards, or ordinances, the more protective of existing natural, recreational and historic resources ~~shall~~must apply.

...

### 5. New or Enlarged Clearing.

- a. Recreational lodging facilities may create or enlarge a clearing within 250 feet of the shoreline, provided the clearing, in combination with all other clearings at the facility, does not exceed the applicable limits in Section 10.27,Q,1, Table A and such a clearing is in an area that has:

~~(27)(1)~~ a 100 foot vegetative buffer that meets the provisions of Section 10.27,B,2<sup>1</sup> between the proposed clearing and all points on the shoreline; and

~~(28)(2)~~ slopes of ~~20%20 percent~~ or less as measured from the highest elevation in the area within 250 feet of the shoreline in which clearing or development is proposed, to the nearest point on the shoreline.

...

### 6. Campgrounds.

...

- b. In order to comply with transient occupancy standards, a tent, trailer, camper, recreational vehicle, or similar device used for camping may be stored within a campground provided that the device is not occupied for more than ~~120-150~~ days in a calendar year.

...

### 8. Conversion of Use.

Pursuant to 12 M.R.S. § 685-B(1)(A), recreational lodging facilities may not be converted to another use without a permit issued by the Commission. Conversion may be permitted, provided the proposed use is allowed within the subdistrict and complies with the all applicable regulations. When the conversion is to a residential use, the following ~~shall~~must apply:

---

<sup>1</sup> Section 10.27,B,2 sets out restrictions on cleared openings and requirements for maintaining a well-distributed stand of trees within a buffer strip when conducting vegetative clearing activities in locations along shorelines and public roadways identified in Section 10.27,B,1. For purposes of Section 10.27,Q, the provisions of Section 10.27,B,2 ~~shall~~must apply to the required 100 foot vegetative buffer in the area between a proposed new or enlarged clearing within 250 feet of the shoreline and all points on the shoreline. This requirement will apply regardless of whether or not the buffer extends to the shoreline.

...

**[Revision note:** Consistent with the provisions of Sections 10.25,Q,3,d and 10.26,G,2, the revision below clarifies limits to reducing dimensional requirements. Additionally, consistent with the provisions of Section 10.25,Q,3,d, the revision below confirms that building envelopes must be identified.]

d. Notwithstanding Section 10.27,Q,8,c, the Commission may permit the subdivision of the facility provided that:

...

(4) the condominium lot and existing structures:

(a) in the aggregate, meet all dimensional requirements of Sections 10.26,A, B, and C, except that shoreline setbacks must not be reduced; and

(b) as an individual lot or structure, meet all dimensional requirements of Section 10.26 to the greatest extent practicable; and

(5) commonly owned lots must not contain in no case shall less than three principal structures be located on a commonly owned lot.; and

(6) Building envelopes must be identified and consider existing development and possible relocation of reconstructed structures, consistent with Section 10.25,Q,3,c.

...

---

## S. COMMERCIAL BUSINESSES

---

3. Recreation Supply Facilities

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:

...

(2) Scale.

(a) A business must be mobile, and must not include structures as defined in Chapter 2 of the Commission's rules. The facility and all appurtenant components must not be in the same location for more than 120-150 days in a calendar year. Mobile means that a vehicle or trailer must be ready for highway use, and must be fully licensed unless intended to travel exclusively on private roads.

...

