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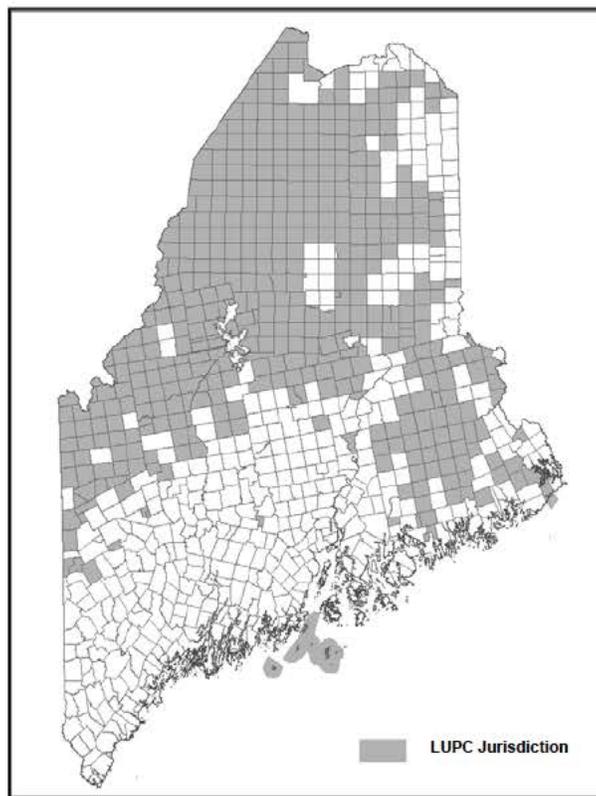
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# LAND USE DISTRICTS AND STANDARDS

FOR AREAS WITHIN THE JURISDICTION OF THE  
MAINE LAND USE PLANNING COMMISSION



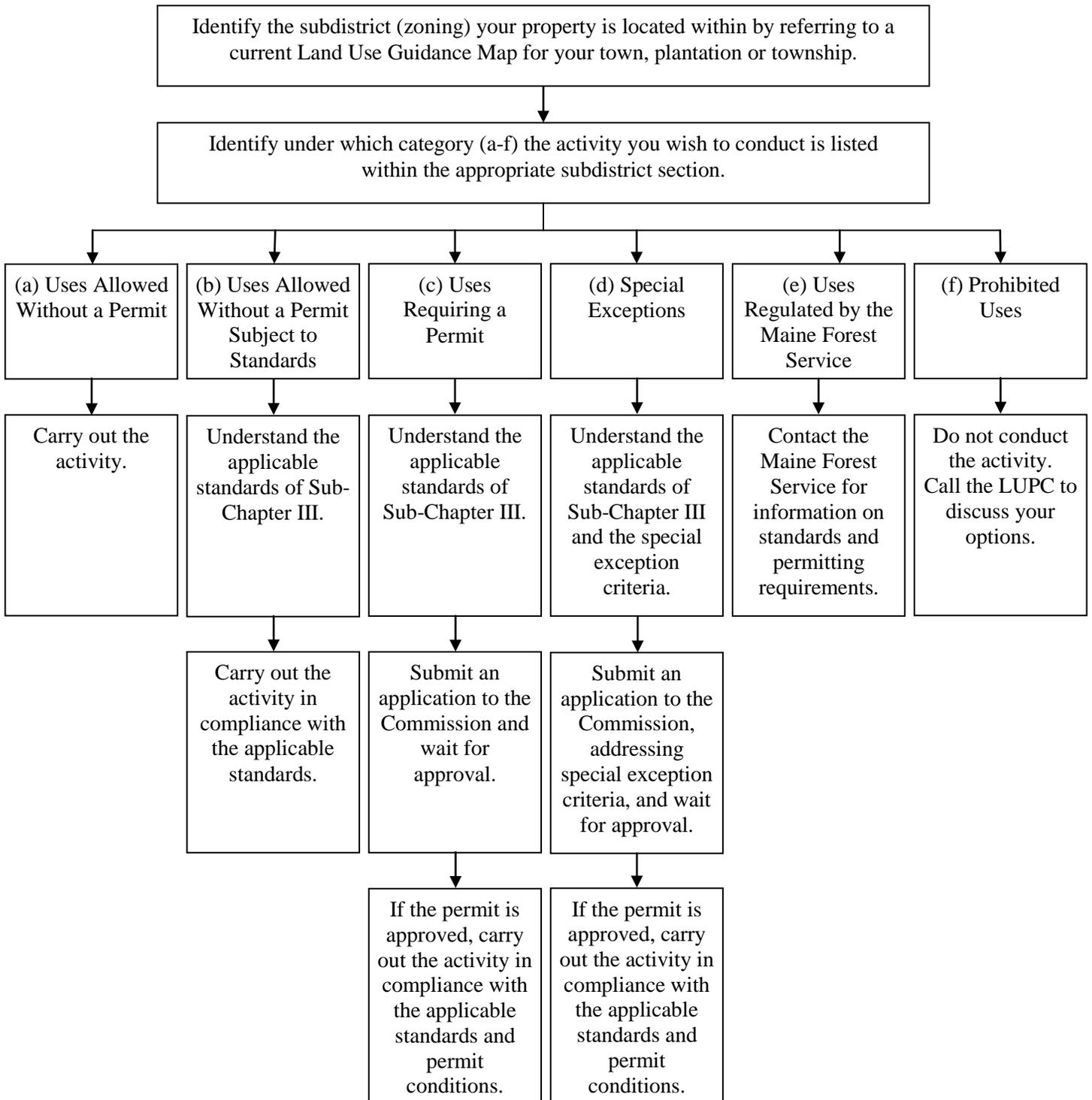
## CHAPTER 10 OF THE COMMISSION'S RULES AND STANDARDS

Initially Adopted January 12, 1977  
Latest Revisions May 29, 2017

Note: In response to P.L. 2011, ch.599 (enacting LD 1739), in management and protection districts (except for development areas in Resource Plan Protection Subdistricts (P-RP)), the Commission no longer is responsible for regulating timber harvesting, land management roads, water crossings associated with land management roads, and gravel pits less than five acres in size. The regulation of these activities has been transferred to the Maine Forest Service.

## A GUIDE TO USING AND UNDERSTANDING THIS DOCUMENT

### USING CHAPTER 10



## UNDERSTANDING CHAPTER 10

### Sub-Chapter I General Provisions

The General Provisions provide information on some of the Commission's rules of practice. For the typical applicant, the most useful sections of this chapter include Section 10.02 Definitions and Section 10.11 Nonconforming Uses and Structures. Other sections in this Sub-Chapter include: Interpretation of Land Use Standards, Exemptions, Variances, Penalties for Violations, and Appeals.

### Sub-Chapter II Land Use Subdistricts

The Commission has established zoning subdistricts to protect important resources and prevent conflicts between incompatible uses. These subdistricts are grouped into three categories: Management, protection, and development subdistricts. Sub-chapter II describes these Land Use Subdistricts and identifies the specific activities that are allowed within each one. Applicants should first identify within which subdistricts their proposed activity is located by referring to a Land Use Guidance Map of the appropriate town, plantation or township. These maps may be obtained from any of the Commission's offices. After the correct subdistricts have been identified, the applicant should determine which of the six categories their proposed activity is listed under in the subdistrict description.

If a proposed activity is located under category:

- a. **Uses Allowed Without a Permit**, the activity may be conducted without any further interaction with the Commission.
- b. **Uses Allowed Without a Permit Subject to Standards**, the applicant must understand and comply with all relevant standards.
- c. **Uses Requiring a Permit**, the applicant must submit a permit application to the Commission. If the Commission approves the application, the applicant must comply with all conditions and standards identified in the permit.
- d. **Special Exceptions**, the applicant must submit a permit application to the Commission that also addresses the additional special exception criteria. The Commission will determine if the activity is allowed by special exception. If the Commission approves the application, the applicant must comply with all conditions and standards identified in the permit.
- e. **Uses Regulated by the Maine Forest Service**, the applicant must consult the rules of the Maine Forest Service regarding any standards or permitting requirements that may apply.
- f. **Prohibited Uses**, the activity is not allowed in the subdistrict.

### Sub-Chapter III Land Use Standards

The Commission has established standards with which certain activities must comply. The standards are organized into four sections:

**Section 10.24 General Criteria for Approval** are statutory criteria that must be met for the Commission to approve any applications. These criteria include adequate provision for loading, parking and circulation of traffic and adequate provision for harmonious fit, among others.

**Section 10.25 Development Standards** are specific performance and design standards for permits associated with subdivisions, residential development, and commercial, industrial or other non-residential development. Standards in this category include vehicular circulation and parking, noise and lighting, phosphorus control, wetland alterations, and others.

**Section 10.26 Dimensional Requirements** are minimum standards for lot size, shoreline frontage, road frontage, and setbacks, and also include maximum lot coverage and building height standards.

**Section 10.27 Activity-Specific Standards** are minimum design specifications for particular activities. The Commission has standards for Agricultural Management, Vegetation Clearing, Roads and Water Crossings, Filling and Grading, and other activities.

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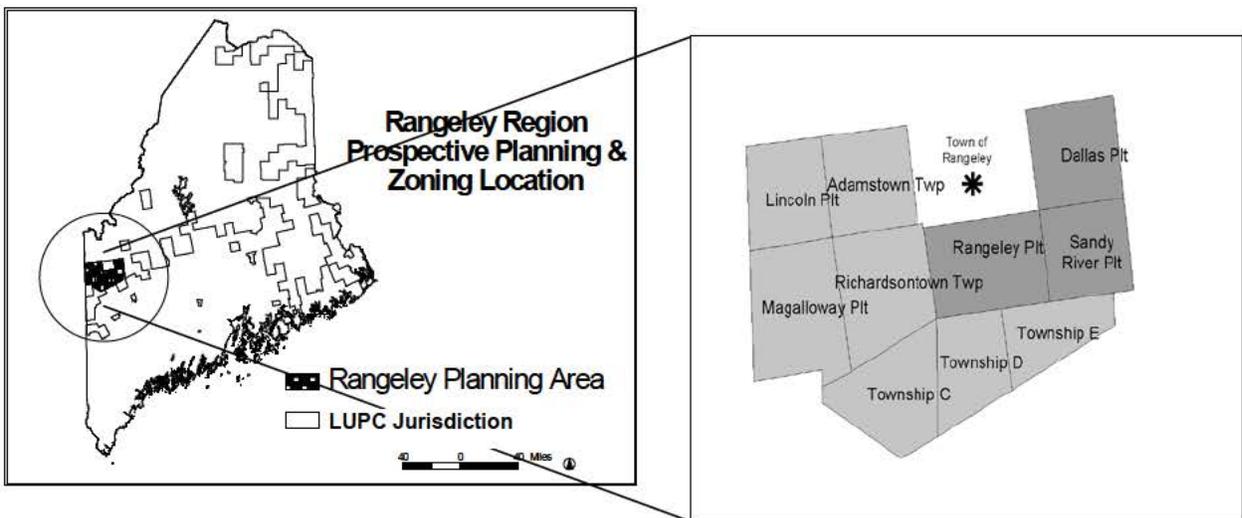
## A NOTE ABOUT PROSPECTIVELY ZONED AREAS

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The gray highlighted text in these rules applies only to prospectively zoned areas as listed below:

Adamstown Twp.  
Dallas Plt.  
Lincoln Plt.  
Magalloway Plt.  
Rangeley Plt.

Richardsontown Twp.  
Sandy River Plt.  
Township C  
Township D  
Township E



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## CHAPTER 10 – LAND USE DISTRICTS AND STANDARDS

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**PREFACE**

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This document contains Chapter 10 of the Rules and Regulations promulgated by the Maine Land Use Planning Commission pursuant to the Statute which created the Commission. A full understanding of the Commission's powers, duties, policies and rules and regulations can be achieved by referring to all the documents of the Commission.

The LUPC Statute is entitled:

**12 M.R.S.A. CHAPTER 206-A LAND USE REGULATION.**

The Statute requires that the Commission operate under a Comprehensive Land Use Plan entitled:

**COMPREHENSIVE LAND USE PLAN  
FOR THE PLANTATIONS AND UNORGANIZED TOWNSHIPS OF THE STATE OF MAINE  
Originally adopted in 1976, revised in 1983, 1990, 1997, 2001, and 2010.**

The Statute also authorizes the Commission to adopt rules. These are known as the Commission's Rules and Regulations and consist of seventeen chapters. This document is:

**CHAPTER 10 OF THE RULES AND REGULATIONS.**

This chapter is designed to interpret, apply and enforce the Commission's Statute and Comprehensive Land Use Plan.

# **Sub-Chapter I**

## **GENERAL PROVISIONS**



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## 10.01 PURPOSE

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The purpose of the Land Use Districts and Standards shall be to further the purposes of the Use Regulation Law as stated in 12 M.R.S.A. §681 and to fulfill the requirements of 12 M.R.S.A. §685-A(3) which states that:

"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.

In addition to the purposes set forth in §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;
- B. Protect public health by reduction of noise, air pollution, water pollution and other environmental intrusions;
- C. Protect and preserve significant natural, scenic and historic features where appropriate, beneficial and consistent with the comprehensive plan;
- D. Advise and assist the Department of Transportation and other concerned agencies in transportation planning and operation;
- D-1. Provide for safe and appropriate loading, parking and circulation of land, air and water traffic;
- 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 operations in connection with any use and its relation to surrounding areas, including provisions for the eventual amelioration of existing adverse impact;
- F. Reflect a consideration of the availability and capability of the natural resources base, including soils, topography or sufficient healthful water supplies; and
- 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."

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## 10.02 DEFINITIONS

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

**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.A. §682.

**2. Adjacent Grade:**

The natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

**3. Affordable Housing:**

Affordable housing is decent, safe, and sanitary dwellings, apartments or other living accommodations that are affordable to lower income households and moderate income households, in accord with the following provisions.

- a. An owner-occupied housing unit is "affordable" to a household if the unit's expected sales price is reasonably anticipated to result in monthly housing costs (including mortgage principal and interest payments, mortgage insurance costs, homeowners' insurance costs, real estate taxes, and basic utility and energy costs) that do not exceed 28% to 33% of the household's gross monthly income. Determination of mortgage amounts and payments are to be based on down payment rates and interest rates generally available to lower and moderate income households.
- b. A renter-occupied housing unit is "affordable" to a household if the unit's monthly housing costs (including rent and basic utility and energy costs) do not exceed 28% to 33% of the household's gross monthly income.
- c. A "lower income household" is a household with a gross income less than or equal to 80% of the applicable HMFA/County median income. Lower income households include both very low income households and low income households. A "very low income household" is a household with a gross income less than or equal to 50% of the applicable HMFA/County median income. A "low income household" is a household with a gross income over 50%, but less than or equal to 80%, of the applicable HMFA/County median income.
- d. A "moderate income household" is a household with a gross income over 80%, but less than or equal to 150%, of the applicable HMFA/County median income.
- e. The "applicable HMFA/County median income" is the median family income most recently published by the U.S. Department of Housing and Urban Development (HUD) for the federally-designated Metropolitan Fair Market Rent Area (HMFA) or County (non-HMFA part) in which the housing unit is located. Where appropriate to use of this definition, median family income may be adjusted for family size.
- f. A household's "gross income" includes the income of all household members from all sources.

**4. Affordable Housing Covenant:**

Any agreement among one or more owners, one or more tenants of residential real estate and one or more qualified housing entities, or between one or more owners and one or more qualified housing entities, or between one or more tenants and one or more qualified housing entities, that permits a qualified housing entity to control, either directly or indirectly, the purchase or rental price of residential housing for the primary purpose of providing that the housing remains affordable to lower income and moderate-income households.

**5. Agricultural Management Activities:**

Land clearing if the land topography is not altered, tilling, fertilizing, including spreading and disposal of manure, liming, planting, pesticide application, harvesting or cultivating crops, pasturing of livestock, minor drainage and maintenance of drainage, and other similar or related activities, but not the construction, creation or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

**6. Alteration:**

Dredging; bulldozing; removing or displacing soil, sand, vegetation or other materials; draining or dewatering; filling; or any construction, repair or alteration of any permanent structure. On a case-by-case basis and as determined by the Commission, the term "alteration" may not include:

- a. An activity disturbing very little soil such as installing a fence post or planting shrubs by hand;
- b. The addition of a minor feature to an existing structure such as a bench or hand rail; and
- c. The construction, repair or alteration of a small structure with minimal impact such as a nesting box, pasture fence, or staff gauge.

**7. Aquatic Vegetation:**

Plants that usually grow on or below the surface of the water for most of the growing season in most years.

**8. 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.

**9. Base Flood:**

The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**10. Basement:**

Any area of the building having its floor subgrade (below ground level) on all sides.

**11. Bed and Breakfast:**

An owner-occupied, single-family dwelling comprising a single residential building and its accessory structures, in which up to six sleeping rooms are rented for a fee for transient occupancy by guests. Breakfast is the only meal to be served to overnight guests. There must be no kitchen facilities in rented rooms and no separate ownership of rooms.

**12. Boathouse:**

A structure that extends over or beyond the normal high water mark into which boats are directly maneuvered without leaving the water body. Boathouses are distinct from boat storage buildings, which require the boat to be removed from the water for entry.

**13. Boat Ramp:**

See commercial trailered ramp, private trailered ramp, public trailered ramp, or trailered ramp.

**14. Body of Standing Water:**

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

**15. Breakaway Wall:**

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**16. Building:**

“Any structure having a roof or partial roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or objects regardless of the materials of which it is constructed.” 12 M.R.S.A. §682. The Commission finds that a temporary camping tent constructed of fabric or similar materials is not considered a building.

**17. Bulk:**

The size, volume, and shape of buildings and structures, and the physical relationship of their exterior walls or their location to lot lines, other buildings, structures, and surrounding open space. Bulk does not suggest any architectural style or design. This term is used, for example, to ensure that new adjacent development is compatibly arranged and does not dwarf or overshadow existing development.

**18. Bulk Sampling of Mineral Deposits:**

The removal of samples of mineral deposits for the purpose of testing to determine the feasibility, method or manner of extraction and/or processing of minerals. Such testing may include metallurgical analyses, milling or grinding tests and/or pilot plant and processing tests. Methods of bulk sampling may include, but not be limited to drilling and boring, the digging of shafts and tunnels, or the digging of pits and trenches.

**19. Bunkhouse:**

An accessory structure consisting of detached sleeping quarters having no plumbing, for the temporary accommodations of guests of the property owner or facility while the owner or facility operator is an occupant of the principal dwelling or at the facility. A bunkhouse that is accessory to a dwelling can be up to 750 square feet or 50% of the footprint of the principal dwelling unit, whichever is larger.

**20. Campground:**

Any area, other than a campsite, designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter. Campground does not include Residential Campsites.

**21. Campsite:**

“A camping location containing tents, registered tent trailers, registered pickup campers, registered recreational vehicles, registered trailers or similar devices used for camping. “Campsite” 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 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.A §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. Lean-tos shall not exceed 150 square feet, and outhouses shall not exceed 36 square feet. For the purpose of the application of the Commission’s rules, the statutory provision that a “campsite 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, 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.

- 22. Campsite, Residential:** See **Residential Campsite**.
- 23. Capacity Expansions of Utility Facilities:**  
The addition of new telephone or electric wires or similar equipment to existing electric or telephone transmission and distribution poles for the purpose of increasing the capacity thereof.
- 24. Checkpoint Building:**  
A structure on land under forest management which is used primarily for control of access to private roads or trails, provided it does not include more than one residence.
- 25. Children's Day Care Facility:**  
A building, not the residence of the operator, in which a person carries out a regular program, for consideration, for any part of a day providing care for three or more children under 19 years of age.
- 26. Cluster Development:**  
A compact form of development that results in buildings being located in a group such that a significant amount of open space is preserved.
- 27. Coastal Nesting Island:**  
An island used for nesting by sea birds during their breeding period.
- 28. Coastal Sand Dune System:**  
*Reserved.*
- 29. Coastal Wetlands:**  
Tidal and subtidal lands, including any of the following: all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the highest astronomical tide for the current National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration (NOAA). Coastal wetlands may include portions of coastal sand dunes.
- 30. Combined Floor Area:**  
The total floor area of all principal and accessory structures on a lot.
- 31. Combined Septic System:**  
A disposal system designed to dispose of gray and black waste water on or under the surface of the earth that includes but is not limited to: septic tanks; disposal fields; or any other fixture, mechanism, or apparatus used for this purpose.
- 32. Commercial Fishing Activities:**  
Activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

**33. Commercial Mineral Extraction:**

Mineral extraction other than Mineral Extraction for Road Purposes.

