

## §685-A. Land use districts and standards

**1. Classification and districting of lands.** The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that fall into land use districts and designate each area in one of the following major district classifications: protection, management and development. The commission, acting in accordance with the procedures set forth in Title 5, chapter 375, subchapter 2, shall adopt rules for determining the boundaries of each major type of district in accordance with the following standards:

A. Protection districts: Areas where development would jeopardize significant natural, recreational and historic resources, including, but not limited to, flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State; [PL 1999, c. 333, §5 (AMD).]

B. Management districts: Areas that are appropriate for commercial forest product or agricultural uses or for the extraction of nonmetallic minerals and for which plans for additional development are not presently formulated nor additional development anticipated; and [PL 1999, c. 333, §5 (AMD).]

C. [PL 1973, c. 569, §10 (RP).]

D. Development districts: Areas that are appropriate for residential, recreational, commercial or industrial use or commercial removal of metallic minerals and areas appropriate for designation as development districts when measured against the purpose, intent and provisions of this chapter. [PL 2011, c. 682, §10 (AMD).]

In addition to delineating the major district classifications listed, the commission may delineate such subclassifications as may be necessary and desirable to carry out the intent of this chapter. The commission may delineate and designate planned subdistricts and establish standards unique to each to efficiently balance the benefits of development and resource protection. [PL 2011, c. 682, §10 (AMD).]

**2. Interpretation of district boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the official land use maps the following shall apply:

A. Boundaries indicated as approximately following center lines of public or private roads shall be construed to follow such center lines. [PL 1971, c. 457, §5 (NEW).]

B. Boundaries indicated as following railroad lines shall be construed to be midway between the 2 outermost rails. [PL 1973, c. 569, §10 (AMD).]

C. Boundaries indicated as approximately following property lines, township or county lines shall be construed as following such lines. [PL 1971, c. 457, §5 (NEW).]

D. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in event of natural change in the shorelines, shall be construed as moving with the normal high water mark; boundaries indicated as following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such natural center lines. [PL 1973, c. 569, §10 (AMD).]

E. Boundaries indicated as approximately following ridge lines or specific contour lines shall be construed to follow such lines. [PL 1971, c. 457, §5 (NEW).]

F. Boundaries indicated as parallel to or as extensions of features indicated in paragraphs A to E shall be so construed. [PL 1973, c. 569, §10 (AMD).]

G. Where physical or cultural features existing on the ground are at variance with those shown on the official land use maps or in other circumstances not covered by paragraphs A to F, the commission shall interpret the district boundaries. [PL 1973, c. 569, §10 (AMD).]

[PL 1973, c. 569, §10 (AMD).]

**3. Land use standards.** The commission, acting on principles of sound land use planning and development, shall prepare land use standards prescribing standards for the use of air, lands and waters. Except as provided in this chapter, these standards shall be adopted by the commission in accordance with the procedures set forth in Title 5, chapter 375, subchapter II.

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

A. Encourage the most desirable and appropriate use of air, land and water resources consistent with the comprehensive land use plan; [PL 1973, c. 569, §10 (AMD).]

B. Protect public health by reduction of noise, air pollution, water pollution and other environmental intrusions; [PL 1971, c. 457, §5 (NEW).]

C. Protect and preserve significant natural, scenic and historic features where appropriate, beneficial and consistent with the comprehensive land use plan; [PL 1973, c. 569, §10 (AMD).]

D. Advise and assist the Department of Transportation and other concerned agencies in transportation planning and operation; [PL 1973, c. 569, §10 (AMD).]

D-1. Provide for safe and appropriate loading, parking and circulation of land, air and water traffic; [RR 1993, c. 1, §33 (COR).]

E. Encourage minimal adverse impact of one use upon the use of surrounding areas by setting standards of performance describing desirable and acceptable levels of operation in connection with any use and its relation to surrounding areas, including provisions for the eventual amelioration of existing adverse impact; [PL 1971, c. 457, §5 (NEW).]

F. Reflect a consideration of the availability and capability of the natural resources base, including soils, topography or sufficient healthful water supplies; and [PL 1983, c. 114, §1 (AMD).]

G. Regulate, as necessary, motor vehicles as defined in Title 29-A, section 101, subsection 42, on icebound inland lakes that are completely encompassed by unorganized territories during the hours from sunset to sunrise of the following day. [PL 1995, c. 65, Pt. A, §26 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

[PL 1995, c. 65, Pt. A, §26 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

**4. Land use standards considered as minimum requirements.** Land use standards must be interpreted and applied by the commission as minimum requirements, adopted to reasonably and effectively promote health, safety and general welfare and ensure compliance with state plans and policies.

If the requirements of the adopted land use standards are at variance with the requirements of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants, the more protective of existing natural, recreational and historic resources governs.