---

## APPENDIX G    DESIGNATED AREAS OF CULTURAL OR SPECIAL SIGNIFICANCE (DACS)

---

1. **Designated Area of Cultural or Special Significance (DACS).** Areas of cultural or special significance may be designated by the Commission to facilitate expansion, reconstruction or replacement, or relocation of structures that provide significant public benefits to the surrounding community. A DACS is intended to include discrete geographic areas with significant cultural or other special features. Once included in a DACS, a structure may be expanded in accordance with Section 10.11,C,1,c, reconstructed or replaced in accordance with Section 10.11,C,2,f, and relocated in accordance with Section 10.11,C,3, of the Commission's rules. Designation of an area as a DACS does not preclude expansion, reconstruction or replacement, or relocation of legally existing non-conforming structures in accordance with other applicable provisions of Section 10.11.
  - a. **Designation Criteria.** The Commission ~~shall~~must designate an area of cultural or special significance upon finding that a proposed area meets the following criteria:
    - (1) The proposed area is an iconic location containing features that convey a sense of time or place to residents or visitors;
    - (2) The proposed area is a geographically definable area or neighborhood composed of a finite group of related features that have a special character, historical interest, or aesthetic value; and
    - (3) The proposed area provides a significant public benefit, per Section 1,b.
  - b. **Contributing Factors.** When evaluating whether an area proposed for designation provides a significant public benefit, as required by Appendix G, Section 1,c the Commission ~~shall~~must consider the factors listed below. The Commission may find an area provides a significant public benefit even if the area does not include features satisfying all of the factors set forth in subsections (1) through (4) below, provided the evidence offered for a particular factor or subset of factors is compelling. In applying these factors, the Commission may consider, among other evidence, documentation such as published books, magazines, academic writings, or newspaper articles; other historic records identifying the value of the feature or area; and visual depictions such as postcards, images or paintings. The Commission also may receive testimony by persons with special knowledge about applicable factors.
    - (1) Cultural: Buildings, improvements or other features that exemplify or reflect a group of people linked together by shared values, traditional uses, beliefs, and historical associations;
    - (2) Historic: Represents a distinct historical period, type, style, region, or way of life; is the site of an important historical event, or is associated with historic events that have made a meaningful contribution to the nation, state, or community; or represents a specific business or use, which either once was common but now is rare, or continues to have historical value as it currently operates.

- (3) Architectural or Engineering: Exemplifies a particular architectural style or way of life, construction materials or engineering methods used to build features, or embodies elements of outstanding attention to architectural or engineering design, detail, material, or craftsmanship.
- (4) Neighborhood or Geographic Setting: The proposed area is in a unique location, or represents an established and familiar visual feature of the community that draws residents and visitors, or structures or features within the designated area include singular physical characteristics.

c. **Procedural Requirements.** In accordance with Chapter 4 of the Commission's Rules, Rules of Practice, Section ~~4.064.05,G~~, any person may petition the Commission for designation of an area as a DACSS. Petitions must be in writing and identify the area proposed for designation, specify the purpose of the proposed designation, and explain how the designation conforms with the criteria set forth in Appendix G, Section 1,a. In addition to notification requirements described in Section ~~4.06(5)4.04,B,2~~ upon receiving a petition to designate a proposed area the Commission ~~shall must~~ notify: (i) property owners within the area proposed as a DACSS; (ii) the municipality or plantation where the designated area is proposed; (iii) the county if located in an unorganized township; (iv) appropriate state and federal agencies, to be determined by the Commission; and (v) tribal governments. Upon designation of an area as a DACSS, a description of the designated area, its purpose, and the facts substantiating the Commission's finding that the applicant satisfied the criteria in Appendix G, Section 1,a ~~shall must~~ be listed in Appendix G, Section 2 of this chapter.

d. **Removal of Designation.** Upon petition in accordance with Chapter 4 of the Commission's Rules, Rules of Practice, Section ~~4.064.05,G~~, the Commission may remove a designation of a DACSS when the Commission finds that the DACSS no longer meets the purpose of the DACSS listed in Appendix G, Section 2, of this chapter or no longer provides a significant public benefit based on the factors in Appendix G, Section ~~s~~ 1,b,(1) through (4).

2. **Designated Areas.** The following areas have been designated as a DACSS in accordance with the procedure described in Appendix G, Section 1.

a. **Grand Lake Stream Plantation Boathouses and Waterfront.** Grand Lake Stream Plantation is a place where fishing, boating, access to water, and a strong connection to the past are key components of its identity and culture and very important to its residents, as well as the large number of visitors that come to the community each year. It is a place to which people from all over the world travel for its culture, its beauty, and importantly, the "old-time feeling" that makes it special.