**34. Commercial Sporting Camp:**

A “building or group of buildings devoted primarily to the offering of lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling.” 12 M.R.S.A. §682(14). In addition, for the purposes of the application of the Commission’s rules, the term “commercial sporting camp” shall be construed according to the following: A facility which functions primarily as a destination for the above activities rather than as a transient development unit or as a base of operations for activities in another location, such as whitewater rafting. A sporting camp is usually located in a remote location and typically consists of, but does not have to include, all of the following: a number of cabins for the housing of guests, including but not limited to housekeeping cabins; a main lodge for serving of meals and socializing for the guests; outbuildings for housing of the owners, guides, and other workers; workshop, woodsheds, laundry, equipment storage, and other utility buildings as needed. Outpost cabins are not a part of commercial sporting camp facilities. Guests of outpost cabins may use the services of the commercial sporting camp whether or not the commercial sporting camp is permitted for expanded access (Section 10.27,Q,1). A resident, on-site attendant must be available on a full-time basis to meet the needs of guests.

**35. Commercial Trailered Ramp, Hand-Carry Launch, or Dock:**

A trailered ramp, hand-carry launch, or dock, including an associated parking area and access road, that is privately owned and operated, and open to all members of the public, with or without a fee, but not meeting the definition of a public trailered ramp, hand-carry launch, or dock.

**36. Commercial Use:**

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

**37. Commission:**

The Maine Land Use Planning Commission.

**38. Community Living Facility:**

A housing facility for eight or fewer persons with disabilities that is approved, authorized, or certified by the State. A community living facility may include a group home, foster home, or intermediate care facility. Disability has the same meaning as the term “handicap” in the Federal Fair Housing Act, 42 USC §3602 [30-A M.R.S.A. §4357-A].

Residents of a community living facility cannot be using or addicted to a “controlled substance” as defined in the Controlled Substances Act, 21 USC §802(6), or living in the facility as a result of a criminal offense.

**39. Community Public Water System:**

*Reserved.*

**40. Community Public Water System Primary Protection Areas:**

*Reserved.*

**41. Compatible Use:**

A land use which is capable of existing in harmony with other uses or resources situated in its immediate vicinity because that use does not adversely affect such other uses or resources.

- 42. Compensation:**  
Replacement of a lost or degraded wetland function with a function of equal or greater value.
- 43. Conversion of Use:**  
The alteration of a use or structure such that the use or structure constitutes a different use listing or defined term.
- 44. Creation:**  
An activity bringing a wetland into existence at a site where it did not formerly occur.
- 45. Critically Imperiled Natural Community (S1):**  
An assemblage of plants, animals and their common environment that is extremely rare in Maine or vulnerable to extirpation from the state due to some aspect of its biology. An example of an S1 community that occurs in freshwater wetlands is the Outwash Plain Pondshore community.
- 46. Cross-Sectional Area:**  
The cross-sectional area of a stream channel shall 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 mark on the opposite side of the channel. The average stream channel depth shall 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.
- 47. Deer Wintering Areas:**  
Areas used by deer during winter for protection from deep snows, cold winds, and low temperatures.
- 48. 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.
- 49. Development Unit:**  
A single family dwelling unit or non-residential use containing a total of no more than 8,000 square feet of gross floor space for all principal buildings concerned. Multiple family dwelling units and larger non-residential uses shall be counted as an equivalent multiple number of development units.
- 50. Dining Amenities:**  
A common space where meals are served to guests of the recreational lodging facility or the general public. Dining amenities do not include private kitchens for individual cabins.
- 51. Direct Watershed:**  
That portion of the land area which drains surface water directly to a body of standing water without such water first passing through an upstream body of standing water.
- 52. Disturbed Area:**  
The area of a parcel that is stripped, graded, grubbed or otherwise results in soil exposure at any time during the site preparation for, or construction of, a project. "Disturbed area" does not include maintenance of an existing impervious area, but does include a new impervious area or expansion of an existing impervious area.

**53. Docking Structure:**

A structure placed in or near water primarily for the purpose of securing and/or loading or unloading boats and float planes, including but not limited to docks, wharfs, piers, and associated anchoring devices, but excluding boathouses and floatplane hangars.

**54. Driveways**

A vehicular access-way, other than a land management road, less than 1,000 feet in length serving two or fewer lots or dwelling units.

**55. Dwelling 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, including any minor home occupations, for one family. Accessory structures intended for human habitation that have plumbing 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. However, the term shall include accommodations utilized by guests for transient occupancy that qualifies as a home occupation.

**56. Elevated Building:**

A building, without a basement,

- a. built, in the case of a building in FEMA zones A1-30, AE, or A, 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 A, 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 Section 10.25,T,2,l. 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 Section 10.25,T,2,p,(b),(iii).

**57. Emergent Marsh Vegetation:**

Plants that are erect, rooted and herbaceous; grow in saturated to permanently flooded areas; and do not tolerate prolonged inundation of the entire plant (e.g., cattails, burreed, tussock sedge, rice cut grass, phragmites, pickerel weed, arrowhead and bulrush).

**58. Enhancement:**

An activity increasing the net value of a wetland.

**59. Excursion Service:**

A water-borne transport service established to ferry tourists and other persons non-resident to the place of destination. This term shall also include sight-seeing and other recreational cruises such as "whale-watchers" where there may be no specific point of destination.

**60. Expansion of a Structure:**

The increase in the floor area of a structure, including attached decks and porches, or the increase in the height of a structure.

**61. Family:**

One or more persons occupying a premises as a single housekeeping unit.

- 62. FEMA:**  
Federal Emergency Management Agency.
- 63. Fishery Management Practice:**  
Activities engaged in for the exclusive purpose of management of freshwater and anadromous fish populations by manipulation of their environment for the benefit of one or more species. Such practices may include but not be limited to the construction of traps and weirs, barrier dams, stream improvement devices, fishways, and pond or stream reclamation, provided that any such activities are specifically controlled and designed for the purpose of managing such species and are conducted or authorized by appropriate state or federal fishery management agencies in compliance with the water quality standards contained in 38 M.R.S.A. §465.
- 64. Flood or Flooding:**
- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
    - (1) the overflow of inland or tidal waters.
    - (2) the unusual and rapid accumulation or runoff of surface waters from any source.
  - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Section 10.02, 58, a, (1) of this definition.
- 65. Flood Boundary and Floodway Map (FBFM):**  
An official map of a township, plantation or town, issued by the Federal Insurance Administrator, where the boundaries of the base flood and floodway have been designated.
- 66. Flood Elevation Study:**  
An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
- 67. Flood Hazard Boundary Map (FHBM):**  
An official map of a township, plantation or town, issued by the Federal Insurance Administrator, where the boundaries of the base flood have been designated.
- 68. Flood Insurance Rate Map (FIRM):**  
An official map of a township, plantation or town, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
- 69. Flood Insurance Study (FIS):** See **Flood Elevation Study**.
- 70. Floodplain or Flood Prone Area:**  
Any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).
- 71. Floodplain Wetland:**  
Wetlands that are inundated with flood water during a 100-year event based on site specific information including, but not limited to, flooding history, landform, and presence of hydric, alluvial soils, and that under normal circumstances support a prevalence of wetland vegetation typically adapted for life in saturated soils.

**72. Floodproofing:**

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**73. Floodway: See Regulatory Floodway.****74. Floodway Encroachment Lines:**

The lines marking the limits of floodways on federal, state, and local floodplain maps.

**75. Floor Area:**

The sum of the horizontal areas of the floor(s) of a structure, excluding basements, measured by their exterior dimensions. Floor area shall include, but not be limited to, all stories and lofts, decks, garages, porches and greenhouses.

**76. Flowing Water:**

A channel that has defined banks created by the action of surface water and has two or more of the following characteristics:

- a. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- b. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.
- c. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- d. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
- e. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

Such waters are commonly referred to as rivers, streams, and brooks. Flowing water does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.

**77. Footprint:**

The measure of the area in square feet within the exterior limits of the perimeter of a structure. This includes any overhangs, or attached porches or decks whether or not enclosed.

**78. Forest:**

A plant community predominantly of trees and other woody vegetation growing more or less closely together.

**79. Forest Management Activities:**

Forest management activities include timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar or associated activities, but not the construction, creation, or maintenance of land management roads, nor the land application of septage, sludge and other residuals and related storage and composting activities.

**80. Forest Product:**

Any raw material yielded by a forest.

**81. Forested Wetland:**

Freshwater wetlands dominated by woody vegetation that is 6 meters tall, or taller.

**82. Freshwater Wetland:**

Freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and not below the normal high water mark of a body of standing water, coastal wetland, or flowing water.

**83. Functionally Dependent Use:**

For purposes of regulating development in flood prone areas, a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**84. Gatehouse: See Checkpoint Building.****85. Gravel Extraction:**

Any extraction of a deposit of sand, fill or gravel.

**86. Gravel Pit:**

A mining operation undertaken primarily to extract and remove sand, fill or gravel.

**87. Hand-Carry Launch:**

A shoreland alteration, including, but not limited to, a landing area (that portion of the launch at or below the normal high water mark), a launch area (that portion of the launch immediately adjacent to and above the normal high water mark) any associated parking area, access pathway and/or road, and other similar related facilities to allow an item, including but not limited to a boat, personal watercraft, or dock float, to be moved by hand, to or from the surface of a water body. Unless otherwise specified by permit condition, boat trailers or dollies designed to be moved by hand may be used at such facilities provided no special site design is required to accommodate such devices.

**88. Height of Structure:**

The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**89. High Mountain Area:**

All mountain areas included in Mountain Area Protection Subdistricts (P-MA), as described in Section 10.23,G and shown on the Commission's Land Use Guidance Maps.

**90. Historic Structure:**

Any structure that is:

- a. listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) by an approved state program as determined by the Secretary of the Interior, or
  - (2) directly by the Secretary of the Interior in states without approved programs.

**91. Home Adult Day Services Program:**

A group program of care, therapeutic activities and supervision maintained or carried out on a regular basis by a person or persons in a private dwelling, for consideration, for at least two hours a day, for three to 12 adults 19 years of age or older, who are not related to, or under the guardianship of the provider.

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

A person who receives consideration to provide child care in his or her 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

**93. Home Occupation:**

A business, profession, occupation, or trade undertaken for gain or profit which: a) is clearly incidental and secondary to the use of the dwelling unit for residential purposes; b) is wholly carried on within a dwelling unit or other structure accessory to a dwelling unit; c) is carried on by a resident of the dwelling unit; and d) utilizes no more than 50 percent of all floor area of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure(s) in which the occupation is carried out. The term is further defined as minor and major home occupation as follows:

**Minor home occupation:** A home occupation not noticeable from the exterior of a building, except as herein allowed, that utilizes no more than 50 percent of all floor area of all principal and accessory structures up to a limit of 1,000 square feet.

**Major home occupation:** A home occupation not noticeable from the exterior of a building, except as herein allowed, that utilizes no more than 50 percent of all floor area of all principal and accessory buildings up to a limit of 1,500 square feet.

**94. Imperiled Natural Community (S2):**

An assemblage of plants, animals and their common environment that is rare in Maine or vulnerable to further decline. Examples of S2 communities that occur in freshwater wetlands are Atlantic White Cedar Swamp, Alpine Bog-Meadow, Circumneutral Fen, Maritime Slope Bog, and Coastal Plain Pocket Swamp.

**95. Impervious Area:**

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

**96. Incidental:**

A use, activity, service, or amenity that occurs by chance and not on a regular basis. Any use, activity, service, or amenity that is advertised individually is not incidental.

**97. Land Management Road:**

A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing material constructed for, or created by, the repeated passage of motorized vehicles and used primarily for agricultural or forest management activities, including associated log yards but not including skid trails, skid roads, and winter haul roads.

**98. 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.

**99. Lean-To:**

A three-sided, roofed structure, limited to no larger than 200 square feet in area and no more than nine feet in height, used for transient occupancy and commonly constructed for campsites.

**100. Level A Mineral Exploration Activities:**

Mineral exploration activities engaged in for purposes of determining the location, extent and composition of mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits having a maximum surface opening of 100 square feet, or other test sampling methods which cause minimum disturbance to soil and vegetative cover. Level A mineral exploration activities shall not include bulk sampling of mineral deposits.

Access ways for Level A mineral exploration activities shall include only access ways the creation of which involves little or no recontouring of the land or ditching, and does not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.

**101. Level B Mineral Exploration Activities:**

Mineral exploration activities involving the bulk sampling of mineral deposits, or any mineral exploration activities which exceed those defined as Level A mineral exploration activities and which are not defined as Level C metallic mineral exploration activities.

**102. Level C Mineral Exploration Activities:**

Metallic mineral exploration activities involving the disturbance of a site, by excavation, of more than 2 acres of surface area or the excavation or removal of more than 10,000 cubic yards of soil, overburden, ore or other earthen materials from the site of exploration.

**103. Level A Road Projects:**

Reconstruction within existing rights-of-way of public or private roads other than land management roads, and of railroads, excepting bridge replacements. Examples of such activities include, without limitation, culvert replacements, resurfacing, ditching, and bridge repair. When there is no existing layout of right-of-way, the right-of-way should be assumed to extend 33 feet on either side of the existing centerline.

**104. Level B Road Projects:**

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 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.

**105. Level C Road Projects:**

Construction of new roads, and relocations or reconstruction of existing roads, other than that involved in level A or level B road projects; such roads shall include both public and private roadways excluding land management roads.

**106. 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) 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.

**107. Lot Coverage:**

The total footprint area of all structures, which includes, but is not limited to, buildings, driveways, sidewalks, parking lots, and other impervious surfaces.

**108. 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 Section 10.25,T,2,1.

**109. Maintenance:**

Activities required to assure continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been technically completed, including, but not limited to, water level manipulations and control of non-native plant species.

**110. Major Flowing Water:**

A flowing water downstream from the point where such water drains 50 square miles or more.

**111. Management Class 1 Lake:**

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

- a. Relatively undeveloped: As of November 17, 1988, having less than one development unit per shore mile within 250 feet of the normal high water mark, taken as an average over the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.
- b. Relatively inaccessible: As of November 17, 1988, having no road passable during summer months with a two-wheel drive vehicle within 1/4 mile of the normal high water mark of the lake.
- c. High resource value(s): Found to have one or more outstanding resource values according to the Commission's Wildlands Lake Assessment as shown in Appendix C of these regulations.

Such lakes are designated as MC1 on the Commission's Land Use Guidance Maps. All lakes included in the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

**112. Management Class 2 Lake:**

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

- a. Relatively Undeveloped: As of November 17, 1988, having less than one development unit per shore mile within 250 feet of the normal high water mark, taken as an average over the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.
- b. Relatively Accessible: As of November 17, 1988, having a road passable during the summer months with a 2-wheel drive motor vehicle within 1/4 mile of the normal high water mark of the lake.
- c. High Resource Value: Having at least two of the following outstanding resource values according to the Commission's Wildlands Lake Assessment:
  - (1) An outstanding rating for fisheries
  - (2) An outstanding rating for scenic value
  - (3) An outstanding rating for shore character
  - (4) An outstanding rating for wildlife when the rating was due to exceptional concentration and/or diversity of wildlife species.

Such lakes are designated as MC2 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

**113. Management Class 3 Lake:**

Lake, also referred to as "Potentially Suitable for Development" which through a consideration of existing water quality, potential water quality impacts, location, access, conflicting uses, available shoreline, water level fluctuation, regional considerations, and special planning needs is found by the Commission to be a potentially suitable location for shoreland development. Such lakes are more specifically defined in the Commission's Comprehensive Land Use Plan.

Such lakes are designated as MC3 on the Commission's Land Use Guidance Maps encompassing such lakes. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

**114. Management Class 4 Lake:**

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

- a. Two or more "outstanding" resource values as identified in the Maine Wildlands Lake Assessment;
- b. Relatively accessible: As of November 17, 1988, accessible to within 1/4 mile of the normal high water mark of the lake by 2-wheel drive motor vehicle during summer months;
- c. Relatively developed: As of November 17, 1988, having an average of more than one development unit per mile of shore within 250 feet of the normal high water mark of the lake. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map; and
- d. Not meeting the criteria for Management Class 3 Lakes.

Such lakes are designated as MC4 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

**115. Management Class 5 Lake:**

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

- a. As of November 17, 1988, having more than one development unit per 10 acres of lake surface area; or
- b. As of November 17, 1988, having more than one development unit per 400 feet of shore frontage, taken as an average around the entire lake shore. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map.

Such lakes are designated as MC5 on the Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

**116. Management Class 6 Lake:**

Lake, also referred to as a "Remote Pond", which meets the following criteria:

- a. Having no existing road access by two-wheel drive motor vehicles during summer months within 1/2 mile of the normal high water mark of the water body;
- b. Having existing buildings within 1/2 mile of the normal high water mark of the water body limited to no more than one non-commercial remote camp and its accessory structures; and
- c. Supporting cold water game fisheries.

Such lakes are designated as MC6 on the Commission's Land Use Guidance Maps. All lakes included within the Wildlands Lake Assessment are listed in Appendix C to these regulations with their Management Class noted.

**117. Management Class 7 Lake:**

All lakes which are not otherwise classified in one of the other six lake Management Classes.

**118. 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 consecutive days.

**119. Manufactured Home Park or Subdivision:**

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**120. Maple Sugar Processing Operations:**

The facilities and related structures and equipment for use in the processing of raw maple sap resources into maple syrup but not including the trees, taps and collection lines associated with the harvesting and collection of the raw maple sap resources. Commercial maple sugar processing operations may include temporary accommodations for a reasonable number of employees but shall not include other types of accommodations, dwelling units, or residential use.

**121. Mean Lower Low Water Level:**

By a 1980 international convention, a standard for all nautical charts, as providing the lowest low water levels likely to be encountered in navigation.

**122. Mean Sea Level:**

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

**123. Metallic Mineral Mining Activity:**

"Metallic mineral mining activity" means any activity or process that is for the purpose of extraction or removal of metallic minerals, and includes processes used in the separation or extraction of metallic minerals from other material including, but not limited to: crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation; leaching; crystallization; or precipitation; mine waste handling and disposal; and processes substantially equivalent, necessary, or incidental to any of the foregoing.

Metallic mineral mining or metallic mineral mining activity does not include Level A, B or C exploration activities, or thermal or electric smelting.

**124. Mineral Deposit:**

Any deposit of peat, sand, gravel, rock, topsoil, limestone, slate, granite, coal, gems, metallic or non-metallic ores or other minerals.

**125. Mineral Extraction:**

Any extraction of a mineral deposit, other than peat extraction, metallic mineral mining activities or Level A, B, or C, exploration activities.

**126. Mineral Extraction for Road Purposes:**

Mineral extraction where at least 75% by volume of the minerals extracted over any three year period are used for the purposes of construction or maintenance of land management or other roads.

**127. Mineral Processing Equipment:**

Equipment used to process minerals following extraction including, but not limited to, rock crushers and batch plants. The term does not include equipment used to remove, sort or transport minerals, such as front end loaders, screens or trucks.

**128. Mineral Soil:**

Soil material in which inorganic (mineral) constituents predominate.

**129. Minor Flowing Water:**

A flowing water upstream from the point where such water drains less than 50 square miles.

**130. Mitigation:**

Actions taken to off-set potential adverse environmental impact. Such actions include the following:

- a. Avoiding an impact altogether by not taking a certain action or parts of an action;
- b. Minimizing an impact by limiting the magnitude or duration of an activity, or by controlling the timing of an activity;
- c. Rectifying an impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and
- e. Compensating for an impact by replacing affected resources or environments.

**131. Mitigation Banking:**

Wetland restoration, enhancement, preservation or creation for the purpose of providing compensation credits in advance of future authorized impacts to similar resources.

**132. Mooring:**

A structure for securing a vessel or aircraft that consists of a line and buoy that is fixed to the bottom of a water body, or attached to a weight that rests on the bottom of a water body.

**133. Motorized Recreational Gold Prospecting:**

“Motorized recreational gold prospecting” means the operation of small-scale, motorized equipment for the removal, separation, refinement, and redeposition of sediments and other substrates occurring below the normal high water mark of a stream, for the noncommercial, recreational discovery and collecting of gold specimens. “Motorized recreational gold prospecting” includes, but is not limited to, the operation of a motorized suction dredge, sluice, pump, rocker box, or winch, individually or together.

**134. Multi-Family Dwelling:**

A building containing three or more dwelling units.

