

# MAINE STATE LEGISLATURE

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*Land Use Regulation Exceptions*

*12 M.R.S.A. § 85-A-5*

*Land Use Regulation Farm Properties* STATE OF MAINE

*gravel pits*

DEPARTMENT OF THE ATTORNEY GENERAL

AUGUSTA, MAINE 04333

December 20, 1976

Honorable James McBreairty  
R. 1  
Caribou, Maine 04736

Dear Jim:

This is in response to your request concerning certain aspects of the Comprehensive Plan of the Land Use Regulation Commission (LURC).

First, you asked whether there were a provision in the LURC law which could justify requiring a person to get a permit to build an additional building on an existing farm.

If the additional building were an accessory structure necessary to the satisfactory continuation of the existing farm, no permit could be required. Title 12 M.R.S.A. § 685-A-5 provides in pertinent part:

"\* \* \* Year-round and seasonal single family 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 such buildings or structures which are or may be necessary to the satisfactory and comfortable continuation of these residential and farm uses shall be exempt from the requirements of sections 685-B, sub-section 1."

Accessory structure is defined as:

"Accessory use of accessory structure shall include 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.A. § 682.5.

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Where the additional building is not an accessory structure such as a new barn might be, but rather an additional primary structure, e.g., an additional residence, a permit would be required pursuant to Title 12 M.R.S.S. § 685-B.1.A. This section provides that:

"1. Review and Approval Required

"A. No structure or part thereof shall be erected, changed, converted, or wholly or partly altered or enlarged in its use or structural form other than normal maintenance or repair, without a permit issued by the Commission."

Second, you asked whether there is a provision in the LURC law which would justify requiring a person to get a permit to utilize a gravel pit while constructing a road in a management district.

Title 12 M.R.S.A. § 685-B.1 basically provides that a permit is required for any development. The exceptions to this provision are outlined in Title 12 M.R.S.A. § 685-B.5 which states, in part, that land use standards shall not limit the construction and maintenance of hauling roads. It does not appear that this section precludes LURC from requiring permits for the extraction of minerals.

In summary, it appears that there is statutory justification for each of the proposed requirements you have questioned. If I can be of further help, please feel free to contact me.

Very truly yours,



SARAH REDFIELD

Assistant Attorney General

SR:jg