- (1) Designation Purpose. The purpose of listing the Grand Lake Stream shorefront as a designated area is to provide the community an opportunity to sustain the boathouses located on the iconic southern shoreline of West Grand Lake that symbolize key components of its culture, and history, and that convey a tranquil "old-time feeling" for the people that live in and visit the community, and contribute to Grand Lake Stream Plantation's quality of life and sense of place.
- (2) Geographic Boundaries. The designated area includes all structures within its boundaries that are legally existing as of the effective date of this rule amendment. The designated area specifically includes the two public boat launches and excludes the man-made dam and any portion thereof, and is composed of the following two sub-areas:

- (a) Western sub-area. Extends northerly and westerly from the intersection of the driveway for the public boat launch and centerline of Shaw Road, along the centerline of Shaw Road, to the point where Shaw Road crosses the inlet into Hatchery Cove; and extends on the lake side of the road, to the extent necessary to include all legally existing structures.
- (b) Eastern sub-area. Extends southerly from the end of Canal Street, along the centerline of Canal Street, to the center of the intersection of Canal Street and the driveway leading to the dam; and extends on the lake side of the road, to the extent necessary to include all legally existing structures.

(3) Facts Substantiating Designation of Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance.

- (a) The historic boat houses that have existed along the shoreline at the southern end of West Grand Lake since the early 1900's are part of what makes the area described in Appendix G, Section 2,a iconic. For residents and visitors, the boathouses reflect the community, its culture, and their shared value of traditional uses and an "old-time feeling."
- (b) The boathouses in Hatchery Cove are representative of the Maine Guiding Tradition and a specific way of life. They originally sheltered steamboats used to transport sportsmen and other visitors to remote lodges located around the lake. They have since been used to store boats for visiting sportsmen, including the famous Grand Laker Canoe, which was designed and built locally for conditions commonly found on the lake. Additionally, the boathouses have been used by property and business owners to supply camps and lodges located around the lake, and by the Maine Forest Service as a base for firefighting operations. Although privately owned and used, the community associates the boathouses with their past. One resident commented that all good stories start with "we were down at the boathouses ...."
- (c) The area described in Appendix G, Section 2,a,(1) is a unique geographic location and represents an established and familiar visual feature of the community that draws residents and visitors, and contributes to a high quality of life for residents and economic activity from tourism. Residents talk of children in the area, against the wishes of their parents, jumping from the boathouses into the lake. Fishermen visit the area to check the flow in the river and to launch their boats on the lake. Hikers, ATV riders, paddlers and snowmobilers use the area to access the many nearby recreational trails. Families and school groups come to swim and picnic. The community holds events at the waterfront such as fireworks displays and activities during the annual Grand Lake Stream Folk Arts Festival. Photographers have a single place where they can capture many of the important elements that contribute to the culture and sense of place that locals and visitors experience in the community. Residents describe this area as Grand Lake Stream's "working waterfront," and as the "core of the town."

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

**MAINE LAND USE PLANNING COMMISSION**

**Chapter 2 and Chapter 10 Rule Revisions:  
Short-Term Rentals**

*Adopted October 8, 2025*

The following amendments propose 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 ~~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 would not be included in the final rule.

## Rulemaking Introduction and Overview

### What are the goals of this rulemaking?

- Respond to public comments heard during community meetings on short-term rentals by initiating a phased approach that begins with providing best practice information and a notice requirement;
- Use the notice as one way to communicate best practice information to property owners; and
- Allow the Commission to collect data on short-term rental activity in the LUPC service area to determine if additional standards are necessary to ensure adequate protection of neighboring uses and resources.

### Why make these rule changes now?

Seasonal and short-term rentals have a long history in rural Maine, including within the Land Use Planning Commission's service area. In recent years, short-term rental use has become more intensive (i.e., more guests per dwelling, more frequent rental activity, and more rental density), and the number of complaints has risen. Many towns and cities are enacting rules regarding short-term rentals, and the Commission believes it is appropriate and timely to adopt minimum standards for short-term rental activities within the Commission's service area.