**135. 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)”.

**136. Nonconforming Lot:**

A preexisting lot which, upon the effective date of adoption or amendment of these rules, does not meet the area, frontage or other dimensional requirements for a legally existing or proposed use.

**137. Nonconforming Structure:**

"A structure, lawfully existing at the time of adoption of district regulations or subsequent amendment made thereto, that does not conform to the district regulations." 12 M.R.S.A. §682 More specifically, a nonconforming structure is legally existing, but does not meet one of the following dimensional requirements: setback, lot coverage, or height requirements.

**138. Nonconforming Use:**

"A use of air, land, water or natural resources or a parcel of land, lawfully existing at the time of adoption of district regulations or subsequent amendments made thereto, that does not conform to the district regulations." 12 M.R.S.A. §682. More specifically, a nonconforming use is a legally existing use of buildings, structures, premises, lands, or parts thereof which would not be allowed to be established under current regulations in the subdistrict in which it is situated.

**139. Non-Tidal Water Bodies:**

All water bodies or portions thereof, which are not subject to ebb and flow as the result of tidal action.

**140. Normal High Water Mark of Coastal Wetlands:**

That line on the shore of coastal wetlands reached by the shoreward limit of the highest astronomical tide for the current National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration (NOAA). This is often referred to as the upland edge of the coastal wetland.

**141. Normal High Water Mark of Non-Tidal Water Bodies:**

That line on the shores and banks of non-tidal water bodies that is apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation and that distinguishes between predominantly aquatic and predominantly terrestrial land. In places where the shore or bank is of such character that the normal high water mark cannot be easily determined (as in the case of rock slides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

**142. Normal Maintenance and Repair:**

Unless otherwise provided, work necessary to maintain an improvement, structure, or docking structure in its original or previously improved state or condition, as long as there is no expansion of a nonconforming structure and less than 50 percent of a structure is replaced. This includes general upkeep, such as painting, fixing portions of the structure that are in disrepair, or the replacement of sill logs, roofing materials, siding, or windows. In-kind and in-place replacement of decking or exterior stairs is considered to be normal maintenance and repair. Normal maintenance and repair shall not include reconstruction, or change in design, change in structure, change in use, change in location, or a change in size or capacity. Activities involving a permanent docking structure constitute normal maintenance and repair only when less than 50 percent of those portions of the permanent docking structure that are above the level of the water during normal high water are maintained or repaired.

**143. 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.

**144. On Premise Sign:**

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.

**145. Open Space:**

Any parcel or area of land essentially unimproved and set aside, dedicated, designated, or reserved for the public use, for the common use of owners and occupants of land adjoining or neighboring such open space, or for purposes intended to preserve important natural features of the site.

**146. 100-year Flood: See Base Flood.****147. Outpost Cabin:**

A building used primarily by the guests of a commercial sporting camp on a transient basis primarily in pursuit of primitive recreation or snowmobiling in an isolated setting and which is located more than one half mile from a commercial sporting camp as measured in a straight line from the nearest structure providing guest services. Outpost cabins are not a part of commercial sporting camp facilities and are not served by an on-site attendant while guests are present. Guests of outpost cabins may use the services of the commercial sporting camp whether or not the commercial sporting camp is permitted for expanded access (see Section 10.27,Q,1).

**148. Parking Area:**

A place, whether or not paved, designed primarily for parking motor vehicles. "Parking area" includes parking lots, parking spaces, parking lanes, and circulation aisles and corridors.

**149. Peatland:**

Freshwater wetlands, typically called bogs or fens, consisting of organic soils at least 16" deep, predominantly vegetated by ericaceous shrubs (heath family), sedges, and sphagnum moss and usually having a saturated water regime.

**150. Permanent Docking Structure:**

A docking structure in place for longer than seven months in any calendar year or which is so large or otherwise designed as to make it impracticable to be removed on an annual basis without alteration of the shoreline, and associated on-shore structures used to secure a permanent dock or mooring.

**151. Permanent Foundation:**

A supporting substructure that either extends below the frost line or is designed to permanently withstand freeze-thaw conditions. Permanent foundations include full foundations, basements, slabs and frost walls. For the purposes of this definition "sono tubes" or posts installed with augers are not considered permanent foundations.

**152. Persistence:**

The overall ability of a wetland to be self-sustaining, continue to exist, and serve intended functions over an indefinite period of time, although its vegetation, soils, hydrologic characteristics and precise boundaries may change.

**153. Person:**

"An individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity." 12 M.R.S.A. §682.

**154. Personal Watercraft:**

"Any motorized watercraft that is 14 feet or less in hull length as manufactured, has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. 'Personal watercraft' includes, but is not limited to, a jet ski, wet bike, surf jet and miniature speedboat. 'Personal watercraft' also includes motorized watercraft whose operation is controlled by a water skier. 'Personal watercraft' does not include a motorized watercraft that does not have a horsepower rating greater than 15 horsepower and does not generate an unreasonable amount of noise." 12 M.R.S.A. §13001(23).

**155. Pesticide:**

A chemical agent or substance employed to kill or suppress pests (such as insects, weeds, fungi, rodents, nematodes or other organisms) or intended for use as a plant regulator, defoliant or desiccant.

**156. Piped Water:**

Water supplied to a building by means other than hand pump or hand carry.

**157. Portable Mineral Processing Equipment:**

Mineral processing equipment that is not fixed to a location on the ground but rather is designed to be readily moved from one mineral extraction operation to another.

**158. Practicable:**

Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.

**159. Preservation:**

The maintenance of a wetland area or associated upland areas that contribute to the wetland's functions so that it remains in a natural or undeveloped condition. Preservation measures include, but are not limited to, conservation easements and land trust acquisitions.

**160. Primitive Recreation:**

Those types of recreational activities associated with non-motorized travel, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing.

**161. Primitive Septic System:**

A septic system that uses an alternative toilet, such as a pit privy, compost, chemical, recirculating, incinerating, and vacuum types and a minimal disposal field designed to treat gray waste water that originates from a non-pressurized water supply.

**162. Principal Building:**

A building which provides shelter for the primary use of a parcel. On a single parcel, all buildings related to forest or agricultural management activities, including dwellings of the owner or lessee and employees, are considered one principal building.

**163. Principal Use:**

A use other than one which is wholly incidental or accessory to another use on the same premises.

**164. Private Trailered Ramp, Hand-Carry Launch, or Dock:**

A trailered ramp, hand-carry launch, or dock that is privately owned and operated, and not open to all members of the public.

**165. Projecting Sign:**

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

**166. Property Line:**

Any boundary between parcels of land owned or leased by different persons or groups of persons.

**167. Protected Natural Resource:**

Coastal sand dune systems, coastal wetlands, significant wildlife habitat, high mountain areas, freshwater wetlands, community public water system primary protection areas, bodies of standing water, and flowing water.

**168. Public Drinking Water Source:**

Any groundwater well or any surface water source that directly or indirectly serves a water distribution system that has at least 15 service connections or regularly services an average of at least 25 individuals daily at least 60 days of the year (38 M.R.S. §490-A).

**169. Public Road or Roadway:**

Any roadway which is owned, leased, or otherwise operated by a governmental body or public entity.

**170. Public Trailered Ramp, Hand-Carry Launch, or Dock:**

A trailered ramp, hand-carry launch, or dock, including associated facilities, that is owned, leased, or operated by a public entity and made available with or without a fee. Such entities include owners of federally licensed hydropower projects within the resource affected by the hydropower project for use by all members of the public.

**171. Reclamation:**

The rehabilitation of the area of land affected by mineral extraction, including but not limited to, the stabilization of slopes and the creation of safety benches, the planting of vegetation including grasses, crops, shrubs, and/or trees, and the enhancement of wildlife and aquatic habitat and aquatic resources.

**172. Reconstruction:**

Unless otherwise provided, the addition of a permanent foundation or the rebuilding of a structure after more than 50 percent by area of its structural components, including walls, roof, or foundation, has been destroyed, damaged, demolished or removed. Leaving one or two walls or the floor of a structure in place, while rebuilding the remaining structure, is considered reconstruction, not normal maintenance and repair or renovation.

**173. Recreation Activity, Features, and/or Services:**

Recreation activity, features, and/or services do not include modes of transportation to and from the site (e.g., airplane, snowmobile, ATV, or car), but do include any on-site track or trail that does not extend off-site (e.g., motocross track, mud runs, airplane rides). Measures taken to reduce noise and odor, including but not limited to, soundproofing, buffering, hours of operation, or emissions control devices may be considered when evaluating noise and odor levels. Examples of on-site recreation activities, features, and/or services grouped by noise and odor impacts:

- a. Low noise/odor – climbing wall, horseshoes, open field activities, tennis, swimming, small range for sighting of firearms, archery, guiding, vehicle shuttle or transportation services, rental of non-motorized equipment, and mini golf;
- b. Some noise/odor – facilities for organized team sports (e.g., baseball), paintball, rafting base, rental of motorized equipment, and airplane rides for overnight guests; and
- c. Routine noise/odor – shooting range, atv/snowmobile/motocross racing, amusement park, public airplane rides.

**174. Recreational Lodging Facilities:**

Site improvements, a building or group of buildings, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes. Recreational lodging facilities primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based. The term includes, but is not limited to, commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing. To be included in a recreational lodging facility, rental units must be served by an on-site attendant while guests are present. Related development that is located more than one half mile, measured in a straight line, from the nearest structure providing guest services, such as dining, gathering places, retail, shower house, dumping station, check-in office, and equipment rental shall be considered a separate facility, unless the owner chooses to consider them as one facility. Caretaker or attendant housing will not be used to establish the one half mile distance unless no other guest services are provided. If no guest services are provided then all development on the regulatory parcel shall be considered part of the same facility and may be part of a facility on an adjoining parcel. For the purposes of Land Use Planning Commission rules, recreational lodging facilities are divided into five levels:

**Level A Facilities** have minimal impacts on existing resources within the development site and surrounding areas. Level A recreational lodging facilities are specifically designated by Section 10.27,Q,1.

**Level B Facilities** have low impacts on existing resources within the development site and surrounding areas. Level B facilities are specifically designated by Section 10.27,Q,1.

**Level C Facilities** have moderate impacts on existing resources within the development site and surrounding areas. The standards for these facilities are designed to allow development while conserving the natural resource and recreation values of the development site and surrounding areas. Level C facilities are specifically designated by Section 10.27,Q,1. A Level C facility characterized by any of the factors in Section 10.27,Q,1, Table B is referred to as a “Level C – Expanded Access” facility.

**Level D Facilities** have moderate to high impacts on existing resources within the development site and surrounding areas. Level D facilities may provide limited on-site goods and/or services to meet the needs of guests, though these are not of a type, scale or design intended to meet the goods and services needs of the public at large that is not an overnight guest. The standards for these facilities are designed to allow larger-scale development while conserving the natural resource and recreation values of the development site and surrounding areas. Level D facilities are specifically

designated by Section 10.27,Q,1. A Level D facility characterized by any of the factors in Section 10.27,Q,1, Table B is referred to as a “Level D – Expanded Access” facility. A Level D facility may be located in a geographic allowance area as provided in Section 10.27,Q,3.

**Level E Facilities** have the potential to have significant local and regional impacts. Level E facilities may include a range of lodging options at larger scales and typically include a broad range of recreational services and/or amenities that make the facility not only a recreation destination but also may meet some of the goods and services needs of the greater region. The standards for these facilities are designed to allow large scale development while conserving the natural resource and recreation values of the development site and surrounding areas. Level E facilities are specifically designated by Section 10.27,Q,1.

**175. Recreational Vehicle:**

A vehicle which is:

- a. built on a single chassis;
- b. designed to be self-propelled or permanently towable by a motor vehicle;
- c. designed to provide temporary living quarters for recreational, camping, travel, or seasonal use, but not for use as a permanent dwelling;
- d. without structural additions to or removal of wheels from the vehicles; and
- e. 400 square feet or less when measured at the largest horizontal projection, not including slideouts, when located in a flood prone area.

**176. Regulatory Floodway:**

The channel of a river or other flowing water and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. When not designated on the township’s, plantation’s, or town’s Flood Insurance Rate Map, Flood Boundary and Floodway Map, or Flood Hazard Boundary Map, it is considered to be the channel of a 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.

**177. Remote Camp:**

A dwelling unit consisting of not more than 750 square feet of gross floor area, that is not served by any public utilities, except radio communications.

**178. Remote Campsites:**

Campsites which are not part of commercial campgrounds and which are characterized by their remoteness, limited scale, dispersed nature, and limited usage. More specifically, remote campsites include sites which:

- a. are designed to be accessible and generally are only accessible by water or on foot;
- b. are comprised of not more than four individual camping areas designed for separate camping parties, and are designed for a total of not more than 12 overnight campers;
- c. have permanent structures limited to privies, fireplaces or fire rings, picnic tables, and picnic table shelters not larger than 80 square feet in area consisting of a roof without walls; and
- d. require no other construction or grading and only minimal clearing of trees.

**179. Remote Rental Cabin:**

A building used only as a commercial lodging facility on a transient basis by persons primarily in pursuit of primitive recreation or snowmobiling in an isolated and remote setting. A remote rental cabin cannot be larger than 750 square feet in gross floor area; cannot be served by any public utilities providing electricity, water, sewer, or telephone services; cannot have pressurized water; and cannot have a permanent foundation. Placement of these buildings does not create a lot for subsequent lease or sale.

A remote rental cabin cannot be located within 1,000 feet of any public road or within 1,000 feet of any other type of residential or commercial development.

See Section 10.25,Q “Subdivision and Lot Creation” to determine how such buildings are counted for purposes of subdivision.

**180. Renovation:**

Restoring or remodeling a structure. Renovation includes interior modifications, and the installation of new windows, floors, heating systems, or other features, as long as there is no expansion of a nonconforming structure and less than 50 percent of the building’s structural components are replaced. The introduction of plumbing to a structure may constitute a change in use that requires a permit.

**181. 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 term basis. This term does not include outpost cabins or remote rental cabins.

**182. Residential:**

Pertaining to a dwelling unit.

**183. Residential Campsite:**

A camping location containing tents; or a legally registered tent trailer, pickup camper, recreational vehicle, or trailer; or similar device used for private non-commercial camping. “Residential campsite” includes a camping location that may have access to a pressurized water system or permanent structures. Each such additional permanent structure shall not have more than 150 square feet in floor area, shall not have a permanent foundation and, except for lean-tos and tent platforms, shall not be used for human habitation. A single lot may contain only one residential campsite, whether or not a dwelling is present, designed to contain not more than one (1) camping site for transient occupancy by 12 or fewer people.

**184. Residential Directional Sign:**

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

**185. Residual:**

“Residual means solid wastes generated from municipal, commercial or industrial facilities that is suitable for agronomic utilization. These materials may include: food, fiber, vegetable and fish processing wastes; dredge materials; sludges; dewatered septage; and ash from wood or sludge fired boilers.” DEP Rules, Chapter 400, §1.

**186. Restoration:**

An activity returning a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater acreage or function.

**187. Roadway:**

A public or private road including any land management road.

**188. Roof Sign:**

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

**189. Rural Business:**

A building, group of buildings, or site, or any part thereof, used, maintained, or advertised as a commercial, institutional, or light industrial business. Rural business facilities may be operated as a for-profit, non-profit, or public entity. Rural business facilities are either 1) compatible with, and complementary to, natural resource-based land uses such as agriculture, forestry, small-scale natural resource processing and manufacturing, and outdoor recreation, or 2) of a scale and intensity appropriate to rural areas that are lightly developed but proximate to services and transportation infrastructure. For the purposes of Land Use Planning Commission rules, rural businesses are divided into three categories:

**Category 1:** Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood and agricultural product; or are related to or in support of agriculture, forestry, natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to saw mills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and storage, and motorized and non- motorized recreational centers. Category 1 businesses are specifically designated by Section 10.27,R,1,a.

**Category 2:** Moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses. Examples include, but are not limited to, restaurants, art studios, nursing homes, and boarding kennels. Category 2 businesses are specifically designated by Section 10.27,R,1,b.

**Category 3:** Larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses. The term includes, but is not limited to, saw mills, value added food production, equipment maintenance and repair facilities, recreational equipment rental and storage, motorized and non-motorized recreational centers, assembly plants, and automobile service and repair. Category 3 may also include Category 1 and Category 2 type businesses, as long as it meets all other criteria for Category 3. Category 3 businesses are specifically designated by Section 10.27,R,1,c.

**190. Septage:**

“Septage means waste, refuse, effluent, sludge, and any other materials from septic tanks, cesspools, or any other similar facilities.” 38 M.R.S.A. §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

**191. Service Drop:**

Any utility line extension which does not cross or run beneath any portion of a body of standing water provided that:

- a. in the case of electric service
  - (1) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - (2) the total length of the extension within any 5 year period is less than 2,000 feet.
- b. in the case of telephone service
  - (1) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
  - (2) the total length of the extension within any 5 year period, requiring the installation of new utility poles or placed underground, is less than 2,000 feet.

**192. 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.

**193. Shoreland Alteration:**

Any land use activity, which alters the shoreland area, either at, adjacent to or below the normal high water mark, of any surface water body, including but not limited to:

- a. dredging or removing materials from below the normal high water;
- b. construction or repairing any permanent structure below the normal high water mark.

For purposes of this subsection, permanent structure shall mean any structure, including but not limited to, causeways, wharfs, piers, docks, concrete or similar slabs, bridges, hand-carry launches, trailered ramps, water-access ways, piles, marinas, retaining walls, riprap, buried or submarine utility cables and lines, permanent docking structures, mooring structures, and water lines. A structure which is not fixed in or over the water or below the normal high water mark for more than 7 months in a calendar year shall not be a permanent structure;

- c. depositing any dredged spoil or fill below the high water mark; and
- d. depositing dredged spoil or fill, or bulldozing, scraping or grading, on land adjacent to a water body in such a manner that the material or soil may fall or be washed into the water body, except that filling and grading or water crossings which do not require a permit as specified in Section 10.27, or other provisions of these rules shall not constitute shoreland alteration.

Activities which cause additional intrusion of an existing structure into or over the water body, are also considered shoreland alterations.

**194. Shoreline:**

The normal high water mark of a coastal wetland, a body of standing water, or flowing water.

**195. Sign:**

Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, 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 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 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 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 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 be considered to be a single sign.

**196. Significant Wildlife Habitat:**

The following areas to the extent that they have been identified by the Department of Inland Fisheries and Wildlife: habitat, as determined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal lists of endangered or threatened animal species; deer wintering areas and travel corridors as determined by the Department of Inland Fisheries and Wildlife; high and moderate value water fowl and wading bird habitats, including nesting and feeding areas as determined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as determined by the Atlantic Sea Run Salmon Commission; shorebird nesting, feeding and staging areas and seabird nesting islands as determined by the Department of Inland Fisheries and Wildlife; and significant vernal pools as defined and identified in specific locations by the Department of Inland Fisheries and Wildlife.

**197. Sludge:**

“Sludge means non-hazardous solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or wet process air pollution control facility or any other such waste having similar characteristics and effect. The term does not include industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act.” DEP Rules, Chapter 400, §1

**198. Soil Survey:**

An inventory of soil resources that is based on a systematic field examination, description and classification of soils in an area. Using the results of the field investigation, a soil map and a written report are prepared which describe and classify the soil resources and interpret the soil suitability for various uses based upon soil limitations.

**199. Sole Source Aquifer:**

An aquifer that supplies at least 50 percent of the drinking water for its service area and for which there is no reasonably available alternative drinking water sources should the aquifer become contaminated.

**200. Spaghetti-lot:**

“A parcel of land with a lot depth to shore-frontage ratio greater than 5 to 1. Shore frontage means land abutting a river, stream, brook, coastal wetland, or great pond as these features are defined in 38 M.R.S.A. §480-B.” 12 M.R.S.A. §682(13)

**201. Special Flood Hazard Area:** See **Area of Special Flood Hazard**.

**202. Sporting camp:** See **Commercial Sporting Camp**.

**203. 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.A. §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.

**204. Subdivision:**

Except as provided in 12 M.R.S.A. §682-B, “subdivision” means a division of an existing parcel of land into 3 or more parcels or lots within any 5-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 5-year period. 12 M.R.S.A. §682(2-A)

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

**Level 1 subdivision:** Any subdivision that does not meet the criteria of a level 2 subdivision is considered a level 1 subdivision.

**Level 2 subdivision:** Any subdivision that meets the criteria of Section 10.25,Q,2 is considered a level 2 subdivision.

**205. Substantial Damage:**

For purposes of regulating development in areas of special flood hazard, 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.