A. [PL 2011, c. 682, §11 (RP).]

B. [PL 2011, c. 682, §11 (RP).]

[PL 2011, c. 682, §11 (RPR).]

**4-A. Transition from commission jurisdiction to the jurisdiction of a plantation or municipality.** Any portion of a land use district that subsequently becomes an organized municipality or part of an organized municipality or any plantation that adopts planning, zoning and subdivision control as provided in Title 30-A, section 7059 continues to be regulated by the Maine Land Use Planning Commission pursuant to this chapter until such time as the plantation or municipality of which the regulated district is then a part adopts land use plans and regulations not less protective of the existing natural, recreational or historic resources than those adopted by the commission.

A. Any municipality organized after September 23, 1971 or any plantation that adopts planning, zoning and subdivision control as provided in Title 30-A, section 7059 may submit to the commission and receive the approval of the commission of the following:

- (1) A comprehensive land use plan for that plantation or municipality;
- (2) Standards for determining land use district boundaries and uses permitted within the districts in that plantation or municipality;
- (3) A land use district boundary map for that plantation or municipality; and
- (4) Such other proposed regulations or standards as the commission considers necessary to achieve the purpose, intent and provisions of this chapter.

Upon request of the plantation or municipality, the commission shall prepare such plans, maps, regulations and standards as it considers necessary to meet minimum planning and zoning standards for its approval of those standards.

Upon obtaining approval, the plantation or municipality shall thereafter adopt, administer and enforce the approved plans, maps, regulations and standards, except that the commission retains jurisdiction for any planned subdistrict within the municipality or plantation unless the owner of the land within the delineated area agrees to the transfer of the administration and enforcement of that planned subdistrict to the municipality or plantation. [PL 2011, c. 682, §12 (NEW).]

B. From time to time, the commission may review the administration and enforcement of local land use plans and regulations by plantations and municipalities that have adopted land use plans, maps, regulations and standards approved by the commission. If, following the review, the commission finds that any of the following has occurred, the commission may reestablish its jurisdiction over that plantation or municipality:

- (1) A plantation or municipality has repealed the land use plan, maps, standards or regulations necessary to satisfy the requirements of this subsection or has substantially modified the land use plan, maps, standards or regulations so that the resources of the plantation or municipality are not reasonably protected;
- (2) A plantation or municipality has abolished or does not have functioning the administrative bodies and officers necessary to implement the land use program as approved by the commission; or
- (3) A plantation or municipality has not administered or enforced its land use plan, maps, standards or regulations in a manner that reasonably protects the resources in the plantation or municipality involved.

The action by the commission must conform with the provisions for rulemaking of the Maine Administrative Procedure Act.

Action taken by the commission to reestablish its jurisdiction over a plantation or municipality is effective immediately, but must be submitted to the current or next regular session of the Legislature for approval. If the Legislature fails to act, the action of the commission continues in effect. [PL 2011, c. 682, §12 (NEW).]

[PL 2011, c. 682, §12 (NEW).]

**5. Considerations, application and exemptions.** 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. Year-round and seasonal single residences and operating farms in existence and use as of September 23, 1971, while so used, and new accessory buildings or structures or renovations of the buildings or structures that are or may be necessary to the satisfactory and comfortable continuation of these residential and farm uses, except for those located

in areas of special flood hazard as defined in the commission's rules, are exempt from the requirements of section 685-B, subsection 1.

Land use standards adopted pursuant to this chapter for management districts may not limit the right, method or manner of cutting or removing timber or crops, the construction and maintenance of hauling roads, the operation of machinery or the erection of buildings, including buildings to store equipment and materials for maintaining roads, and other structures used primarily for agricultural or commercial forest product purposes, including tree farms. The commission may not require a permit for such activities in a management district. Notwithstanding this subsection, a permit from the commission is required for roads covering a ground area of 3 acres or more constructed in management districts, unless those roads are constructed and maintained in accordance with the guidelines of the commission's Land Use Handbook, Section 6, "Erosion Control on Logging Jobs," or as revised. The commission may require a person constructing a road to notify the commission of the location of the road within 21 days.

Land use standards adopted pursuant to this chapter must establish a minimum setback of 100 feet for all structures within a commercial sporting camp complex that are constructed solely for the housing of guests, including structures within a main sporting camp complex and an outpost camp. The standards must establish a minimum setback of 150 feet for all other structures within a sporting camp complex, including, but not limited to, a main lodge, a dining area, a workshop and a parking area.

In adopting district boundaries and land use standards, the commission shall give consideration to public and private planning reports and other data available to it, and shall give weight to existing uses of land and to any reasonable plan of its owner as to its future use.