### How are the rules changing?

- A definition of short-term rental will be included in Chapter 2 and a few other related definitions will be refined as needed.
- Short-term rentals will be allowed with notice in zones that allow residential dwellings.
- An activity-specific standard will be added requiring written notice for new and existing short-term rentals.

### How will the notice be administered?

If the Commission adopts the following revisions, a notice form will be developed that can be completed online or submitted on paper. The form would require basic information and include best practice information for short-term rentals. The owner would then self-verify the information by signing the notice.

## Chapter 2 - Definitions

...

**[Revision notes:** The following proposed terms and definitions, and amendments to current definitions, serve to define or clarify land use activities related to a "short-term rental". Condominium lots are proposed to be treated differently because other than lot ownership, individual condominium units are considered the same as single dwelling units in terms of minimum lot size, shoreline frontage, and road frontage requirements.]

...

### 41. Commercial Use:

The use of lands, buildings or structures the intent or result of which is the production of income from the buying or selling of goods or services. Commercial use includes the short-term rental of more than one of the following on a single lot, unless the lot is part of a condominium where the dwelling units are individually owned: a dwelling unit; a portion of a dwelling unit; or a residential campsite. Commercial use does not include:

- a. a home-based business;
- b. or the rental of a single dwelling unit on a single lot for 30 days or more; or
- c. 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.

...

### 65. Dwelling Unit:

"Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments." 12 M.R.S. § 682(11). A structure or any part thereof that is intended for use or is used for human habitation, dwelling unit may consisting of a room or group of rooms designed and equipped for use primarily as living quarters, including any minor home occupations, for one family. Accessory structures intended for human habitation that have plumbing for internal living spaces, such as kitchens or bathrooms, are considered separate dwelling units. Dwelling units do not include buildings or parts of buildings used as a hotel, motel, commercial sporting camp, outpost cabin, or other similar facility which is rented or leased on a relatively short term basis. Staff housing in such facilities is not considered to be a dwelling unit, unless specifically regulated as such as part of the permit approval. However, the term shall include accommodations utilized by guests for transient occupancy that qualifies as a home occupation.

...

### 198. Rental Unit:

A structure or any part thereof that is intended for use or is used for human habitation, consisting of a room or group of rooms designed and equipped for use primarily as living quarters for a single party, and which is rented or leased on a relatively short termregular or recurring basis.

This term includes short-term rentals and recreational lodging facilities but does not include outpost cabins or remote rental cabins.

...

**##. Short-term Rental:**

A legally existing dwelling unit, portion of a dwelling unit, or single residential campsite that is rented for a fee or other compensation to a person or group for a period of tenancy of less than 30 consecutive calendar days. The term excludes land use activities regulated as other use listings, such as, but not limited to recreational lodging facilities, home-based businesses, and commercial uses.

...

**##. Use Notification:**

A written or digital submission provided to the Commission pursuant to Chapter 4 Section 4.05(C) or other applicable requirements, providing notification or self-verification that a specific use, activity, or development will be conducted in compliance with applicable standards.

## Chapter 10 – Land Use Districts and Standards

...

### 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:

...

**[Revision notes:** The following revisions would add “short-term rental” as a use allowed without a permit subject to standards and would add “short-term rental” as a use allowed by permit in cases where the standards would not be met. The edits illustrated below for Section 10.21,C are also proposed for the following development, management, and protection subdistricts:

- Extended Settlement subdistrict (D-ES) – Section 10.21,B
- Community Center Development subdistrict (D-GN2) – Section 10.21,D
- Rural Settlement Development subdistrict (D-GN3) – Section 10.21,E
- Low Density Development subdistrict (D-LD) – Section 10.21,F
- Maritime Development subdistrict (D-MT) – Section 10.21,G
- Rural Business Development subdistrict (D-RB) – Section 10.21,J
- Residential Development subdistrict (D-RS) – Section 10.21,M
- Community Residential Development subdistrict (D-RS2) – Section 10.21,N
- Residential Recreation Development subdistrict (D-RS3) – Section 10.21, O
- General Management subdistrict (M-GN) – Section 10.22,A
- Highly Productive Management subdistrict (M-HP) – Section 10.22,B
- Accessible Lake Protection subdistrict (P-AL) – Section 10.23,A
- Aquifer Protection subdistrict (P-AR) – Section 10.23,B
- Flood Prone Area Protection subdistrict (P-FP) – Section 10.23,C
- Fish and Wildlife Protection subdistrict (P-FW) – Section 10.23,D
- Great Pond Protection subdistrict (P-GP) – Section 10.23,E
- Semi-remote Lake Protection Subdistrict (P-GP2) – Section 10.23,F
- Special River Transition Protection subdistrict (P-RT) – Section 10.23,J
- Shoreland Protection subdistrict (P-SL) – Section 10.23,L
- Unusual Area Protection subdistrict (P-UA) – Section 10.23,M

In all cases, subsequent use listings in each subdistrict will be renumbered accordingly.]

---

## C. GENERAL DEVELOPMENT SUBDISTRICT (D-GN)

---

...

### 3. Land Uses

...

#### b. Uses Allowed Without a Permit Subject to Standards

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

...

(#) Short-term rentals, in conformance with the standards of Section 10.27,T;

...

---

## 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.

...

---

### T. SHORT-TERM RENTALS

---

Short-term rentals allowed in a subdistrict without a permit must comply with the following standards.  
Short-term rental activities within legally existing dwelling units and residential campsites in D-PD or P-RP subdistricts must comply with the following standards.

All existing or new short-term rentals allowed without a permit subject to standards must meet the following standards and conditions:

#### 1. Written Notice Required.

Notice pursuant to Chapter 4, Section 4.05,C must be completed prior to the commencement of short-term rental activities. Notice must include self-verification by the landowner that the information submitted is factual. For short-term rentals in existence prior to [insert the effective date], written notice must be submitted within 180 days of [insert the effective date]. Such notice must conform to the requirements of Chapter 4, Section 4.05,C.

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

CHAPTER 10, LAND USE DISTRICTS AND STANDARDS

## 2025 Solar Rulemaking

### Phase II: Siting and Activity Standards for Solar Energy Generation Facilities<sup>1</sup>

*November 12, 2025*

The following amendments propose 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 would not be included in the final rule.

---

<sup>1</sup> Phase I regarding definitions and use listings was enacted in 2022, but can be viewed on the Commission's rulemaking webpage ([www.maine.gov/dacf/lupc/laws\\_rules/proposed\\_rules/rules.shtml](http://www.maine.gov/dacf/lupc/laws_rules/proposed_rules/rules.shtml))

## Chapter 2 - Definitions

...

### **##. Battery Energy Storage System:**

Commercially available technology intended to serve structural development or the grid that uses chemical processes for absorbing energy and storing it for use at a later time, including but not limited to lithium-ion batteries.

### **##. Battery Energy Storage System Facility:**

A battery energy storage system large enough to require one or more internal systems such as heating, ventilation and cooling, fire suppression, monitoring systems that are remotely monitored, or is required to decommission in accordance with 35-A M.R.S. Chapter 34-E.

### **##. Solar Energy Generation Facility:**

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

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

### **##. Solar Energy System:**

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

### **##. Solar Array:**

A collection of interconnected solar panels.

### **##. Solar Panel:**

A photovoltaic or solar heating device capable of collecting and converting solar energy into electric or thermal energy.

### **##. Structure:**

“[A]nything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, mobile homes, retaining walls, billboards, signs, piers and floats.” 12 M.R.S. § 682. For purposes of regulating development in flood prone areas, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure. For the purposes of regulating solar energy generation facilities, a solar panel or solar array is also a structure.