**206. Substantial Improvement:**

For purposes of regulating development in areas of special flood hazard, 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 Section 10.10, Variances.

**207. Subsurface Waste Water Disposal System:**

“Subsurface waste water disposal system means:

- a. Any system for the disposal of waste or waste water 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:
  - (1) Any discharge system licensed under 38 M.R.S.A. §414;
  - (2) Any surface waste water disposal system; or
  - (3) Any municipal or quasi-municipal sewer or waste water treatment system.” 30-A M.R.S.A. §4201(5).

**208. Subsurface Waste Water Disposal Rules:**

The Maine Subsurface Waste Water Disposal Rules, 144A CMR 241, administered by the Maine Department of Health and Human Services.

**209. Temporary Docking Structure:**

A docking structure in place for less than seven months during any calendar year upon or over flowed or submerged lands and which is of such a size or design that it can be removed on an annual basis without requiring alteration of the shoreline, and associated temporary on-shore structures used to secure a temporary dock or mooring.

**210. Timber Harvesting:**

The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads, but not the construction or creation of land management roads.

**211. Traffic Control Sign or Device:**

A route marker, guide sign, warning sign, sign directing traffic to or from a bridge, ferry or airport, or sign regulating traffic, which is not used for commercial or advertising purposes.

**212. Trail:**

A route or path other than a roadway, and related facilities, developed and used primarily for recreational activities including but not limited to hiking, backpacking, cross-country skiing and snowmobiling, which passes through or occurs in a natural environment. Related facilities may include but not be limited to subsidiary paths, springs, view points, and unusual or exemplary natural features in the immediate proximity of the trail which are commonly used or enjoyed by the users of the trail.

**213. Trailered Ramp:**

A shoreland alteration, including, but not limited to, an associated parking area, access road, and other similar related facilities to allow a trailer to be backed below the normal high water level of a water body in order to load or unload an item, including but not limited to a boat, personal watercraft, float plane, or dock float.

**214. Transient Occupancy:**

“Occupancy that does not exceed 120 days in a calendar year” 12 M.R.S.A. §682(18). With respect to campsites, residential campsites, and campgrounds 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.

**215. Unorganized and Deorganized Areas:**

“Unorganized and deorganized areas includes all unorganized and deorganized townships, plantations that have not received commission approval under section 685-A, subsection 4 to implement their own land use controls, municipalities that have organized since 1971 but have not received commission approval under section 685-A, subsection 4 to implement their own land use controls and all other areas of the State that are not part of an organized municipality except Indian reservations.” 12 M.R.S.A. §682.

**216. Utility Facilities:**

Structures normally associated with public utilities, including without limitation: radar, radio, television, or other communication facilities; electric power transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; municipal sewage lines; gas, oil, water, slurry or other similar pipe lines or above ground storage tanks.

**217. Wall Sign:**

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.

**218. Water Bar:**

An obstruction placed across a roadway which effectively diverts surface water from and off the road.

**219. Water-Access Ways:**

A structure consisting of a pair of parallel rails, tracks, or beams extending from above the normal high water mark to below the normal high water mark of a water body, and designed as the conveying surface from which an item, including but not limited to a boat, personal watercraft, float plane, or dock float, with or without a support cradle, is launched into or removed from the water body.

**220. Water Crossing:**

A roadway or trail crossing of any body of standing or flowing water (including in its frozen state) by means of a bridge, culvert, or other means.

**221. Water-Dependent Structures for Recreational Lodging Facilities:** Accessory structures, located within a recreational lodging facility, that require direct access or proximity to a water body or flowing water, and that are solely utilized to store or display water-related recreation or safety equipment. See Section 10.27,Q,7.

**222. Water-Dependent Uses:**

Those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, boat building facilities, navigation aides, basins and channels, uses dependent upon water-borne transportation that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to coastal waters.

**223. Water Impoundment:**

Any water body created, or elevation of which is raised, by man through the construction of a dam.

**224. Wetland Functions:**

The roles wetlands serve which are of value to society or the environment including, but not limited to, flood water storage, flood water conveyance, ground water recharge and discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetland plant habitat, aquatic habitat and wildlife habitat.

**225. Wetland Value:**

The importance of a wetland with respect to the individual or collective functions it provides.

**226. Wildlife:**

All vertebrate species, except fish.

**227. Wildlife Management District (WMD):**

A geographic area identified by the Maine Department of Inland Fisheries and Wildlife to facilitate the management of wildlife. For purposes of these regulations, the boundaries of Wildlife Management Districts are as shown in Figure 10.23,D-1 and the area of a Wildlife Management District is based on land and water acreage within LUPC jurisdiction.

**228. Wildlife Management Practices:**

Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species. This term does not include impounding water.

**229. Winter Haul Road:**

A route or travel way that is utilized for forest management activities conducted exclusively during frozen ground conditions. Winter haul roads must have the following characteristics:

- a. they are constructed with no significant soil disturbance;
- b. they do not make use of fill or surfacing material; and
- c. they are substantially revegetated by the end of the following growing season and are maintained in a vegetated condition.

**230. 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 maps are referenced for public information in Appendix E, and noted on the official Land Use Guidance Maps.

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## 10.03 MAJOR DISTRICT CLASSIFICATIONS

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Pursuant to the provisions of 12 M.R.S.A. §685-A(1), the Commission will classify areas within its jurisdiction into one of the following three major districts:

- 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;
- 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 development anticipated; and
- C. Development districts:** Areas discernible as having patterns of intensive 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.” 12 M.R.S.A. §685-A(1).

Pursuant to the Commission's Comprehensive Land Use Plan, the above major districts are divided into various subdistricts. The definition, purpose, and activities regulated within each of the subdistricts are provided in Sub-Chapter II.

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## 10.04 OFFICIAL LAND USE GUIDANCE MAPS

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The initial boundaries of the various subdistricts shall be shown on the Official Land Use Guidance Maps filed in the office of the Commission, which maps, and all amendments thereto, are incorporated by reference in these regulations.

The maps shall be the official record of the zoned status of all areas within the Commission's jurisdiction.

Official Land Use Guidance Maps shall be identified as follows:

"This Land Use Guidance Map was adopted by the Maine Land Use Planning Commission on \_\_\_\_\_, and became effective on \_\_\_\_\_.

This map is certified to be a true and correct copy of the Official Land Use Guidance Map of the Maine Land Use Planning Commission.

By: \_\_\_\_\_"

Director, Maine Land Use Planning Commission

Copies of such maps, and all amendments thereto, certified by a member of the Commission or the Director thereof shall be filed with the State Tax Assessor and with the several Registers of Deeds in the counties wherein the lands depicted on such maps are located.

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## **10.05 INTERPRETATION OF DISTRICT BOUNDARIES**

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Whenever uncertainty exists as to the boundaries of subdistricts as shown on the Official Land Use Guidance Map, the provisions of 12 M.R.S.A. §685-A(2) shall apply.

In addition, in cases where 2 or more major districts (protection, management or development) apparently apply to a single land area, the Commission will designate the land area for inclusion in that major district which best achieves the legislative purpose and intent as set forth in 12 M.R.S.A. §681 and §685-A(1).

Except as otherwise provided, a subdistrict designation appearing on the official Land Use Guidance Maps applies throughout the whole area bounded by such subdistrict boundary lines.

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## 10.06 INTERPRETATION OF LAND USE STANDARDS

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The following shall 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. 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.
- D. 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.
- E. 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.A. §685-A(5)
- F. 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,5.
- G. “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.A. §685-B(1)(B)
- H. 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).
- I. The size of a mineral extraction operation is determined by adding the reclaimed and unreclaimed acreages. While a single mineral extraction operation may be located in multiple subdistricts, mineral extraction operations 30 contiguous acres or greater in size must be located in a D-CI subdistrict.

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## 10.07 EXEMPTIONS

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Notwithstanding any other provisions contained in this chapter, and provided that unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures:

- A. Normal maintenance and repair, or renovations of any lawfully existing structure or use do not require a permit from the Commission, except that normal maintenance and repair or renovations in areas of special flood hazard shall be regulated in conformance with the requirements of Section 10.23,C and must meet applicable development standards in Section 10.25,T, Activities in Flood Prone Areas, and all other applicable statutory and regulatory requirements.
- B. Utility relocations within the right-of-way of any roadway made necessary by road construction activity do not require a permit from the Commission.
- C. "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." 12 M.R.S.A. §685-A(11).
- D. Capacity expansions of utility facilities do not require a permit from the Commission.
- E. Archaeological excavation adjacent to a body of standing water, flowing water, freshwater wetland, coastal wetland, or sand dune system does not require a permit from the Commission as long as the excavation is conducted by an archaeologist listed on the Maine Historic Preservation Commission level 1 or level 2 approved list.
- F. Public utility facilities located within a public right-of-way do not require a permit from the Commission. 35-A M.R.S.A. §2503(20)

## 10.08 CRITERIA FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

### A. GENERAL CRITERIA

“A land use district boundary may not be adopted or amended unless there is substantial evidence that:

1. 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
2. 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.” 12 M.R.S.A. §685-A(8-A)

### B. AREAS ADJACENT TO LAKES

The review standards listed in Section 10.25,A must be considered in applying the above criteria to proposed changes in subdistrict boundaries adjacent to lakes.

### C. PROSPECTIVELY ZONED AREAS

#### 1. Additional Approval Criteria:

In addition to meeting the requirements of Section 10.08,A,1 and 2 above, for areas that have been prospectively zoned by the Commission, a petition for amendment to a development district boundary shall not be approved unless the petitioner demonstrates that:

- a. the requested change is needed due to circumstances that did not exist or were not anticipated during the prospective zoning process;
- b. the new development subdistrict is either contiguous to existing development subdistricts or within areas that are suitable as new growth centers; and
- c. the change will better achieve the goals and policies of the Comprehensive Land Use Plan, including any associated prospective zoning plans.

#### 2. List of plantations and townships that have been prospectively zoned by the Commission:

- Adamstown Township, Oxford County
- Dallas Plantation, Franklin County
- Lincoln Plantation, Oxford County
- Magalloway Plantation, Oxford County
- Rangeley Plantation, Franklin County
- Richardsontown Township, Oxford County
- Sandy River Plantation, Franklin County
- Township C, Oxford County
- Township D, Franklin County
- Township E, Franklin County

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**10.09 CRITERIA FOR AMENDMENT OF LAND USE STANDARDS**

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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 12 M.R.S.A. Chapter 206-A, and would be consistent with the Comprehensive Land Use Plan.

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## 10.10 VARIANCES

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

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### A. PETITIONS

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Any property owner or lessee may petition the Commission for permission to develop the property in a manner otherwise prohibited by the Commission's rules. Variances may be granted only from dimensional requirements, but shall not be granted for establishment of uses otherwise prohibited by the Commission's rules.

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### B. GRANTING OF A VARIANCE

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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:

1. The access and use needs of a person with a physical disability as defined in 5 M.R.S.A. §4553(7-B) who resides in or regularly uses a structure; this provision shall be applicable only under the following circumstances:
  - a. Where necessary for the use of residential structures;
  - b. An alternate proposal approvable under either the provisions of Sub-Chapter III or Section 10.11 would not provide a reasonable accommodation to the disability;
  - c. The variance requested is necessary to afford relief;
  - d. The hardship is not the result of action taken by the petitioner;
  - e. The requirements of Section 10.10,B,4 and 5 are met for variances in special flood hazard areas; and
  - f. The Commission may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property; or
2. Exceptional or unique conditions of topography, access, location, shape, size or other physical features of the site; or
3. Unusual circumstances that were not anticipated by the Commission at the time the rules and standards were adopted.

4. In order to be granted a variance, under either Section 10.10,B,2 or 3 above, a petitioner must demonstrate, by substantial evidence, that:
  - a. The land in question can not yield a reasonable return unless a variance is granted;
  - b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. The granting of a variance will not alter the essential character of the locality; and
  - d. The hardship is not the result of action taken by the petitioner or a prior owner or lessee.
  
5. In addition to the provisions of Section 10.10,B above, in flood prone areas, variances:
  - a. Shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Shall 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, public expense, or create nuisances, 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 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 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 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.

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**C. ISSUANCE**

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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 provide the petitioner with written explanation of the reasons for denial.

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**D. VARIANCES IN SPECIAL FLOOD HAZARD AREAS**

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Any applicant who meets the criteria of Section 10.10,B,5,a-e above shall 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.

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## 10.11 NONCONFORMING USES AND STRUCTURES

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### A. PURPOSE AND SCOPE

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This section governs structures, uses and lots that were created before the Commission's rules or laws were established, but which do not meet the current rules or laws. This section also governs structures, uses and lots that met the Commission's rules or laws when built or created, but no longer are in conformance due to subsequent revisions to those rules or laws.

In accordance with 12 M.R.S.A. §685-A(5), legally existing nonconforming structures, uses and lots will be allowed to continue. Renovations of these structures, and the construction of certain accessory buildings, are allowed without a permit, except for those located in areas of special flood hazard as defined by rule. However, 12 M.R.S.A. §685-B(7) authorizes the Commission to regulate or prohibit extensions, enlargement, or movement of nonconforming uses and structures. This section clarifies which activities are allowed with a permit, without a permit, or are prohibited in the modification of a legally existing nonconforming structure, use or lot.

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### B. GENERAL

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1. **Criteria for Approval.** Permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S.A. §685-B(4) and demonstrate that:
  - a. the project will not adversely affect surrounding uses and resources; and
  - b. there is no increase in the extent of nonconformance, except as provided in Section 10.11,B,9 or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback.

2. **Extent of Nonconformance with Respect to Setbacks.** Section 10.26,D of these rules establishes minimum setbacks from water bodies, roads and property boundaries. Where legally existing, nonconforming structures do not meet these setbacks, an existing setback line will be established. The existing setback line will run parallel to the water body, road or property boundary at a distance equal to the closest point of the existing structure (including attached decks or porches) to the feature from which the setback is established. This is shown graphically below in Figure 10.11,B-1.

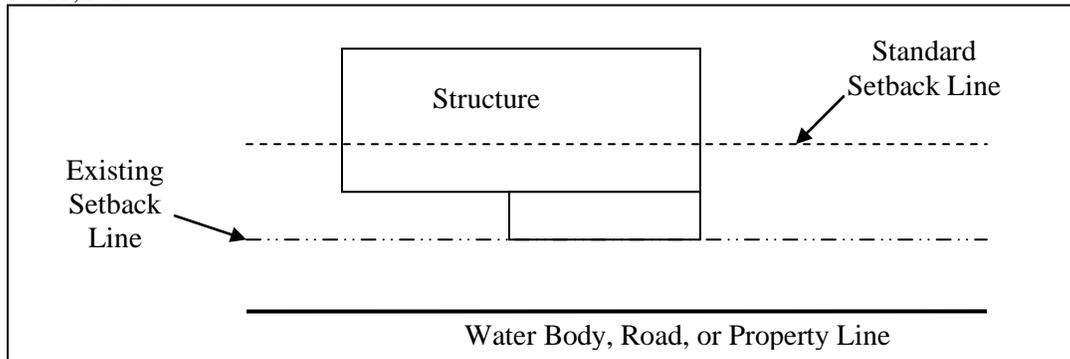


Figure 10.11,B-1. Determination of setback

Subject to the other requirements in Section 10.11, a nonconforming structure may be expanded up to the existing setback line without being considered to be more nonconforming than the original structure. Expansions between the existing setback line and the water body, road or property boundary will be considered to increase nonconformity, and will not be allowed, except as provided in Section 10.11,B,9.

3. **Transfer of Ownership.** Legally existing, nonconforming structures, uses, and lots may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming lot or structure as before, subject to the provisions of the Commission's rules.
4. **Normal Maintenance and Repair.** A permit is not required for the normal maintenance and repair of legally existing nonconforming structures, structures associated with nonconforming uses, or structures on nonconforming lots, except that normal maintenance and repair in areas of special flood hazard shall be regulated in conformance with the requirements of Section 10.23,C and must meet applicable development standards in 10.25,T, Activities in Flood Prone Areas.
5. **Renovation.** A permit is not required for the renovation of legally existing nonconforming structures, structures associated with nonconforming uses, or structures on nonconforming lots, except that renovations in areas of special flood hazard shall be regulated in conformance with the requirements of Section 10.23,C and must meet applicable development standards in 10.25,T, Activities in Flood Prone Areas, and all other applicable statutory and regulatory requirements.
6. **Waiver of Road Setbacks.** To allow a structure to become either conforming or less nonconforming to the water body setback, the Commission may reduce the road setback to no less than 20 feet in cases of reconstruction or relocation of legally existing structures or construction of new accessory structures on developed, legally existing nonconforming lots.
7. **Conformance with Maine Subsurface Waste Water Disposal Rules.** All changes to legally existing nonconforming structures, structures for nonconforming uses or structures on nonconforming lots must comply with the Maine State Subsurface Waste Water Disposal Rules (144A CMR 241), including changes that do not require a permit under this rule.

8. **Conflicting Requirements.** In cases where two or more provisions of Section 10.11 apply to a particular structure, use or lot, the more restrictive provision shall control.
9. **Waiver of Property Line Setbacks.** The Commission may reduce the property line setback where there is no practical alternative and upon prior written agreement of the adjoining property owner.

## C. NONCONFORMING STRUCTURES

1. **Expansion.** A permit is required for the expansion of a nonconforming structure, except as provided in Section 10.27,P. In addition to meeting permit requirements, expansions must also comply with the following limitations. These limitations do not apply to water dependent uses as defined in Section 10.02.
  - a. **Certain Expansions Prohibited.** If any portion of a structure is located within 25 feet, horizontal distance, of the normal high water mark of a water body, expansion of that portion of the structure, which includes an increase in height or an increase in floor area, is prohibited. That portion beyond 25 feet may be expanded provided the size limitations in Section 10.11,C,1,b are met.
  - b. **Size of Structures Near Water Bodies Limited.** The maximum size of expansions of nonconforming structures is limited within areas described by either of the categories below:
    - (1) The area within 100 feet, horizontal distance, of the normal high water mark of bodies of standing water 10 acres or greater in size or flowing waters draining 50 square miles or more.
    - (2) The area within 75 feet, horizontal distance, of the normal high water mark of coastal wetlands or bodies of standing water less than 10 acres in size (but excluding bodies of standing water less than three acres in size not fed or drained by a flowing water).

Legally existing, principal and accessory structures located within the areas described in Section C,1,b,(1) and (2) above may be expanded subject to the other requirements of Section 10.11, provided that lot coverage limitations and other applicable land use standards are met. The maximum height of all structures within these areas shall be 25 feet, or existing structure height, whichever is greater. The maximum combined footprint for all structures within these areas may not exceed the limits in Table 10.11,C-1.

Closest Distance of Expansion from Water Body	Maximum Combined Footprint* for all Structures not Meeting Water Body Setbacks
Greater than 25 and less than 50 feet.	750 square feet.
Between 50 and 75 feet.	1,000 square feet.
Greater than 75 and less than 100 feet (if applicable setback is more than 75 feet).	1,500 square feet.

Table 10.11,C-1. Limitations on size of structures near water bodies.

- \* Expansions that increase the height of a structure or increase the floor area of a structure, such as the addition of a loft or second story, require permits but are not included in the calculation of the footprint of the structure.

- c. Structures Located in a Designated Area of Cultural or Special Significance.** If legally existing, non-conforming structures that would not otherwise be permitted to expand, are located within a Designated Area of Cultural or Special Significance (DACSS) listed in Appendix G, Section 2 of this chapter, then those structures may be expanded provided that:
- (1) The proposed expansion is consistent with the purpose of the designation as described in Appendix G, Section 2 of this chapter; and
  - (2) The proposed expansion is in conformance with Section 10.11,C,1,a and b.
- 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 use within a 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.
- a. Meeting Setbacks to the Maximum Extent Possible.** Reconstruction or replacement must comply with current minimum setback requirements to the maximum possible extent. In determining whether the proposed reconstruction or replacement meets the setback to the maximum possible extent, the Commission may consider the following factors:
- size of lot,
  - slope of the land,
  - potential for soil erosion and phosphorus export to a water body,
  - location of other legally existing structures on the property at the time of the damage, destruction or removal,
  - location of the septic system and other on-site soils suitable for septic systems at the time of the damage, destruction or removal,
  - type and amount of vegetation to be removed to accomplish the relocation, and
  - physical condition and type of existing foundation, if any.
- b. Reconstruction of Attached Decks.** Decks attached to a legally existing, nonconforming structure may be reconstructed in place with a permit, except that replacement of any portion of a deck that extends into or over the normal high water mark is prohibited.
- c. Permanent Foundations.** The addition of a permanent foundation or the replacement of 50% or more of an existing foundation beneath a legally existing, nonconforming structure constitutes a reconstruction subject to the provisions in Section 10.11,C,2,a.
- d. Boathouses.** Except in a D-MT subdistrict or in a DACSS listed in Appendix G, Section 2 of this chapter, boathouses shall not be reconstructed or replaced. Normal maintenance and repair or renovation, equaling or exceeding \$1,000 in cost, of a boathouse located in a P-FP subdistrict is allowed with a permit. In other subdistricts, normal maintenance and repair, and renovation of a legally existing boathouse is allowed without a permit.
- e. Sporting Camps.** A legally existing, nonconforming structure within a commercial sporting camp may be reconstructed in place, provided that the reconstruction occurs within 2 years of damage, destruction or removal and the Commission issues a permit [see 12 M.R.S.A. §685-B(7-A)]. The Commission may, consistent with public health, safety and welfare, waive standards that made the original structure nonconforming. The reconstructed structure must replicate the original structure and use to the maximum extent possible and it must be

in the same location and within the same footprint as the original structure, unless the structure is relocated in accordance with Section 10.11,C,3. Minor modifications to dimensions to the structure, including the combining of multiple structures on one lot may be allowed provided the total square footage of the structure or structures is not increased and conforms with Section 10.11,C,1,b.