A permit from the commission is not required for the repair or maintenance of county-owned roads, bridges or culverts as long as the repair or maintenance is conducted in accordance with commission standards that pertain to these activities.

[PL 2009, c. 111, §1 (AMD).]

## **6. Interim district boundaries and land use standards.**

[PL 1999, c. 333, §6 (RP).]

## **7. Hearings and procedures.**

[PL 1999, c. 333, §7 (RP).]

**7-A. Procedure for adoption or amendment of land use district standards, district boundaries and land use maps.** This subsection governs procedures for the establishment and amendment of land use district standards and boundaries and the amendment of the commission's land use maps.

A. The commission or its staff may initiate and any state or federal agency, any county or municipal governing body or any property owner or lessee may petition for adoption or amendment of land use district standards, district boundaries or land use maps. [PL 1999, c. 333, §8 (NEW).]

B. Adoption and amendment of land use district standards, district boundaries and land use maps are rule-making procedures subject to the requirements of Title 5, chapter 375, subchapter II, except that the requirements of Title 5, section 8052, subsections 5, 5-A and 7; section 8053-A; section 8056, subsections 1, 3 and 4; section 8056-A; section 8057, subsection 2; section 8057-A; section 8060; section 8062; and section 8064 do not apply. The requirements of Title 5, chapter 375, subchapter II are further modified by the following provisions.

(1) Public notice of proposals to adopt or amend land use district standards, district boundaries or land use maps must state the time and the place where copies of the proposal may be inspected prior to the hearing.

(2) The commission shall give notice of hearings to amend district boundaries, by mail, to appropriate state and federal agencies and the owners of directly affected and abutting properties, according to their names and addresses as shown on the records of Maine Revenue

Services or plantation or town tax assessors. If the number of owners of directly affected and abutting properties is more than 50, notice may instead be by publication conforming to the requirements for newspaper publication of hearings under Title 5, chapter 375, subchapter IV.

(3) At any time prior to the date of adoption of proposed land use district standards, land use boundaries or land use maps, the commission may elect to reopen the public hearing record and extend the time period for public comment to such date as it may designate.

(4) The commission must act to adopt or not to adopt proposed land use district standards, land use boundaries or land use maps within 90 days after the date of final closure of the public hearing.

(5) Land use district boundaries and land use maps become effective 15 days after adoption or amendment by the commission, as long as the boundaries and maps are available in the appropriate registry of deeds for each county. Notice of adoption or amendment of land use district boundaries and land use maps must be given by publication one time in a newspaper of general circulation published in the area affected.

(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. [PL 1999, c. 333, §8 (NEW).]

[PL 1999, c. 333, §8 (NEW).]

#### **8. Amendments to district boundaries and standards.**

[PL 1999, c. 333, §9 (RP).]

**8-A. Criteria for adoption or amendment of land use district boundaries.** A land use district boundary may not be adopted or amended unless there is substantial evidence that:

A. The proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of this chapter; and [PL 1999, c. 333, §10 (NEW).]

B. The proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area. [PL 2011, c. 682, §13 (AMD).]

[PL 2011, c. 682, §13 (AMD).]

**8-B. Criteria for amendment of land use standards.** Adoption or amendment of land use standards may not be approved unless there is substantial evidence that the proposed land use standards would serve the purpose, intent and provisions of this chapter and would be consistent with the comprehensive land use plan.

[PL 1999, c. 333, §10 (NEW).]

**9. Periodic review of district boundaries and land use standards.** At the end of each 5 years following initial adoption of permanent land use standards and districts, the commission shall make a comprehensive review of the classification and delineation of districts of the land use standards. The assistance of appropriate state agencies must be secured in making this review and public hearings must be held in accordance with the requirements set forth in subsection 7-A.

[PL 1999, c. 333, §11 (AMD).]

**10. Special exceptions and variances.** The commission may approve the issuance of a special exception permit in strict compliance with this chapter and the rules and standards adopted pursuant to this chapter. The commission may grant a variance when the commission finds that the proposed development is in keeping with the general spirit and intent of this chapter, that the public interest is

otherwise protected and that strict compliance with the rules and standards adopted by this commission would cause unusual hardship or extraordinary difficulties because of the following:

- A. Exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site; [PL 2001, c. 105, §1 (NEW).]
- B. The access and use needs of a person with a physical disability as described in Title 5, section 4553-A, subsection 1, paragraphs C and D who resides in or regularly uses a structure; or [PL 2007, c. 695, Pt. A, §11 (AMD).]
- C. Unusual circumstances that were not anticipated by the commission at the time the rules and standards were adopted. [PL 2001, c. 105, §1 (NEW).]  
[PL 2007, c. 695, Pt. A, §11 (AMD).]