...

## **Chapter 10 – Land Use Districts and Standards**

### **10.21 DEVELOPMENT SUBDISTRICTS**

---

#### **A. COMMERCIAL INDUSTRIAL DEVELOPMENT SUBDISTRICT (D-CI)**

---

...

##### **3. Land Uses**

...

###### **c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-CI subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III:

...

**(2) Battery energy storage system facilities not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils;**

...

###### **d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-CI subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,3 and 9, and the applicable requirements set forth in Sub-Chapter III:

...

**(1) Battery energy storage system facilities located on soils recognized by the U.S. Department of Agriculture as prime farmland soils; and**

...

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

---

...

### **2. Description.**

The D-RD Subdistrict 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 associated locational requirements:

...

- (4)** Mid-scale or ~~grid~~large-scale solar energy generation 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 applicant seeking to establish a D-RD subdistrict;and
    - (iv)** Notwithstanding Section 10.21,K,2,a,(4),(iii), the Commission may allow a distance of up to three miles from the proposed point of interconnection if the proposed facility will be sited on preferred locations, which include land that is undesirable for other uses such as brownfields, landfills, or sand and gravel pits or land areas appropriate for co-location with another active use such as agricultural production or parking lots, and, unless the applicant 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**

...

#### **c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RD subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III:

...

- (2)** Battery energy storage system facilities associated with solar energy generation facilities and not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils;

...

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-RD subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,3 and 9, and subject to the applicable requirements set forth in Sub-Chapter III:

(1) Battery energy storage system facilities associated with solar energy generation facilities and located on soils recognized by the U.S. Department of Agriculture as prime farmland soils; and

...

---

**M. RESIDENTIAL DEVELOPMENT SUBDISTRICT (D-RS)**

---

...

**3. Land Uses**

...

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-RS subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,3 and 9, and subject to the applicable requirements set forth in Sub-Chapter III:

...

(5) Solar energy generation facility: Small-scale;

~~(5)~~(6) Trailered ramps:

...

---

**10.27 ACTIVITY-SPECIFIC STANDARDS**

---

...

---

**U. SOLAR ENERGY GENERATION FACILITIES AND BATTERY ENERGY STORAGE SYSTEM FACILITIES**

---

The following must be developed in conformance with the standards of Section 10.27,U: (i) new facilities; (ii) reconstruction of an existing facility; (iii) expansion of an existing facility footprint or capacity; or (iv) modification to an existing facility that alters safety concerns. If the requirements in the standards below are at variance with the requirements of any other provisions of this Chapter, or other

lawfully adopted rules, regulations, standards, or ordinances, the more protective of existing natural, recreational and historic resources must apply.

**1. Standards for All Facilities.**

**a. Emergency Response Plans.** The facility operator of a mid- or large-scale solar energy generation or battery energy storage system facility must submit an emergency response plan, including but not limited to details on facility staffing and associated roles, off-site emergency response organizations, emergency response strategy, facility safety systems, potential hazards, emergency training, and incident investigation and reporting.

**2. Standards for Solar Energy Generation Facilities.**

**a. Glare.**

- (1) All solar panels must have anti-reflective coating or texture whenever possible.
- (2) Facilities that may impact scenic character, as described in Section 10.25,E, must be sited and oriented to reduce glare to the maximum extent possible.

**b. Vegetative Buffering.**

- (1) All solar energy generation facilities are subject to the vegetation clearing standards of Section 10.27,B;
- (2) Notwithstanding Section 10.27,B,4, the Commission may require revegetation of cleared openings legally in existence as of June 7, 1990 in accordance with standards of Section 10.27,B; and
- (3) Mid-scale and large-scale solar energy generation facilities must maintain a vegetative buffer, a minimum of 15 feet in width, on side and rear property lines to obstruct views of the facility. The Commission may require vegetative visual screening widths exceeding the minimum width, along with other screening as necessary, to ensure that a solar energy generation facility is adequately screened from view.