A legally existing, nonconforming outpost cabin shall have the same reconstruction rights of a commercial sporting camp under Section 10.11,C,2, provided the site containing the outpost cabin is limited by permit condition for a period of not less than 10 years, requiring the site to be utilized only as an outpost cabin in conjunction with a commercial sporting camp, and the permit condition is recorded with the County Registry of Deeds where the real estate is located.

- f.** Structures in a Designated Area of Cultural or Special Significance. A legally existing, nonconforming structure may be reconstructed in place or replaced in place with a permit, provided that:
- (1) The structure is located in a DACSS listed in Appendix G, Section 2 at the time of damage, destruction, or removal of the structure; or within 2 years of damage, destruction, or removal of the structure, an area that includes the proposed site for reconstruction of the structure is designated as a DACSS in accordance with Appendix G, Section 1, or a petition for such designation is filed with the Commission;
  - (2) A permit application is completed and filed within two years of the date of damage, destruction or removal of the structure, or within two years of the date the area that includes the proposed site for reconstruction is designated as a DACSS, whichever is later, except that the Commission may waive this requirement upon finding that unusual circumstances prevented the applicant from filing a permit application within the two-year period provided in this paragraph;
  - (3) The structure was in regular active use within a two year period immediately preceding the damage, destruction, or removal, except that the Commission may waive this requirement for good cause;
  - (4) The proposed reconstruction conforms with the purpose of the designation as described in Appendix G, Section 2 of this chapter;
  - (5) Reconstruction must, to the maximum extent possible, replicate the prior version of the structure that is in keeping with the designation as described in Appendix G, Section 2 of this chapter, is in the same location, and has the same footprint, as the original structure.

Minor modifications to the dimensions of the structure may be allowed provided the total square footage of the structure or structures is not increased and conforms with Section 10.11,C,1,b.

- 3. Relocation.** In order to make it conforming or less nonconforming, a legally existing, nonconforming structure may be relocated within the boundaries of the lot upon the issuance of a permit, provided that the site of relocation conforms to setback requirements to the maximum extent possible as determined by the Commission in accordance with the provisions of Section 10.11,C,2,a. Cleared openings created as part of a relocation shall be stabilized and revegetated. Relocated structures that are altered such that they meet the definition of reconstruction shall meet the requirements of Section 10.11,C,2. Legally existing, nonconforming structures that are part of a

commercial sporting camp or are located in a DACSS listed in Appendix G, Section 2 of this chapter, may be relocated to a site that is less nonconforming.

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

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

6. **Enclosure of Decks and Porches.** A permit is required for the complete or partial enclosure of decks and porches. Enclosure of decks and porches is not an expansion of floor area. The enclosure of the structure which results in additional stories is considered an expansion and must meet the provisions of Section 10.11,C,1,b. If any portion of the structure is located within 25 feet, horizontal distance, of the normal high water mark of a water body, complete or partial enclosure of that portion of the structure is prohibited.

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## D. NONCONFORMING USES

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1. **Expansion of Use.** Extension, enlargement or expansion of nonconforming uses requires a permit.
2. **Change in Use.** A nonconforming use may not be changed to another use without a permit.
3. **Resumption of Use.** A nonconforming use shall not be resumed if it has been discontinued or abandoned for a period exceeding two years, or if it has been superseded by a conforming use, unless it is in an area designated as a DACSS in Appendix G, Section 2 of this chapter within two years of when the use was discontinued or abandoned. Within a DACSS the Commission may waive this requirement for good cause.
4. **Special Exceptions.** Any use granted a special exception permit shall be deemed a conforming use [see 12 M.R.S.A. §685-A(10)].

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**E. NONCONFORMING LOTS**

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1. **Expansion of Structures.** Structures on nonconforming lots may not be expanded without a permit, except as provided for in Section 10.27,P.
2. **Creation of Nonconforming Lots.** A lot which has an established use or structure to which dimensional standards apply may not be divided or altered in a manner that makes the lot, or any structure or use, nonconforming or more nonconforming.
3. **Pre-1971, Unimproved, Nonconforming Lots.** An unimproved, nonconforming lot, legally existing as of September 23, 1971, may not be developed unless the lot meets criteria set forth in a or b below or the Commission grants a variance to those standards that make the lot nonconforming.
  - a. If a lot is at least 20,000 square feet in size, has at least 100 feet of shore frontage, and is not a contiguous lot as described in Section 10.11,E,5 below, the Commission may allow for development provided the development would meet the shoreline setback requirements in Section 10.26,D and would meet the other dimensional requirements to the maximum extent possible.
  - b. If a lot is at least 15,000 square feet in size, has at least 100 feet of shore frontage and 75 feet of road frontage, and is not a contiguous lot as described in Section 10.11,E,5 below, the Commission may allow for one storage structure having a height of no more than 16 feet, and a floor area of not more than 160 square feet provided that the lot is located in a subdistrict that allows residential accessory structures, except for the P-AL or P-GP2 subdistricts, and the proposed development would meet the residential shoreline setback requirements in Section 10.26,D and would meet the other dimensional requirements to the maximum extent possible. This provision may not be used to place such a storage structure on the same lot as a campsite as defined in 12 M.R.S. § 682(15). The structure may not be used for human habitation, may not have internal plumbing or a permanent foundation, and may not be used for a home occupation or for commercial use, but may only be used for non-commercial storage purposes.
4. **Development of Other Nonconforming Lots.** When a lot was lawfully created after September 23, 1971, in conformity with Commission dimensional requirements applicable at the time, the Commission may allow for development provided the development would meet all dimensional requirements to the maximum extent possible except that in no case shall a setback be reduced below that in effect at the time of the creation of the lot.
5. **Contiguous Lots.** Two or more contiguous lots in the same ownership that individually do not meet dimensional requirements shall be combined to the extent necessary to meet the dimensional requirements, except where:
  - a. Such lots are part of a subdivision approved by the Commission, or
  - b. Each lot has a legally existing dwelling unit that conformed to the Commission's rules at the time each lot was developed.

Under these two circumstances the lots may be conveyed separately or together.
6. **Expansion of Septic Systems.** The conversion from primitive to combined septic systems on legally created and developed lots is allowed without a permit provided authorization is obtained

from the local plumbing inspector or from the Maine Department of Health and Human Services, Division of Health Engineering and provided there are no limitations on combined septic systems established by prior permit conditions.

- 7. Residential Accessory Structures.** Notwithstanding the limits on the creation and development of nonconforming lots contained in other provisions of Section 10.11, a residential accessory structure may be built on an existing or newly created nonconforming accessory lot, provided:
- a.** The accessory structure is accessory to a legally existing residential dwelling;
  - b.** The accessory lot is separated from the residential lot by a roadway. The accessory lot would be contiguous with the residential lot but for the roadway or right of way between them;
  - c.** The accessory lot and residential lot are in common ownership or are both leased in common, and the bisecting roadway is in separate ownership or not leased in common with the two lots;
  - d.** The accessory lot is at least 15,000 square feet in size;
  - e.** The accessory lot's road frontage:
    - (1) Extends along the same segment of road as the residential lot,
    - (2) Is at least as long as the road frontage of the residential lot, or
    - (3) Meets the requirements of Section 10.26,C for residential dwellings;
  - f.** The accessory lot and accessory structure satisfy the dimensional requirements for residential uses and dwellings in Section 10.26,B, D, E, and F, as may be affected by Section 10.26,G; and
  - g.** The accessory structure is located in a subdistrict that allows the principal use.

For the purpose of Section 10.11,E,7 the term "residential lot" refers to a lot with a residential dwelling, and the term "accessory lot" refers to a separate nonconforming lot, on which a structure accessory to the residential dwelling is, or is proposed to be, located. Any permit issued by the Commission authorizing construction on an accessory lot must be recorded with the county registry of deeds by the permittee prior to commencing construction. Prior to termination of the common ownership or common lease of the accessory and residential lots, the accessory structure on the accessory lot must be removed. However, if the accessory structure on the accessory lot becomes accessory to a residential dwelling on another residential lot, then the accessory structure may remain, provided that the new residential lot either merges with the accessory lot or conforms with Section 10.11,E,7,b through f. The accessory structure may also be converted into a dwelling if the accessory lot merges with another lot and becomes conforming. In any case, the new owner or lessee of the accessory lot must obtain a change of use permit from the Commission and, if the two lots have not merged, this permit must be recorded with the county registry of deeds.

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## **10.12 SEVERABILITY**

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The provisions of this chapter are severable. If a section, sentence, clause or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter.

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## **10.13 EFFECTIVE DATE**

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The effective date of this chapter shall be, as to each particular area within the Commission's jurisdiction, the effective date of the zoning map for such particular area adopted pursuant to this chapter, except as otherwise provided by 12 M.R.S.A. §685-A(7-A).

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## **10.14 PENALTIES FOR VIOLATIONS**

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A person violating a provision of this chapter is subject to the provisions of 12 M.R.S.A. §685-C(8).

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## **10.15 APPEALS**

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The appeal of a decision of the Commission or Commission's staff must be taken in accordance with Chapter 4 of these rules and applicable statutes.

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## 10.16 NOTIFICATION FORMAT

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Where a written notification is required by this chapter, such notification must be submitted in advance of the date on which the activity, which is the subject of the notification, is commenced. Except as provided in Section 10.27,L such notification must state the:

- A. location of the proposed project by use of an official Commission Land Use Guidance Map of the area;
- B. nature of the proposed project; and
- C. time period of the proposed project.

Such notification must also state that the activity or project will be accomplished in conformance with the applicable minimum standards of Sub-Chapter III and must be signed by a duly authorized person who shall be responsible for the execution of the activity.

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## 10.17 EXPIRATION OF PERMIT

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If a development or use requiring a permit is not substantially started within the time period specified in the permit conditions of approval, or is not substantially completed within the time period specified, the permit lapses and further development or activity is prohibited thereafter unless and until a new permit is granted, or the Commission otherwise specifically authorizes.

Except in special flood hazard areas or as otherwise authorized by the Commission, uses authorized under a permit must be substantially started within 2 years of the effective date of the permit and substantially completed within 5 years of the effective date of the permit; provided that, with respect to permits issued prior to July 1, 2003, that do not specify any expiration date, that date shall be October 1, 2004. In special flood hazard areas a permit must be substantially started within 180 days of the effective date of the permit and substantially completed within 5 years of the effective date of the permit.

For the purpose of these rules, “substantial start” shall mean the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvements in special flood hazard areas, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Also for the purpose of these rules, “substantial completion” shall mean completion of all permit conditions of approval.

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**10.18 RESERVED**

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**10.19 RESERVED**

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**10.20 RESERVED**

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# **Sub-Chapter II**

## **LAND USE SUBDISTRICTS**



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## 10.21 DEVELOPMENT SUBDISTRICTS

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

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

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#### 1. Purpose

The purpose of the D-CI subdistrict is to allow for commercial, industrial and other development that is not compatible with residential uses. Designation of commercial, industrial and other similar areas of intensive development as D-CI subdistricts will ensure that other land values and community standards are not adversely affected, and will provide for the location and continued functioning of important commercial and industrial facilities.

#### 2. Description

The D-CI subdistrict shall include:

- a. Areas having existing commercial, industrial or other buildings, structures or uses, that are incompatible with residential uses, including the following:
  - (1) Areas of 2 or more acres devoted to intensive, commercial and/or industrial buildings, structures or uses; except that saw mills and chipping mills and structures devoted to composting of septage, sludge or other residuals affecting an area of 5 acres or less in size shall not be included in this subdistrict unless such areas are part of a larger pattern of development which otherwise meets the criteria for D-CI zoning;
  - (2) Areas of 2 or more acres devoted to the commercial extraction of minerals including, but not limited to, borrow pits for sand, fill or gravel, peat extraction and the mining of metals and rock;
  - (3) Areas of 2 or more acres devoted to refuse disposal including, but not limited to, dumps and sanitary land fill operations;
  - (4) Areas used for aircraft landing and takeoff and the storage and maintenance of aircraft;
  - (5) Areas of 2 or more acres used for the storage of junk, oil products, or industrial or commercial materials or inventory;
  - (6) Areas of 2 or more acres devoted to buildings, structures or uses similar to those listed in Section 10.21,A,2,a,(1) through (5) that are incompatible with residential uses; and
  - (7) Areas where one or more existing principal buildings exist within a 500 foot radius and where the gross floor area of all such principal building(s) is more than 8,000 square feet provided the uses thereof are incompatible with residential uses.

The designated D-CI subdistrict boundary shall include all those areas described in Section 10.21,A,2,a,(1) through (7) above, as well as adjoining areas directly related to, and necessary for, the conduct of those activities.

- b. Areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto. Where such an area is not adjacent to a D-CI subdistrict and redistricted for the purpose of allowing for commercial mineral extraction, once such operations are complete the D-CI subdistrict designation shall automatically revert to the prior subdistrict designation.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within D-CI subdistricts.

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including, fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing but not including hunting and trapping;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Filling and grading;
- (5) Hand-carry launches: Commercial and private hand-carry launches;
- (6) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (7) Road projects: Level A road projects;
- (8) Service drops;
- (9) Signs;

- (10) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (11) Water crossings of minor flowing waters.

**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.A. §685-B, 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 10.21,A,3,f, g and h below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Commercial and industrial: Any commercial and industrial uses;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Draining or altering the water table or water level for other than mineral extraction;
- (5) Driveways;
- (6) Filling and grading, which is not in conformance with the standards of Section 10.27,F;
- (7) Hand-carry launches addressed in Section 10.21,A,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Land application of septage, sludge and other residuals, and related storage and composting activities and structures;
- (9) Land management roads;
- (10) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C, and Level B mineral exploration activities;
- (11) Mineral extraction including the use of mineral processing equipment and associated structural development;
- (12) Peat extraction, including the use of any related processing equipment;
- (13) Recreational lodging facilities:
  - (a) Level C;
  - (b) Level C – Expanded Access;
  - (c) Level D;
  - (d) Level D – Expanded Access; and
  - (e) Level E;
- (14) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,A,3,b;
- (15) Shoreland alterations, excluding water crossings of minor flowing waters, trailered ramps and hand-carry launches;
- (16) Signs which are not in conformance with the standards of Section 10.27,J;
- (17) Solid waste disposal;
- (18) Subdivisions: Commercial and industrial subdivisions for uses permitted in this subdistrict;
- (19) Timber harvesting;
- (20) Trailered ramps: Commercial and private trailered ramps;

- (21) Utility facilities, excluding service drops, and wire and pipe line extensions which do not meet the definition of service drops;
- (22) Water access ways;
- (23) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (24) Water impoundments;
- (25) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (26) Other structures, uses or services that are essential to the uses listed in Section 10.21,A,3,a through c; and
- (27) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Prohibited Uses**

All uses not expressly allowed, with or without a permit, shall be prohibited in D-CI subdistricts.

**e. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**f. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**g. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to proposed subdivisions and commercial and industrial structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's land ownership on the lake:
  - (a) area and shoreline length;
  - (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
  - (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the

description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

**h. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

## **B. EXTENDED SETTLEMENT DEVELOPMENT SUBDISTRICT (D-ES)**

### **1. Purpose**

The purpose of the D-ES subdistrict is to separate those land uses that create impacts incompatible with residential areas and community centers, as well as provide for appropriate areas to concentrate development at the edge of rural growth centers designated as development subdistricts. Concentrated development seeks to avoid the visual and fiscal impacts of sprawl.

### **2. Description**

This subdistrict is designed to accommodate a wide range of commercial, light manufacturing, and public uses that create impacts incompatible with other smaller scale commercial, public, and residential uses. This subdistrict allows facilities that generate traffic or noise such as transfer stations, gasoline stations, warehouses, self storage, and contracting businesses. The subdistrict is not designed to accommodate general retail establishments better located in a community center or rural settlement; or to facilitate strip development along highways.

This subdistrict will only be applied in areas appropriate to accommodate this type of development in a community after a prospective planning process has been undertaken. Appropriate areas will be adjacent to other development subdistricts, particularly D-GN2 subdistricts. Adjacent is interpreted to mean within a distance of one road mile. The D-ES subdistrict will not be located in remote or lightly settled areas or separately from established or proposed development centers.

Using Section 10.08 of these rules, the Commission shall designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the D-ES 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.

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

The following uses shall be allowed without a permit from the Commission within D-ES subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lots as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches;
- (7) Home occupations: Minor home occupations;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-ES subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 10.21,B,3,g, h and i below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Commercial and industrial: Commercial and light manufacturing facilities up to 20,000 square feet of gross floor area. Allowed uses include:
  - Businesses that relate to forestry or farming;
  - Light manufacturing and assembly plants;
  - Contracting businesses;
  - Automobile service and repair;
  - Self storage facilities;
  - Fuel storage;
  - Warehouses; and
  - Sand and salt storage facilities;

- (3) Commercial boarding kennels, animal hospitals, and animal rescue facilities;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining or altering the water table or water level for other than mineral extraction;
- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (8) Hand-carry launches addressed in Section 10.21,B,3,b which are not in conformance with the standards of Section 10.27,L;
- (9) Land management roads;
- (10) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C, and Level B mineral exploration activities;
- (11) Mineral extraction including mineral extraction processing equipment;
- (12) Peat extraction including the use of any related processing equipment;
- (13) Public and institutional: fire stations, solid waste transfer or recycling stations, public works facilities, sand and salt storage, and other like facilities;
- (14) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,B,3,b;
- (15) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks or moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (16) Signs which are not in conformance with the standards of Section 10.27,J;
- (17) Subdivisions: Level 1 subdivisions for commercial and light industrial uses;
- (18) Timber harvesting;
- (19) Trailered ramps: Public trailered ramps addressed in Section 10.21,B,3,b which are not in conformance with the standards of Section 10.27,L;
- (20) Utility facilities compatible with residential uses, other than service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (21) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (22) Water impoundments;
- (23) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (24) Other structures, uses or services that are essential to the uses listed in Section 10.21,B,3,a,b,and c; and
- (25) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-ES subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10) and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from other uses or in the case of residential uses, will not adversely affect permitted commercial uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Campsites, Residential;
- (2) Commercial:
  - Adult entertainment facilities;
  - Automobile or equipment sales with a total of more than 10,000 square feet of outdoor display or storage area combined;
  - Junkyards and automobile grave yards; and
  - Retail sale of gasoline with more than 2 pumps;
- (3) Home occupations: Major home occupations; and
- (4) Residential: Single and two-family dwellings.

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (5) Docking structures: New or expanded permanent docking structures;
- (6) Marinas;
- (7) Trailered ramps: Commercial and private trailered ramps; and
- (8) Water-access ways.

**e. Prohibited Uses**

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

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) Require applicants to indicate future plans for other undeveloped shorelands in their ownership when a subdivision or other non-residential use is proposed. The plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's land ownership on the lake:
  - (a) area and shoreline length;
  - (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
  - (c) development proposed or anticipated, if any.

These future plans shall be considered part of the proposal. Therefore, changes in such plans, for example a development proposal that was not originally included, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) Require cluster developments for all subdivisions that shall meet the requirements of Section 10.25,R.