**11. Exemptions.** Real estate used or to be used by a public utility, as defined in Title 35-A, section 102, subsection 13, or a person who is issued a certificate by the Public Utilities Commission under Title 35-A, section 122 may be wholly or partially exempted from regulation to the extent that the commission may not prohibit such use but may impose terms and conditions for use consistent with the purpose of this chapter, when, upon timely petition, notice and public hearing, the Public Utilities Commission determines that such exemption is necessary or desirable for the public welfare or convenience. The Public Utilities Commission shall adopt by rule procedures to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
[PL 2007, c. 656, Pt. A, §1 (AMD).]

**12. Timber harvesting activities.** Rules adopted by the Commissioner of Agriculture, Conservation and Forestry pursuant to section 8867-B for the purpose of regulating timber harvesting and timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters become effective for the unorganized and deorganized areas on the date established under Title 38, section 438-B, subsection 5.

The Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry shall administer and enforce the regulation of timber harvesting and timber harvesting activities in these areas. For the purposes of this subsection, "timber harvesting" and "timber harvesting activities" have the same meanings as in section 8868, subsections 4 and 5.

Beginning November 1, 2012, the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry shall administer and enforce the regulation of timber harvesting and timber harvesting activities in protection districts and management districts in accordance with rules adopted under section 8867-D.

[PL 2011, c. 599, §1 (AMD); PL 2011, c. 657, Pt. W, §§5-7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

**13. Additions to and removals from the expedited permitting area for wind energy development.** The commission may add or remove areas in the unorganized and deorganized areas to or from the expedited permitting area for wind energy development in accordance with Title 35-A, chapter 34-A.

[PL 2015, c. 265, §1 (AMD); PL 2015, c. 265, §10 (AFF).]

**14. Land management roads, gravel pits and water crossings.** Beginning November 1, 2012, the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry shall administer and enforce the regulation of construction, maintenance and repair of land management roads, water crossings by land management roads and gravel pits of less than 5 acres in protection districts and management districts in accordance with rules adopted under section 8867-E. For the purposes of this subsection, "land management road" has the same meaning as under section 8868, subsection 7.

[PL 2013, c. 256, §4 (AMD); PL 2013, c. 405, Pt. A, §23 (REV).]

#### SECTION HISTORY

PL 1971, c. 457, §5 (NEW). PL 1971, c. 544, §§28-C-28-E (AMD). PL 1971, c. 593, §22 (AMD). PL 1971, c. 618, §§12,17 (AMD). PL 1971, c. 619, §§3-5 (AMD). PL 1973, c. 569, §10 (AMD). PL 1973, c. 788, §§43-A-43-C (AMD). PL 1975, c. 234, §§1,2 (AMD). PL 1975, c. 497, §3 (AMD). PL 1975, c. 508, §§2,3 (AMD). PL 1975, c. 665 (AMD). PL 1977, c. 327, §§1,1A,2 (AMD). PL 1977, c. 390, §2 (AMD). PL 1977, c. 694, §§222-227B (AMD). PL 1979, c. 127, §§65-67 (AMD). PL 1979, c. 497, §§2,3 (AMD). PL 1983, c. 114, §§1,2 (AMD). PL 1983, c. 827, §1 (AMD). PL 1983, c. 862, §34 (AMD). PL 1985, c. 70, §1 (AMD). PL 1985, c. 506, §A12 (AMD). PL 1987, c. 737, §§C22,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 624 (AMD). PL 1989, c. 810, §1 (AMD). PL 1991, c. 308 (AMD). PL 1991, c. 653 (AMD). RR 1993, c. 1, §33 (COR). PL 1995, c. 64, §1 (AMD). PL 1995, c. 65, §A26 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 386, §2 (AMD). PL 1995, c. 462, §A30 (AMD). PL 1997, c. 526, §14 (AMD). PL 1997, c. 642, §3 (AMD). PL 1999, c. 333, §§5-11 (AMD). PL 1999, c. 530, §8 (AMD). PL 1999, c. 657, §5 (AMD). PL 2001, c. 105, §1 (AMD). PL 2001, c. 402, §3 (AMD). PL 2003, c. 335, §1 (AMD). PL 2005, c. 226, §1 (AMD). PL 2007, c. 656, Pt. A, §1 (AMD). PL 2007, c. 661, Pt. C, §1 (AMD). PL 2007, c. 695, Pt. A, §11 (AMD). PL 2009, c. 111, §1 (AMD). PL 2011, c. 599, §§1, 2 (AMD). PL 2011, c. 657, Pt. W, §§5-7 (REV). PL 2011, c. 682, §§10-13 (AMD). PL 2013, c. 256, §4 (AMD). PL 2013, c. 405, Pt. A, §23 (REV). PL 2015, c. 265, §1 (AMD). PL 2015, c. 265, §10 (AFF).

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