**c. Wildlife Movement.** All solar energy generation facilities must design and plan for wildlife movement using current Maine Department of Inland Fisheries and Wildlife recommendations including, but not limited to, wildlife permeable fencing and release plans for large mammals that may become trapped by fencing. An exception may be made to wildlife movement requirements for facilities where the Commission finds that risk to wildlife movement is not applicable.

**d. Decommissioning.** Solar energy generation facilities three or more acres in size are subject to the decommissioning standards of Section 10.27,V.

**3. Standards for Battery Energy Storage System Facilities.**

**a. Decommissioning.** Battery energy storage system facilities with a capacity of two or more megawatts are subject to the decommissioning standards of Section 10.27,V.

## **V. DECOMMISSIONING**

---

Development subject to decommissioning not in conformance with the standards of Section 10.27,V, is prohibited.

Decommissioning may be required by the Commission or by law, pursuant to 35-A M.R.S. Chapters 34-D and E. To obtain a permit, facilities subject to decommissioning must meet the General Criteria for Approval, Section 10.24, and applicable requirements in Sections 10.25, 10.26, and 10.27, in addition to any applicable requirements set forth in Section 10.27,V. As used in this section, unless the context otherwise indicates, the following terms have the meanings as defined in 35-A M.R.S. Chapters 34-D and E.

**1. Decommissioning plan.** The Commission may not approve an application, unless adequate provision has been made for:

- a.** The removal of all components of a development to a depth of at least 24 inches or to the depth of bedrock, whichever is less, to the extent the components of the development are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place;
- b.** The removal of all components of the development to a depth of at least 48 inches or to the depth of bedrock, whichever is less, for any portion of a development located on land classified as farmland any time within five years preceding the start of construction of the development, to the extent such components are not otherwise in or proposed to be placed in productive use or otherwise authorized to remain in place;
- c.** Removal under normal operating conditions and in the event of damage to a facility;
- d.** Grading to postconstruction grade and revegetation;
- e.** Dismantling development aspects with hazardous materials;
- f.** Emergency response in the event of an emergency during decommissioning;
- g.** Calculating the full cost of decommissioning and site stabilization;
- h.** Maintaining necessary and regular communications with the Commission; and
- i.** Providing financial assurance to cover the total cost of decommissioning, in the form of a performance bond, surety bond, irrevocable letter or credit or other form of financial assurance.

**2. Procedures and Submission Requirements.**

- a.** A draft decommissioning plan will be required with the full permit application.
- b.** The final decommissioning plan must be submitted for approval prior to construction.
- c.** The decommissioning plan, addressed in Section 10.27,V,1, must be updated and submitted to the Commission for approval 15 years after approval of the plan and no less than every five years thereafter.
- d.** Any proposed changes to an approved decommissioning plan must be submitted to the Commission for approval.

## Phase II, Solar Energy Generation Facilities

e. The applicant or the Commission may request an update to the decommissioning plan if there has been a material change in circumstances related to the facility.

f. Decommissioning plans are subject to transfer requirements of Chapter 4, Section 4.07,I.

### 3. Decommissioning Timeline.

a. Decommissioning is required for a portion or all of the development if:

- (1) An approved facility that begins but does not complete construction by the permit expiration date;
- (2) The development ceases operations or generation of electricity on a continuous basis for a period of 12 months; and
- (3) The development, or portion of the development, is deemed, by the Commission, to pose a risk to public health, safety and general welfare due to a change in normal operations.

b. Decommissioning must be completed within 24 months of implementation of decommissioning activities in accordance with the approved decommissioning plan.

### 4. Release of Financial Assurance.

a. The financial assurance mechanism will be released upon completion of stated objectives in Section 10.27,V,1.

b. If the party responsible fails to comply with decommissioning when required, the Commission may, at its discretion, utilize the financial assurance mechanism for decommissioning of the development in accordance with the decommissioning plan.