**i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

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

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### 1. Purpose

The purpose of the D-GN subdistrict is to recognize existing patterns of development in appropriate areas and to encourage further patterns of compatible development therein and adjacent thereto. It is the Commission's intent to promote these areas as future growth centers in order to encourage the location of compatible developments near each other and to minimize the impact of such development upon incompatible uses and upon public services and facilities. Thus the Commission's purpose is to encourage the general concentration of new development, and thereby avoid the fiscal and visual costs of sprawl, and to provide a continuing sense of community in settled areas.

### 2. Description

The D-GN subdistrict shall include:

- a. Areas with the following patterns of existing intensive development use:
  - (1) Areas where 4 or more principal buildings exist within a 500 foot radius provided that one or more of such buildings is other than a single family detached dwelling unit; and all such buildings are compatible with such residential units; or
  - (2) Recorded and legally existing subdivisions, other than for exclusively single family detached residential purposes, having 4 or more lots; or
  - (3) Areas of 2 acres or more devoted to intensive non-residential development, other than that land devoted to forest and agricultural management activities, provided that such uses are compatible with residential uses. Such areas shall include but not be limited to:
    - (a) Existing intensive development used for recreational purposes;
    - (b) Existing recreational lodging facilities otherwise allowed in the subdistrict;
    - (c) Existing groups of stores and restaurants including related parking and landscaped areas; or
  - (4) Areas where one or more existing principal buildings exist within a 500 foot radius and where the gross floor area of all such principal building(s) is more than 8,000 square feet, provided the uses thereof are compatible with residential uses.

The designated D-GN subdistrict boundaries shall include all buildings, paved surfaces, and areas directly related to, and necessary for, the conduct of those activities associated with the above described principal buildings, as well as other intervening areas between such buildings, paved surfaces, and areas.

- b. Areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within D-GN subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches except on Management Class 1 and 2 lakes;
- (7) Home occupations: Minor home occupations;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps except on Management Class 1 and 2 lakes;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 10.21,C,3,g, h and i below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Cemeteries, and family burying grounds in accordance with 13 M.R.S.A. §1142;
- (5) Commercial and industrial: Facilities having not more than 2,500 square feet of gross floor area including facilities offering food and beverages prepared on the premises, retail stores and services, and laundromats but excluding auto service stations or repair garages and uses which may create a nuisance or unsafe or unhealthy conditions or are otherwise incompatible with residential uses;
- (6) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (7) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (8) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (9) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (10) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.21,C,3,b which are not in conformance with the standards of Section 10.27,L;
- (11) Home occupations: Major home occupations;
- (12) Land management roads;
- (13) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards for such activities in Section 10.27,C, and Level B mineral exploration activities;
- (14) Public and institutional: Places of worship and other religious institutions; public, private and parochial schools, public and other institutional buildings such as, but not limited to, libraries, fire stations, post offices, and day nurseries;
- (15) Recreation facilities: Public or private recreation facilities including, but not limited to, parks, playgrounds, and golf courses;
- (16) Recreational lodging facilities:
  - (a) Level B;
  - (b) Level C;
  - (c) Level C – Expanded Access; and
  - (d) Level D (inside geographic allowance area);
- (17) Residential: Single family dwellings, two-family dwellings, and multi-family dwellings;

- (18) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,C,3,b;
- (19) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (20) Signs which are not in conformance with the standards of Section 10.27,J;
- (21) Subdivisions: Residential subdivisions, and commercial and industrial subdivisions for uses permitted in this subdistrict;
- (22) Timber harvesting;
- (23) Trailered ramps addressed in Section 10.21,C,3,b which are not in conformance with the standards of Section 10.27,L;
- (24) Utility facilities compatible with residential uses, other than service drops, and wire and pipe line extensions which do not meet the definition of service drops;
- (25) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (26) Water impoundments;
- (27) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (28) Other structures, uses or services that are essential to the uses listed in Section 10.21,C,3,a through c; and
- (29) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Commercial and industrial:
  - (a) Auto service stations or repair garages;
  - (b) Light industrial uses and other commercial uses having a gross floor area of more than 2,500 square feet; and
  - (c) Stores, commercial recreational uses not including recreational lodging facilities, and entertainment or eating establishments having a gross floor area of more than 2,500 square feet.
- (2) Recreational lodging facilities: Level D (outside geographic allowance area).

The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, in addition to (a) and (b) above, that (c) that there is sufficient infrastructure to accommodate the additional traffic and activity

generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

- (3) Recreational lodging facilities:
  - (a) Level D – Expanded Access (inside or outside geographic allowance area); and
  - (b) Level E (inside geographic allowance area).

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (4) Docking structures: New or expanded permanent docking structures;
- (5) Hand-carry launches: Commercial and public hand-carry launches on Management Class 1 and 2 lakes;
- (6) Marinas;
- (7) Trailered ramps: Commercial and private trailered ramps, and public trailered ramps on Management Class 1 and 2 lakes; and
- (8) Water-access ways.

**e. Prohibited Uses**

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

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial, industrial, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:
  - (a) area and shoreline length;
  - (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
  - (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the

description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

**i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

## **D. COMMUNITY CENTER DEVELOPMENT SUBDISTRICT (D-GN2)**

### **1. Purpose**

The purpose of the D-GN2 subdistrict is to provide for a range of complementary uses that have a similar size, scale, and character that make up community centers. It is designed to concentrate development in order to limit the fiscal and visual impact of sprawling development and to provide a continuing sense of community in settled areas. Adaptive reuse and rehabilitation of legally existing structures is encouraged in this subdistrict.

### **2. Description**

Community centers are areas where there is a mix of complementary residential, commercial, and civic uses that create a focal point for community life. This subdistrict is similar to the D-GN subdistrict but provides for a wider range of appropriate uses and increased size thresholds for general commercial uses. This wider range of uses is permitted because additional development standards for uses in this subdistrict ensure that adjacent uses are compatibly developed and undertaken.

This subdistrict will be applied only in communities in the fringe of the Commission's jurisdiction as defined in the Comprehensive Land Use Plan, and in areas appropriate as centers of growth after a prospective planning process has been undertaken by the Commission.

Using Section 10.08 of these rules, the Commission shall designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the D-GN2 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.

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

The following uses shall be allowed without a permit from the Commission within D-GN2 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within D-GN2 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches;
- (7) Home occupations: Minor home occupations;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 10.21,D,3,g, h and i below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, Residential;
- (3) Cemeteries, and family burying grounds in accordance with 13 M.R.S.A. §1142;
- (4) Commercial: Commercial facilities having not more than 4,000 square feet of gross floor area, or as provided in Section 10.21,D,3,i that are compatible with residential uses including:
  - (a) Art studios or artisan shops;
  - (b) Commercial uses associated with a residence, other than home occupations;
  - (c) Facilities for commercial recreation, such as guide services;
  - (d) Facilities offering food and beverages prepared on the premises;

- (e) Professional offices, financial institutions, health care facilities, nursing homes, children's day care facilities, home child day care providers serving more than 12 children, and home adult day service providers serving more than 12 adults;
- (f) Recreational lodging facilities:
  - (i) Level A;
  - (ii) Level B; and
  - (iii) Level C;
- (g) Retail stores and services, laundromats, convenience stores, or retail gasoline stations with no more than 2 gas pumps where each pump can serve no more than 2 vehicles simultaneously;
- (5) Community living facilities;
- (6) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (7) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (8) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (9) Filling and grading, which is not in conformance of standards in Section 10.27,F;
- (10) Golf courses: Public or private golf courses;
- (11) Hand-carry launches: Private hand-carry launches, and hand-carry launches addressed in Section 10.21,D,3,b which are not in conformance with the standards of Section 10.27,L;
- (12) Home occupations: Major home occupations;
- (13) Land management roads;
- (14) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C, and Level B mineral exploration activities;
- (15) Public and institutional: Places of worship and other religious institutions; public, private and parochial day schools; non-profit children's day care or adult day service facilities; libraries; fire stations; post offices; community centers; parks; and playgrounds;
- (16) Residential: Single and two-family dwellings; and three to six multi-family dwellings;
- (17) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,D,3,b;
- (18) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (19) Signs which are not in conformance with the standards of Section 10.27,J;
- (20) Subdivisions: Residential level 1 subdivisions; and subdivisions for commercial uses, provided that the commercial subdivision is integrated with the community center and designed to promote pedestrian access;
- (21) Timber harvesting;
- (22) Trailered ramps: Trailered ramps addressed in Section 10.21,D,3,b which are not in conformance with the standards of Section 10.27,L;
- (23) Utility facilities compatible with residential uses, other than service drops, and wire and pipe line extensions which do not meet the definition of service drops;

- (24) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (25) Water impoundments;
- (26) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (27) Other structures, uses or services that are essential to the uses listed in Section 10.21,D,3,a through c; and
- (28) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

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

The following uses, and related accessory structures, may be allowed within D-GN2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Commercial:
  - (a) Commercial uses between 4,000 and 8,000 square feet in size, except as provided in Section 10.21,D,3,i; and
  - (b) Commercial uses with a total of no more than 10,000 square feet of outdoor display or storage area combined; and
- (2) Recreational lodging facilities having more than 4,000 but not more than 8,000 square feet of gross floor area:
  - (a) Level B;
  - (b) Level C;
  - (c) Level C – Expanded Access;
  - (d) Level D; and
  - (e) Level D – Expanded Access;
- (3) Residential: Multi-family dwellings with more than 6 units.

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (4) Docking structures: New or expanded permanent docking structures;
- (5) Marinas;
- (6) Trailered ramps: Commercial and private trailered ramps; and
- (7) Water-access ways.

#### **e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, notification, or by special exception shall be prohibited in a D-GN2 subdistrict.

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23.E,3.g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) Require applicants to indicate future plans for other undeveloped shorelands in their ownership when a subdivision or other non-residential use is proposed. The plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:

- (a) area and shoreline length;
- (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- (c) development proposed or anticipated, if any.

These future plans shall be considered part of the proposal. Therefore, changes in such plans, for example a development proposal that was not originally included, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) Require cluster developments for all subdivisions that shall meet the requirements of Section 10.25.R.

**i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25.R.

**j. Adaptive Reuse of Legally Existing Structures**

Facilities allowed under Section 10.21,D,3,c and d may use legally existing structures that exceed dimensional requirements. However, structures exceeding the size limitations in Section 10.21,D,3,c and d may not be expanded.

## **E. RURAL SETTLEMENT DEVELOPMENT SUBDISTRICT (D-GN3)**

### **1. Purpose**

The purpose of the D-GN3 subdistrict is to provide for a range of complementary uses that have a similar size, scale, and character that make up a settlement area in remote or interior areas of the jurisdiction. It is designed to concentrate and control the rate of growth by prohibiting subdivision. This subdistrict seeks to limit the fiscal and visual impact of sprawling development and to provide a continuing sense of community in lightly settled areas. Adaptive reuse and rehabilitation of legally existing structures is encouraged in this subdistrict.

### **2. Description**

Rural settlements are areas where there is a mix of complementary residential, commercial, and civic uses that create a focal point for community life. This subdistrict is similar to the D-GN2 subdistrict but allows uses of an appropriately smaller size and intensity, also subject to specific development standards. It is also different from the D-GN2 subdistrict as it prohibits subdivisions in order to maintain the remote and small-scale feel of these development nodes. Gradual lot creation is allowed via the existing exemptions in the Commission's statute and these rules and regulations.

The D-GN3 subdistrict shall be applied only in areas appropriate as centers of development in lightly settled and remote communities after a prospective planning process has been undertaken by the Commission.

Using Section 10.08 of these rules, the Commission shall designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the D-GN3 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.

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

The following uses shall be allowed without a permit from the Commission within D-GN3 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing, but not including hunting or trapping;
- (5) Surveying and other resource analysis;
- (6) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (7) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within D-GN3 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Forest management activities, provided that the buffering requirements in Section 10.25,B,2 are met;
- (7) Hand-carry launches: Commercial and public hand-carry launches;
- (8) Home occupations: Minor home occupations;
- (9) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (10) Road projects: Level A road projects;
- (11) Service drops;
- (12) Signs;
- (13) Trailered ramps: Public trailered ramps;
- (14) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (15) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-GN3 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 lakes, subject to the applicable requirements of Section 10.21,E,3,g and h below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, Residential;
- (3) Cemeteries, and family burying grounds in accordance with 13 M.R.S.A. §1142;

- (4) Commercial: General commercial facilities having not more than 2,500 square feet of gross floor area that are compatible with residential uses including:
  - (a) Art studios or artisan shops;
  - (b) Businesses related to forestry, farming, or natural resource extraction;
  - (c) Commercial uses associated with a residence, other than home occupations;
  - (d) Facilities offering food and beverages prepared on the premises;
  - (e) Professional offices, financial institutions, health care facilities, nursing homes, and children's day care facilities, home child day care providers serving more than 12 children, and home adult day service providers serving more than 12 adults; and
  - (f) Retail stores and services, laundromats, convenience stores, or retailing of gasoline with no more than 2 gas pumps where each pump can serve no more than 2 vehicles simultaneously;
- (5) Commercial:
  - (a) Recreational facilities having not more than 8,000 square feet of gross floor area, such as guide services; and
  - (b) Recreational lodging facilities having not more than 8,000 square feet of gross floor area:
    - (i) Level A;
    - (ii) Level B; and
    - (iii) Level C;
- (6) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (7) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (8) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (9) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (10) Hand-carry launches: Private hand-carry launches, and hand-carry launches addressed in Section 10.21,E,3,b which are not in conformance with the standards of Section 10.27,L;
- (11) Home occupations: Major home occupations;
- (12) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards for such activities in Section 10.27,C; and Level B mineral exploration activities;
- (13) Public and institutional: Places of worship and other religious institutions; public, private and parochial day schools; non-profit children's day care and adult day service facilities; libraries; fire stations; post offices; solid waste transfer or recycling stations; community centers; parks; and playgrounds;
- (14) Residential: Single and two-family dwellings;
- (15) Road Projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,E,3,b;
- (16) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (17) Signs which are not in conformance with the standards of Section 10.27,J;

- (18) Trailered ramps: Trailered ramps addressed in Section 10.21,E,3,b which are not in conformance with the standards of Section 10.27,L;
- (19) Utility facilities compatible with residential uses, other than service drops; and wire and pipeline extensions which do not meet the definition of service drops;
- (20) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (21) Water impoundments;
- (22) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (23) Other structures, uses or services that are essential to the uses listed in Section 10.21,E,3,a through c; and
- (24) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

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

The following uses, and related accessory structures, may be allowed within D-GN3 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Commercial:
  - (a) Commercial facilities with a total of less than 5,000 square feet of outdoor display or storage area combined; and
  - (b) Commercial uses with less than 2,500 square feet of gross floor area, other than those provided for in Section 10.21,E,3,c,(4); and
- (2) Recreational lodging facilities having more than 8,000 but not more than 15,000 square feet of gross floor area:
  - (a) Level B;
  - (b) Level C;
  - (c) Level C – Expanded Access;
  - (d) Level D; and
  - (e) Level D – Expanded Access.

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site that is both suitable to the proposed use and reasonably available to the applicant:

- (3) Docking structures: New or expanded permanent docking structures;
- (4) Marinas;
- (5) Trailered ramps: Commercial and private trailered ramps; and
- (6) Water-access ways.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, notification, or by special exception shall be prohibited in a D-GN3 subdistrict.

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) Require applicants to indicate future plans for other undeveloped shorelands in their ownership when a non-residential use is proposed. The plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:

- (a) area and shoreline length;
- (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- (c) development proposed or anticipated, if any.

These future plans shall be considered part of the proposal. Therefore, changes in such plans, for example a development proposal that was not originally included, will require approval of an application to amend the original proposal in which these future plans were indicated.

**i. Adaptive Reuse of Legally Existing Structures.**

Facilities allowed under Section 10.21,E,3,c and d may use legally existing structures that exceed dimensional requirements. However, structures exceeding the size limitations in Section 10.21,E,3,c and d may not be expanded.

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**F. MARITIME DEVELOPMENT SUBDISTRICT (D-MT)**


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**1. Purpose**

The purpose of the D-MT subdistrict is to reserve a reasonable portion of the waterfront in coastal plantations and townships for water-dependent uses. The intention is to protect commercial water dependent uses, particularly commercial fishing activities, from other competing but incompatible use; to conserve points of public access to coastal waters; and to give preference in identified areas to commercial water-dependent uses over recreational and residential uses.

**2. Description**

- a. D-MT1:** Areas above the normal high water mark of coastal wetlands in which the existing pattern of development is predominately commercial fishing activities and conforms with the specified purposes and allowed uses for this subdistrict and where there is a demonstrated need for this subdistrict.

Other areas which the Commission determines:

- (1) meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof,
- (2) are proposed for development which is consistent with the purposes of this subdistrict,
- (3) are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto, with particular consideration given to:
  - (a) shelter from prevailing winds and waves,
  - (b) upland slopes within 250 feet of the normal high water mark, measured as a horizontal distance, which are not so steep as to make access to the water impracticable,
  - (c) adequate mean low water depth for boat movement and mooring within 150 feet of the shore measured as a horizontal distance, and
  - (d) historical use of the area for commercial fishing activities.

- b. D-MT2:** Areas above the normal high water mark of coastal wetlands in which the existing pattern of development is predominately water-dependent activities and conforms with the specified purposes and allowed uses for this subdistrict and where there is a demonstrated need for this subdistrict.

Other areas which the Commission determines:

- (1) meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof,
- (2) are proposed for development which is consistent with the purposes of this subdistrict,
- (3) are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto, with particular consideration given to:
  - (a) shelter from prevailing winds and waves,
  - (b) upland slopes within 250 feet of the normal high water mark, measured as a horizontal distance, which are not so steep as to make access to the water impracticable,
  - (c) adequate mean low water depth for boat movement and mooring within 150 feet of the shore measured as a horizontal distance, and
  - (d) historical use of the area for water-dependent activities.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within the D-MT subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic on roads;
- (4) Primitive recreational uses;
- (5) Surveying and other resource analysis; and
- (6) Wildlife and fishery management practices.

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

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

- (1) Filling and grading;
- (2) Hand-carry launches: Commercial, private and public hand-carry launches;
- (3) Service drops;
- (4) Trailered ramps: Public trailered ramps;
- (5) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (6) Signs.

#### c. Uses Requiring a Permit

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

- (1) Commercial fishing activities, except as provided for in Section 10.21,F,3,d below;
- (2) Docking structures: Permanent docking structures;
- (3) Draining, dredging, or alteration of the water table or water level;
- (4) Driveways;
- (5) Ferry service facilities;
- (6) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (7) Hand-carry launches: Hand-carry launches addressed in Section 10.21,F,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Retail sales of shellfish and/or finfish, solely ancillary to a permitted use such as a finfish or shellfish buying or off-loading stations and under the same ownership as the permitted use;
- (9) Signs which are not in conformance with the standards of Section 10.27,J;
- (10) Trailered ramps: Commercial and private trailered ramps, and trailered ramps addressed in Section 10.21,F,3,b which are not in conformance with the standards of Section 10.27,L;

- (11) Utility substation, including sewage collection and pumping stations, water pumping stations, transformer stations, wire and pipe line extensions, telephone electronic equipment enclosures and other similar public utility structures which do not meet the definitions of Section 10.21,F,3,b,(3) and (5);
- (12) Water-access ways;
- (13) Water-dependent uses, except as provided for in Section 10.21,F,3,d below;
- (14) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (15) Other structures, uses or services that are essential to the uses permitted; and
- (16) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-MT subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the proposed use will not unreasonably obstruct navigation channels or unreasonably preclude boating support facilities elsewhere in the harbor; and (b) the proposed use is designed and located, to the extent feasible, so that it does not significantly interfere with the needs of the local fishing industry; and (c) the proposed use, if not a water-dependent use: (i) will not replace an existing water-dependent use; and (ii) will not substantially reduce existing public access to coastal wetlands.

- (1) **Commercial**  
The following commercial uses shall be permitted as special exceptions in the D-MT2 subdistricts:
  - (a) On-premise restaurants, retail and service establishments provided they are accessory to ferry service facilities;
  - (b) Restaurants, occupying not more than 900 square feet of floor area, provided that such establishments cater primarily to persons directly associated with other permitted uses in this district; and
  - (c) Retail sales of packaged or bulk foods, toiletries, hardware and other daily necessities as an ancillary business to a permitted use.
- (2) **Industrial**  
The following industrial use shall be permitted as a special exception in both the D-MT1 and D-MT2 subdistricts:
  - (a) Facilities for combined marine and general construction provided that the primary use of the site is for the marine segment of the contractor's business.

## (3) Marine

The following marine uses shall 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 shall 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 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.

## (4) Residential

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

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

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in a D-MT subdistrict including without limitation the conversion of existing structures which are currently used for commercial fishing activities to any noncommercial fishing activities for use, including but not limited to residential or recreational uses.

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

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### **1. Purpose**

The purpose of the D-PD subdistrict is to allow for large scale, well-planned developments. The Commission's intent is to consider development proposals separated from existing developed areas, provided that they can be shown to be of high quality and not detrimental to other values established in the Comprehensive Land Use Plan, and provided they depend on a particular natural feature or location which is available at the proposed site. A permit will be granted when the Commission is persuaded by a preponderance of all evidence that the location of the site is the best reasonably available for the proposed use and that the goals and policies of the Comprehensive Land Use Plan are served. Where a D-PD subdistrict petition is granted, it shall not provide the basis for subsequent redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

The D-PD subdistricting process is designed to encourage creative and imaginative design and site planning, to promote efficient use of the land, and to afford the applicant reasonable guidance in formulating an acceptable development proposal.

### **2. Description**

Areas separated from existing development patterns, proposed for residential, recreational, commercial or industrial use or some combination of those uses, for which a comprehensive development plan (which treats the entire parcel as an entity) has been submitted to, and reviewed and approved by the Commission.

- a.** A D-PD subdistrict proposed for predominantly residential and/or recreational land uses shall contain a minimum of 30,000 square feet of building floor area and shall include at least 150 contiguous acres. (A predominance of uses shall exist when the majority of the gross building floor area is devoted to such uses.)
- b.** A D-PD subdistrict proposed for predominantly commercial and/or industrial land uses shall include at least 50 contiguous acres and, except wind energy generation facilities, shall contain a minimum of 30,000 square feet of gross building floor area.
- c.** A D-PD subdistrict proposed for metallic mineral mining activities or Level C mineral exploration activities and shall include at least 50 contiguous acres.

In any of the above cases, no development, other than access roads and utility lines shall be less than 400 feet from any property line. (This dimension may be increased or decreased, at the Commission's discretion, provided good cause can be shown.) Furthermore, the project shall be reasonably self-contained and self-sufficient and to the extent practicable provide for its own water and sewage services, road maintenance, fire protection, solid waste disposal and police security.

### 3. **Allowed Uses**

All uses approved in the Rezoning / Preliminary Plan shall be allowed. No other use shall be allowed except where the Commission determines that such additional use is consistent with the Preliminary Plan and with the purposes hereof.

### 4. **Ownership**

An application for the creation of a D-PD subdistrict may be filed only by the owner or lessee of all lands to which the application pertains.

### 5. **Burden of Proof**

The burden of proof is upon the applicant to show by substantial evidence that the proposal satisfies the criteria established for the creation of D-PD subdistrict.

### 6. **Procedure**

The procedures set forth below and those set forth in Section 10.21,G,7 and 8 apply to all developments except:

- a. Those related to metallic mineral mining and Level C mineral exploration activities which are governed by the procedures set forth in Chapters 12 and 13 of the Commission's rules.
- b. Those D-PD subdistricts approved or accepted for processing by the Commission prior to September 1, 2012; and D-PD subdistricts accepted for processing after September 1, 2012 not requiring review under Site Law, which in addition to those sections set forth above shall also be governed by the procedures set forth in 10.21,G,9.

The Planned Development review procedure shall consist of three stages:

- (1) Preapplication Conference;
- (2) Submission of Preliminary Development Plan / Zoning Petition; and
- (3) Submission of a Final Development Plan or amendment to a Final Development Plan for those projects described in section 6,(b).

The Preapplication Conference serves to inform the prospective applicant, prior to formal application, of the proposed plan's filing requirements. Formal application is made by submitting a Preliminary Development Plan / Zoning Petition that meets the requirements specified herein. No decision thereon can be made until a Public Hearing is held. Thereafter, the Commission may approve or deny the petition. An approval will amend the subdistrict(s) to a D-PD subdistrict and will include a preliminary development approval that specifies under what conditions, if any, the Commission will accept the Preliminary Development Plan / Zoning Petition proposal as the standard against which future certification requests, amendments to existing Final Development Plans, or new Final Development Plans are judged. No development will be allowed except for activities necessary to gather site data for the permit and/or certification applications until such an application is submitted and approved. Necessary site data gathering activities must be consistent with the proposed description as submitted in the Preliminary Development Plan / Zoning Petition and are allowed without a permit.

## 7. **Preapplication Conference**

A preapplication conference shall be held with the staff of the Commission and representatives from other relevant agencies. The Maine Department of Environmental Protection shall be notified of the Preapplication conference and shall be provided the opportunity to attend the conference. At this conference the procedures, regulations, and policies that will govern the D-PD application shall be discussed. The conference shall provide a forum for an informal discussion on the acceptability of all aspects of the project proposal, prior to its filing with the Commission. The conference proceedings shall be summarized in writing and made available to the applicant. The conference shall be held pursuant to the rules established in Chapter 5 of the Commission's Rules and Regulations.

## 8. **Preliminary Development Plan / Zoning Petition**

### a. **Application**

The Preliminary Development Plan / Zoning Petition shall include: Evidence that the proposal conforms with the Commission's Comprehensive Land Use Plan and the purpose and description of a Planned Development as contained herein; evidence showing that the permit criteria set forth in 12 M.R.S.A. §685-B(4) will be satisfied; and the submission of various written and illustrative documents, as described hereinafter. Prior to any decision relative to such application, the staff shall make known its findings and recommendations, in writing, to the Commission and a public hearing shall be held in accordance with Chapter 5 of the Commission's Rules and Regulations.

The following items are required to be submitted with any Preliminary Development Plan application / Zoning Petition:

#### Written Statements

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

- (7) A general statement that indicates how the natural resources of the area will be managed and protected so as to reasonably assure that those resources currently designated within protection subdistricts will receive protection that is substantially equivalent to that under the original subdistrict designation.

#### Maps

- (8) A location map showing all existing subdistricts and the proposed D-PD subdistrict boundaries, drawn on a Commission Land Use Guidance Map that indicates the area for which a D-PD subdistrict designation is sought.
- (9) Maps showing the existing and proposed lot lines, noting the names of adjoining lot owners, and any lots in the project area proposed to be placed in common or private ownership (*see* 10.21,G,8,a,(1) and (4));
- (10) Maps showing the soils and slope at the development site, at a mapping intensity sufficient to show that the site has suitable soils to support the development. (Note: For projects in high mountain areas, if geotechnical borings to gather data will be necessary to prepare the final site plans for the development permit, the routes of any proposed access ways should be shown on this map, accompanied by a written description.)
- (11) A site plan showing existing features within the development site, including the locations of:
- (a) Buildings, roads, parking areas, and bridges;
  - (b) Above- and below-ground utility lines, and sewage disposal facilities;
  - (c) Drinking water wells serving the site, and any major water withdrawal sources, if applicable;
  - (d) Recreational areas and open spaces, and conservation areas;
  - (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
  - (f) Stormwater drainage areas; and
  - (g) The vegetated edge of cleared areas.
- (12) A site plan showing proposed features, with the approximate locations of:
- (a) Buildings, roads, parking areas, and bridges;
  - (b) Utility lines, if known, and areas to be used for sewage disposal facilities (Note: If a public sewage disposal system will be used, evidence that the system can support the proposed development must be supplied);
  - (c) New drinking water wells, and other major water withdrawal sources, if applicable;
  - (d) Recreational areas, open spaces, and conservation areas;
  - (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
  - (f) Stormwater drainage areas and an approximation of the expected phosphorus contribution to the watershed; and
  - (g) The vegetated edge of the cleared areas.

Where the applicant is proposing a phased development in the Preliminary Development Plan /Rezoning, and maps showing the level of detail required in 10.21,G,8,a,(12) are not feasible for all future phases of the development, the applicant shall submit such maps for the first phase of development. For all future phases of development, the applicant shall submit information and sketch maps sufficient for the Commission to determine if the area proposed to be rezoned can support the entire development with regard to: the subdivision rules, if applicable; soil suitability and slope; subsurface waste water disposal; access and

traffic circulation; drinking water supply; and any other proposed major water withdrawal source along with a narrative describing its intended use; and the 400 foot setback from the proposed D-PD subdistrict boundaries. A narrative describing the anticipated timeline for the full development must accompany the sketch maps (*see* 10.21,G,8,a,(3)).

**b. Hearings and Criteria for the Approval of a Preliminary Development Plan**

The Commission shall schedule a public hearing within 45 (forty-five) days after a complete Preliminary Development Plan application /Zoning Petition is filed, unless the applicant requests, in writing that this time be extended.

The public hearing notification and proceedings shall meet the requirements of Chapter 5 of the Commission's Rules and Regulations and the applicable provisions of the Administrative Procedures Act. Within 90 days after the close of the record of the public hearing, the Commission may approve, approve with conditions, or deny the application in writing. In making this decision, the Commission shall ensure that the proposal:

- (1) Conforms with the objectives and policies of the Comprehensive Land Use Plan and 12 M.R.S.A. Chapter 206-A;
- (2) Incorporates, where the land proposed for inclusion in the D-PD subdistrict is in a protection subdistrict, a substantially equivalent level of environmental and resource protection as was afforded under such protection subdistrict;
- (3) Utilizes the best reasonably available site for the proposed use;
- (4) Conserves productive forest and/or farm land;
- (5) Incorporates high quality site planning and design in accordance with accepted contemporary planning principles;
- (6) Envisions a project that is reasonably self-sufficient in terms of necessary public services; and
- (7) Provides for safe and efficient traffic circulation.

**c. Approval or Denial of Preliminary Development Plan / Zoning Petition**

- (1) If, after weighing all the evidence, the Commission approves the Preliminary Development Plan application, the D-PD subdistrict shall be designated on the official district map and recorded in accordance with the provisions of Section 10.04. Simultaneously with such approval, a preliminary development plan approval will be issued. The preliminary development plan approval may contain such reasonable conditions as the Commission deems appropriate and will specify the conditions for approval of subsequent Commission permits or certifications. The terms of the preliminary development plan approval will be in writing and shall be deemed to be incorporated in the D-PD subdistrict.
- (2) If, after weighing all the evidence, the Commission finds the submission does not meet the criteria established above for its approval, the application shall be denied and the reasons for the denial shall be stated in writing.
- (3) Within a maximum of 18 months following a Commission decision to designate an area as a D-PD subdistrict, the applicant shall file with the Maine Department of Environmental Protection a Site Law application for development, or to the Commission a Final Development Plan containing the information required in Section 10.21,G,9 below. At its discretion, and for good cause shown, the Commission may extend the deadline for filing of the Site Law development application to the Maine Department of Environmental Protection, or of the Final Development Plan to the Commission.

- (4) If the applicant fails for any reason to apply for final approval by submitting to the Maine Department of Environmental Protection an application for development or to the Commission a Final Development Plan within the prescribed time, the D-PD subdistrict designation shall be deemed to be revoked and the original subdistrict(s) shall again apply.

## 9. Final Development Plan

The procedures set forth in Section 10.21,G,9 apply to all D-PD subdistricts accepted for processing prior to September 1, 2012, and development within D-PD subdistricts that does not require review under Site Law.

### a. Application

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

- (1) An application for final approval may be for all of the land which is the subject of the Preliminary Development Plan or for a section thereof. The application, once deemed complete by the staff, shall be reviewed and acted upon by the Commission within 90 days.
- (2) The Final Development Plan shall include statements, drawings, specifications, covenants and conditions sufficient to fully detail the nature and scope of the proposed development. Without limitation of the foregoing, the Final Development Plan submission shall include:
  - (a) Drawings that include all the information required on the site plan under the Preliminary Development Plan [Section 10.21,G,8,a,(12)] plus the dimensions and heights, foundation design, material specifications, and elevations and colors of all buildings and structures. If the plan proposes any subdivision, all boundaries of easements and lots are to be surveyed and plotted.
  - (b) Drawings that illustrate all roads, parking service and traffic circulation areas. The dimensions of curve radii, grades and number of parking spaces are to be specified. Any structures (such as bridges) related to the street system should be shown as scaled engineering plans and sections. Detailed traffic volume estimates and traffic studies may be required, at the discretion of the Commission.
  - (c) If individual sewage disposal system are proposed, an on-site soil report for each proposed lot is required from the applicant. The reports are to be on Maine Department of Health and Human Services form HHE-200 or any amended or replacement version thereof. Where a central sewage collection and/or treatment system or central or public water supply system or fire hydrant system is proposed, reasonably full engineering drawings shall be required to conform with all applicable governmental requirements.
  - (d) High intensity soil surveys and drawings that indicate all surface water runoff and storm drainage systems, soil stabilization procedures, and landscape plans for planting, screening, revegetation and erosion control and lighting of outdoor spaces.
  - (e) To the extent reasonably available, copies of the restrictions, covenants, conditions, and/or contractual agreements that will be imposed upon persons buying, leasing, using, maintaining, or operating land or facilities within the Planned Development.

- (3) The items submitted as part of the Final Development Plan shall comply with the conditions of approval of the Preliminary Development Plan and shall conform with applicable state regulations, including 12 M.R.S.A. §685-B(4). In addition, the Final Development Plan shall conform with progressive site planning standards which permit flexibility and imagination in the layout of different building types.
- (4) A public hearing shall not be held on a Final Development Plan application provided it is in substantial compliance with the Preliminary Development Plan. The burden shall, nevertheless, be on the applicant to show good cause for any variation between the Preliminary Development Plan and the Final Plan submitted for final approval.

**b. Approval or Denial of Final Development Plan**

Upon accepting a Final Development Plan, the Commission shall issue a permit pursuant to 12 M.R.S.A. §685-B, for the Final Development Plan. Such permit may contain reasonable conditions as the Commission may deem appropriate.

**c. Amendments to the Final Development Plan**

Minor changes in the location, siting, height, or character of buildings and structures may be authorized by the Director of the Commission if required by engineering or other circumstances not foreseen at the time of Final Development Plan approval. No change shall be so authorized which may cause any of the following:

- (1) The addition of a land use not previously approved in the Preliminary Development Plan;
- (2) A material change in the site, scope or nature of the project;
- (3) A material increase in traffic volume;
- (4) A material reduction in open space, landscaping, or parking; or
- (5) A material change giving rise to adverse environmental impact.

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

**d. Time for Construction**

If no substantial development has occurred pursuant to the Final Development Plan by the later of: (a) 24 months after the date of approval by the Commission or (b) expiration of any extension of time for starting development granted by the Commission, the approved plan shall become null and void and the D-PD subdistrict designation shall be deemed to be revoked and the original subdistrict(s) shall again apply.

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

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### **1. Purpose**

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

The D-PR Subdistrict is also designed to encourage creative site design by allowing for the substitution, on a case-by-case basis, of performance-based standards for the Commission's established land use standards.

### **2. Description**

Areas separated from existing development patterns, proposed primarily for recreational lodging facilities and recreational use, but including any associated residential and commercial uses, for which a comprehensive development plan (which treats the entire parcel as an entity) has been submitted to, and reviewed and approved by the Commission. A D-PR Subdistrict shall contain a maximum of 40,000 square feet of building floor area. No development, other than access roads, utility lines, trails, and waterfront structures shall be less than 400 feet from any property line. (This dimension may be increased or decreased, at the Commission's discretion, provided good cause can be shown.)

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

### **3. Allowed Uses**

All uses approved in the Final Development Plan shall be allowed. No other use shall be allowed except where the Commission determines that such additional use is consistent with such Plan and with the purposes hereof.

### **4. Ownership**

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

## 5. **Burden of Proof**

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

## 6. **Procedure**

The Planned Recreation Facility review procedure shall consist of three stages:

- (1) Preapplication Conference;
- (2) Submission of Preliminary Development Plan / Zoning Petition; and
- (3) Submission of Final Development Plan.

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

## 7. **Preapplication Conference**

A preapplication conference shall be held with the staff of the Commission and, if warranted for the particular proposal, representatives from other relevant agencies. At this conference the procedures, regulations, and policies that will govern the D-PR application shall be discussed. The conference shall provide a forum for an informal discussion on the acceptability of all aspects of the project proposal, prior to its filing with the Commission. The conference proceedings shall be summarized in writing and made available to the applicant. The conference shall be held pursuant to the rules established in Chapter 5, Section 5.07,(1) of the Commission's Rules and Regulations.

## 8. **Preliminary Development Plan**

### a. **Application**

The Preliminary Development Plan / Zoning Petition shall include: Evidence that the proposal conforms with the purpose and description of a Planned Development as contained herein; evidence showing that the permit criteria set forth in 12 M.R.S.A. § 685-B(4) will be satisfied, including consistency with the Comprehensive Land Use Plan; and the submission of various written and illustrative documents, as described hereinafter. Prior to any decision relative to such application, the staff shall make known its findings and recommendations, in writing, to the Commission.

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

### Written Statements

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

### Maps

- (8) A location map showing all existing subdistricts and the proposed D-PR subdistrict boundaries, drawn on a Commission Land Use Guidance Map that indicates the area for which a D-PR subdistrict designation is sought.
- (9) Maps showing the existing and proposed lot lines, noting the names of adjoining lot owners, and any lots in the project area proposed to be placed in common or private ownership (see Section 10.21,H,8,a,(1) and (4));
- (10) Maps showing the soils and slope at the development site, at a mapping intensity sufficient to show that the site has suitable soils to support the proposed development.
- (11) A site plan showing existing features within the development site, including the locations of:
  - (a) Buildings, roads, parking areas, and bridges;
  - (b) Above- and below-ground utility lines, and sewage disposal facilities;
  - (c) Drinking water wells serving the site, and any major water withdrawal sources, if applicable;
  - (d) Recreational areas and open spaces, and conservation areas;
  - (e) Streams, lakes and ponds, wetlands, and other protected natural resources;
  - (f) Stormwater drainage areas; and
  - (g) The vegetated edge of cleared areas.

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

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

**b. Criteria for the Approval of a Preliminary Development Plan**

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

- (1) Conforms with 12 M.R.S.A. Chapter 206-A, including the objectives and policies of the Comprehensive Land Use Plan;
- (2) Incorporates, where the land proposed for inclusion in the D-PR subdistrict is in a protection subdistrict, a substantially equivalent level of environmental and resource protection as was afforded under such protection subdistrict;
- (3) Conserves productive forest and/or farm land;
- (4) Incorporates high quality site planning and design in accordance with accepted contemporary planning principles;
- (5) Envisions a project that does not substantially increase the public services required in the area; and
- (6) Provides for safe and efficient traffic circulation.

**c. Performance-based Standards**

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

**d. Approval or Denial of Preliminary Development Plan**

- (1) If, after weighing all the evidence, the Commission approves the Preliminary Development Plan application, the D-PR subdistrict shall be designated on the official district map and recorded in accordance with the provisions of Section 10.04. Simultaneously with such approval, a preliminary development permit will be issued. The preliminary development permit may contain such reasonable conditions as the Commission deems appropriate and will specify the conditions for approval of the Final Development Plan. The terms of the preliminary development permit will be in writing and shall be deemed to be incorporated in the D-PR subdistrict.
- (2) If, after weighing all the evidence, the Commission finds the submission does not meet the criteria established above for its approval, the application shall be denied and the reasons for the denial shall be stated in writing.
- (3) Within a maximum of 18 months following a Commission decision to designate an area as a D-PR subdistrict, the applicant shall file with the Maine Department of Environmental Protection a Site Law application for development, or to the Commission a Final Development Plan containing the information required in Section 10.21,H,9 below. At its discretion, and for good cause shown, the Commission may extend the deadline for filing of the Site Law development application to the Maine Department of Environmental Protection, or of the Final Development Plan to the Commission, and may exempt from the filing deadline those plan areas where the area designated as a D-PR subdistrict is already developed.
- (4) If the applicant fails for any reason to apply for final approval by submitting to the Maine Department of Environmental Protection an application for development or to the Commission a Final Development Plan within the prescribed time, the D-PR subdistrict designation shall be deemed to be revoked and the original subdistrict(s) shall again apply.

**9. Final Development Plan**

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

**a. Application**

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

- (1) An application for final approval may be for all of the land which is the subject of the Preliminary Development Plan or for a section thereof. The application, once deemed complete by the staff, shall be reviewed and acted upon by the Commission within 90 days.

- (2) The Final Development Plan shall include statements, drawings, specifications, covenants and conditions sufficient to fully detail the nature and scope of the proposed development. Without limitation of the foregoing, the Final Development Plan submission shall include:
- (a) Drawings that include all the information required on the site plan under the Preliminary Development Plan [Section 10.21,H,8,a,(12)] plus the dimensions and heights, foundation design, material specifications, and elevations and colors of all buildings and structures. If the plan proposes any subdivision, all boundaries of easements and lots are to be surveyed and plotted.
  - (b) Drawings that illustrate all roads, parking service and traffic circulation areas. The dimensions of curve radii, grades and number of parking spaces are to be specified. Any structures (such as bridges) related to the street system should be shown as scaled engineering plans and sections. Detailed traffic volume estimates and traffic studies may be required, at the discretion of the Commission.
  - (c) If individual sewage disposal systems are proposed, an on-site soil report for each proposed lot is required from the applicant. The reports are to be on Maine Department of Health and Human Services form HHE-200 or any amended or replacement version thereof. Where a central sewage collection and/or treatment system or central or public water supply system or fire hydrant system is proposed, reasonably full engineering drawings shall be required to conform with all applicable governmental requirements.
  - (d) High intensity soil surveys and drawings that indicate all surface water runoff and storm drainage systems, soil stabilization procedures, and landscape plans for planting, screening, revegetation and erosion control and lighting of outdoor spaces.
  - (e) To the extent reasonably available, copies of the restrictions, covenants, conditions, and/or contractual agreements that will be imposed upon persons buying, leasing, using, maintaining, or operating land or facilities within the planned area.
  - (f) The items submitted as part of the Final Development Plan shall comply with the conditions of approval of the Preliminary Development Plan and shall conform with applicable state regulations, including 12 M.R.S.A. § 685-B(4). In addition, the Final Development Plan shall conform with progressive site planning standards which permit flexibility and imagination in the layout of different building types.
  - (g) A public hearing shall not be held on a Final Development Plan application provided it is in substantial compliance with the Preliminary Development Plan. The burden shall, nevertheless, be on the applicant to show good cause for any variation between the Preliminary Development Plan and the Final Plan submitted for final approval.
- (3) The staff, at its discretion, may waive portions of the application requirements for existing Recreational Lodging Facilities that are proposing expansions that are limited in scope.

**b. Approval or Denial of Final Development Plan**

Upon accepting a Final Development Plan, the Commission shall issue a permit pursuant to 12 M.R.S.A. § 685-B, for the Final Development Plan. Such permit may contain reasonable conditions as the Commission may deem appropriate.

**c. Amendments to the Final Development Plan**

Minor changes in the location, siting, height, or character of buildings and structures may be authorized by the Director of the Commission if required by engineering or other circumstances not foreseen at the time of Final Development Plan approval. No change shall be so authorized which may cause any of the following:

- (1) The addition of a land use not previously approved in the Preliminary Development Plan;
- (2) A material change in the site, scope or nature of the project;
- (3) A material increase in traffic volume;
- (4) A material reduction in open space, landscaping, or parking; or
- (5) A material change giving rise to adverse environmental impact.

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

**d. Time for Construction**

If no substantial development has occurred pursuant to the Final Development Plan by the later of: (a) 24 months after the date of approval or (b) expiration of any extension of time for starting development granted by the Commission, the approved plan shall become null and void and the D-PR subdistrict designation shall be deemed to be revoked and the original subdistrict(s) shall again apply.

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**I. RURAL BUSINESS DEVELOPMENT SUBDISTRICT (D-RB)**

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(Applies only to certain locations within Aroostook County)

**1. Purpose**

The purpose of the D-RB is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. The locations for development are selected to maintain the rural character of the region and avoid significant visual, natural resource, and fiscal impacts of unplanned growth.

Where a D-RB subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

**2. Description**

- a.** The D-RB subdistrict shall include areas to accommodate a range of small commercial, light manufacturing, and institutional facilities and businesses that are generally compatible with, and complementary to, natural resource-based land uses but may create some adverse impacts to residential uses, recreation uses, or resource protection. Businesses are typically larger than a permissible home-based business, but are not large-scale commercial or industrial developments, and may generate some level of nuisance-type impacts (e.g., noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference) that extend beyond the property lines of the business.

The D-RB subdistrict encourages the commercial expansion of new and existing facilities in locations that are suitable for growth because of proximity to existing development, infrastructure, services, and major transportation corridors. The D-RB subdistrict is not designed to facilitate strip development along highways.

The designated D-RB subdistrict boundaries shall include all buildings, paved or other compacted surfaces, and areas directly related to, and necessary for, the conduct of those activities associated with the above described uses and buildings, as well as other intervening areas between such buildings, paved or other compacted surfaces, and areas.

The D-RB subdistrict shall include areas that contain small commercial, light manufacturing, and institutional facilities and businesses that meet the purpose and other provisions of the subdistrict. The D-RB subdistrict shall also include areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto.

Areas within ¼ mile of Management Class 1 lakes or within ½ mile of Management Class 6 lakes shall not be included within the D-RB Subdistrict.

The D-RB subdistrict distinguishes between three types of rural businesses with differing impact categories, as provided in Section 10.27,R,1.

**b. Eligible Locations**

- (1) The following townships, plantations, and towns are eligible for the D-RB subdistrict:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Forkstown Twp., Garfield Plt., Glenwood Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., North Yarmouth Academy Grant Twp., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, T15 R6 WELS, T17 R4 WELS, Upper Molunkus Twp., and Winterville Plt.

For purposes of this section, “Category 2 & 3 towns, plantations and townships” are:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.

Except as provided in Section 10.21,I,2,b,(2), the D-RB subdistrict must be fully located within one mile from public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns.

- (2) Modification of Locational Criteria. The depth of this subdistrict, and the distance a Category 2 and Category 3 rural business may be located from a public road, may be extended farther from a public road to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines. Adjustments will only be made that do not increase the distance of the subdistrict from the public road, and the distance a Category 2 and Category 3 rural business may be located from a public road, by more than five percent.

**3. Land Uses**

**a. Uses Allowed Without a Permit**

The following uses shall be allowed without a permit from the Commission within D-RB subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S.A. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (5) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (6) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (7) Surveying and other resource analysis;
- (8) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (9) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (3) Campsites;
- (4) Checkpoint buildings;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,I,3,b,(2) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Driveways associated with residential uses;
- (7) Filling and grading;
- (8) Forest management activities, except for timber harvesting, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (9) Hand-carry launches: Commercial and public hand-carry launches;
- (10) Home occupations: Minor home occupations;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (12) Mineral extraction operations, less than 5 acres in size;
- (13) Road projects: Level A and B road projects;
- (14) Service drops;
- (15) Signs;
- (16) Trailered ramps: Public trailered ramps;
- (17) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (18) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 10.21,I,3,g, h and i below:

- (1) Campsites, Residential;
- (2) Commercial and industrial:
  - (a) Rural Business in conformance with the requirements of Section 10.27,R:
    - i. Category 1; and
    - ii. Category 2, within one quarter mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2);
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,I,3,b, above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Draining, dredging, and alteration of the water table or water level for other than mineral extraction;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (6) Family burying grounds of not more than ¼ acre, in accordance with 13 M.R.S.A. §1142;
- (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.21,I,3,b which are not in conformance with the standards of Section 10.27,L;
- (9) Home occupations: Major home occupations, except in the townships or plantations listed in Section 10.21,I,3,d;
- (10) Maple sugar processing operations;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (12) Mineral extraction operations:
  - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;
  - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
  - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (13) Peat extraction affecting an area less than 30 acres in size;
- (14) Portable mineral processing equipment;
- (15) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B;
  - (c) Level C;
  - (d) Level D (inside the geographic allowance area); and
  - (e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;

- (16) Road projects: Level C road projects;
- (17) Sawmills and chipping mills on sites of less than 5 acres;
- (18) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (19) Signs which are not in conformance with the standards of Section 10.27,J;
- (20) Solid waste disposal facilities affecting an area less than 2 acres in size;
- (21) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
- (22) Subdivisions: Commercial and industrial subdivisions for rural business within Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.;
- (23) Timber harvesting;
- (24) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.21,I,3,b which are not in conformance with the standards of Section 10.27,L;
- (25) Truck and equipment storage in accordance with Sections: 10.27,R,1,a,(6); 10.27,R,1,b,(6); and 10.27,R,1,c,(6);
- (26) Utility facilities, excluding service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (27) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (28) Water impoundments;
- (29) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (30) Other structures, uses, or services that are essential to the uses listed in Section 10.21,I,3,a through c; and
- (31) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within the D-RB subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Maple Sugar Processing Subdivisions: Subdivisions containing lots created by lease for the purpose of establishing and operating commercial maple sugar processing operations provided that:
- The maximum number of leased lots shall be no more than one (1) per every 300 acres of the lot or parcel being subdivided<sup>1</sup>;
  - The maximum size of each leased lot shall be no more than 4 acres;
  - Any two leased lots in a maple sugar subdivision may be located less than 1,000 feet from each other; these lots will be considered a set of lots for the purpose of determining leased lot separation;
  - Each set of leased lots must be separated from any other leased lot or set of leased lots in the subdivision by a minimum of 1,000 feet, measured horizontally from the closest point between lots or sets of leased lots; and

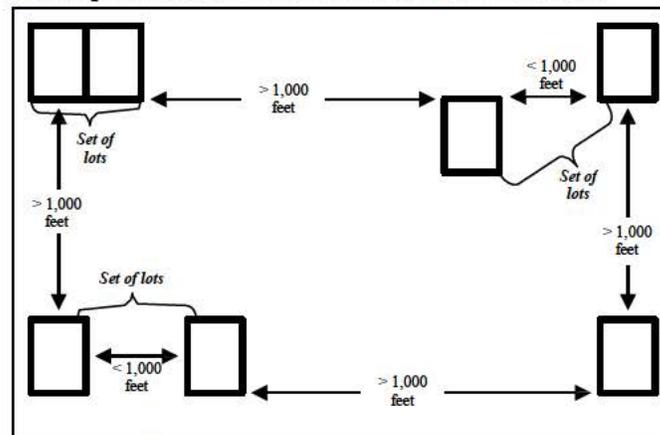


Figure 10.21,I-1. Leased lots in maple sugar subdivisions.

- Fee ownership in each of the leased lots shall only be transferred as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds.

<sup>1</sup> Calculated by dividing the total acreage of the lot or parcel being subdivided by 300 and rounding down to the nearest whole number.

The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

- (2) Commercial and industrial:
  - (a) Rural Business in conformance with the requirements of Section 10.27,R:
    - (i) Category 3, within one half mile of a public road in Category 2 & 3 townships, plantations and towns, or in accordance with Section 10.21,I,2,b(2);
- (3) Recreational lodging facilities:
  - (a) Level C (occupancy may exceed the standard in Section 10.27,Q,1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
  - (b) Level C – Expanded Access (inside the geographic allowance area); and
  - (c) Level D – Expanded Access (inside the geographic allowance area).

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (4) Docking structures: New or expanded permanent docking structures;
- (5) Trailered ramps: Private trailered ramps; and
- (6) Water-access ways.

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence, in addition to (a), (b), (c) and (d) above, and the provisions of Section 10.25,D,2, that (e) the project will not result in traffic safety or capacity deficiencies in the vicinity of the project site.

- (7) Subdivisions: Commercial and industrial subdivisions for rural business within Forkstown Twp., Glenwood Plt., North Yarmouth Academy Grant Twp., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, and Upper Molunkus Twp..

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence that either: (a) the use is integral to the business; or (b) the use predates May 9, 2016.

- (8) Residential: Single family dwellings.

**e. Prohibited Uses**

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

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

- g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

- h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial, industrial, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:
  - (a) area and shoreline length;
  - (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
  - (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

- i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

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

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**J. RECREATION FACILITY DEVELOPMENT SUBDISTRICT (D-RF)**

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**1. Purpose**

The purpose of the D-RF subdistrict is to allow for development of moderate intensity recreation facilities in locations that would not be suitable for other types of commercial development. Moderate intensity recreation facilities often rely on, and are compatible with, settings which are distant from existing patterns of development, but are relatively accessible to visitors. Such development may be appropriate in locations that provide access to recreational opportunities that are not overly sensitive to increased public use but are not present in developed areas. The D-RF Subdistrict is designed to allow for the location of moderate intensity recreation facilities in areas that are distant from other development, but where the location of such a facility would; not unreasonably interfere with existing uses such as forestry and agriculture activities, fish and wildlife habitat or other recreation opportunities; and will not substantially increase the demand for public services in areas that are distant from existing patterns of development. Where a D-RF subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for subsequent redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

**2. Description**

The D-RF subdistrict shall include:

Areas that contain existing recreation facilities that meet the purpose and other provisions of the Subdistrict; and

Areas which are proposed for development activities which are consistent with the purposes of this subdistrict; meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof; and are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. § 685-B(4) and the Commission's Rules and Regulations relating thereto.

Areas within ¼ mile of Management Class 1 lakes or within ½ mile of Management Class 6 lakes shall not be included as within the D-RF Subdistrict.

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

The following uses shall be allowed without a permit from the Commission within D-RF subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;

- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Campsites;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Filling and grading;
- (6) Hand-carry launches: Commercial and public hand-carry launches except on Management Class 1 and 2 lakes;
- (7) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (8) Road projects: Level A road projects;
- (9) Service drops;
- (10) Signs;
- (11) Trailered ramps: Public trailered ramps except on Management Class 1 and 2 lakes;
- (12) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water;
- (13) Water crossings of minor flowing waters; and
- (14) Water-dependent structures for recreational lodging facilities in conformance with Section 10.27,Q,7.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RF subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. § 685-B, 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 10.21,J,3,g, h and i below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,L,2,a;

- (3) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (4) Driveways associated with non-residential uses;
- (5) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (6) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.21,J,3,b which are not in conformance with the standards of Section 10.27,L;
- (7) Land management roads;
- (8) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards for such activities in Section 10.27,C;
- (9) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B;
  - (c) Level C;
  - (d) Level D; and
  - (e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;
- (10) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,J,3,b;
- (11) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (12) Signs which are not in conformance with the standards of Section 10.27,J;
- (13) Subdivisions: Commercial and industrial subdivisions for uses permitted in this subdistrict;
- (14) Timber harvesting;
- (15) Trailered ramps addressed in Section 10.21,J,3,b which are not in conformance with the standards of Section 10.27,L;
- (16) Utility facilities compatible with recreational uses, other than service drops, and wire and pipe line extensions which do not meet the definition of service drops;
- (17) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (18) Water impoundments;
- (19) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (20) Other structures, uses or services that are essential to the uses listed in Section 10.21,J,3,a through c; and
- (21) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

- (1) Recreational lodging facilities:
  - (a) Level C – Expanded Access; and
  - (b) Level D – Expanded Access.

The following uses may be allowed as special exceptions provided the applicant in addition to (a) through (d) above, shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (2) Docking structures: New or expanded permanent docking structures;
- (3) Hand-carry launches: Commercial and public hand-carry launches on Management Class 1 and 2 lakes;
- (4) Marinas;
- (5) Trailered ramps: Commercial and private trailered ramps and public trailered ramps on Management Class 1 and 2 lakes; and
- (6) Water-access ways.

**e. Prohibited Uses**

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

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to proposals for development units within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one development unit per shore mile as provided for in Section 10.23,A,3.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and recreation facilities, recreation lodging facilities, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but

not be limited to, the following information regarding the applicant's landownership on the lake:

- (a) area and shoreline length;
- (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

- i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

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

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

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**1. Purpose**

The purpose of the D-RS subdistrict is to set aside certain areas for residential and other appropriate uses so as to provide for residential activities apart from areas of commercial development. The intention is to encourage the concentration of residential type development in and adjacent to existing residentially developed areas.

**2. Description**

The D-RS subdistrict shall include:

**a.** Areas with the following existing patterns of intensive residential development:

- (1) Areas where four or more single family dwelling units exist within a 500 foot radius; or
- (2) Recorded and legally existing single family residential subdivisions, including mobile home parks, having 4 or more lots; or
- (3) Areas surrounding those described in Section 10.21,K,2,a,(1) or (2) above which contain neighborhood or associated uses that primarily serve such residences. Such areas may include, without limitation, residential accessory buildings, neighborhood parks and public open spaces, schools, day nurseries, places of worship, cemeteries, but shall not include industrial uses.

The designated D-RS subdistrict boundaries shall include all single family dwelling units and accessory buildings and uses, paved areas and areas directly related to, and necessary for, the conduct of those activities associated with the above described single family dwelling units, as well as other intervening areas between such buildings, paved surfaces and areas. Furthermore, in the case of recorded and legally existing single family residential subdivisions, the D-RS subdistrict boundaries shall encompass the entire subdivision.

- b.** Areas which the Commission determines both meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within D-RS subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing, excluding hunting and trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Public hand-carry launches except on Management Class 1 and 2 lakes;
- (7) Home occupations: Minor home occupations;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps except on Management Class 1 and 2 lakes;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RS subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 10.21,K,3,g, h and i below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Cemeteries, and family burying grounds in accordance with 13 M.R.S.A. §1142;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (7) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (8) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (9) Hand-carry launches: Hand-carry launches addressed in Section 10.21,K,3,b which are not in conformance with the standards of Section 10.27,L;
- (10) Home occupations: Major home occupations;
- (11) Land management roads;
- (12) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (13) Public and Institutional: Places of worship, public, private and parochial schools, day nurseries, and public parks and recreation areas;
- (14) Residential: Single and two-family dwellings;
- (15) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,K,3,b;
- (16) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (17) Signs which are not in conformance with the standards of Section 10.27,J;
- (18) Subdivisions: Residential subdivisions for uses permitted in this subdistrict;
- (19) Timber harvesting;
- (20) Trailered ramps: Trailered ramps addressed in Section 10.21,K,3,b which are not in conformance with the standards of Section 10.27,L;
- (21) Utility facilities compatible with residential uses other than service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (22) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (23) Water impoundments;

- (24) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (25) Other structures, uses or services that are essential to the uses listed in Section 10.21,K,3,a through c; and
- (26) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed 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.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Hand-carry launches: Public hand-carry launches on Management Class 1 and 2 lakes;
- (3) Marinas;
- (4) Residential: Multi-family dwellings;
- (5) Trailered ramps: Commercial and private trailered ramps, and public trailered ramps on Management Class 1 and 2 lakes; and
- (6) Water-access ways.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, shall be prohibited in D-RS subdistricts.

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:
  - (a) area and shoreline length;
  - (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
  - (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

**i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

## **L. COMMUNITY RESIDENTIAL DEVELOPMENT SUBDISTRICT (D-RS2)**

### **1. Purpose**

The purpose of the D-RS2 subdistrict is to designate residential areas that can accommodate an appropriate range of low-impact commercial and public uses that are compatible with residential uses. This subdistrict seeks to promote residential living and thriving neighborhoods with a limited range of services.

### **2. Description**

The D-RS2 subdistrict shall be located adjacent to a D-GN2 subdistrict in order to limit the fiscal and visual impacts of sprawling development. Adjacent is interpreted as within a distance of one road mile. This subdistrict is similar to the D-RS subdistrict but it allows for commercial development such as bed and breakfasts, health care facilities, and golf courses.

This subdistrict will be applied only in communities located in the fringe of the Commission's jurisdiction as defined in the Comprehensive Land Use Plan, and in areas appropriate as centers of growth after a prospective planning process has been undertaken by the Commission.

The Commission shall, using Section 10.08 of these rules, designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the D-RS2 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.

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

The following uses shall be allowed without a permit from the Commission within D-RS2 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing, excluding hunting and trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within D-RS2 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Public hand-carry launches;
- (7) Home occupations: Minor home occupations;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps;
- (13) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (14) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RS2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 10.21,L,3,g, h and i below:

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Bed and breakfast facilities;
- (3) Campsites;
- (4) Campsites, Residential;
- (5) Cemeteries, and family burying grounds in accordance with 13 M.R.S.A. §1142;
- (6) Community living facilities;
- (7) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;

- (8) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (9) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (10) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (11) Hand-carry launches: Hand-carry launches addressed in Section 10.21,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (12) Home occupations: Major home occupations;
- (13) Land management roads;
- (14) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (15) Public and Institutional: Places of worship and other religious institutions; public, private and parochial day schools; non-profit children's day care facilities; local parks and local public recreation areas;
- (16) Residential: Single and two-family dwellings;
- (17) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,L,3,b;
- (18) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (19) Signs which are not in conformance with the standards of Section 10.27,J;
- (20) Subdivisions: Residential level 1 subdivisions;
- (21) Timber harvesting;
- (22) Trailered ramps: Trailered ramps addressed in Section 10.21,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (23) Utility facilities compatible with residential uses other than service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (24) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (25) Water impoundments;
- (26) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682 (19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (27) Other structures, uses or services that are essential to the uses listed in Section 10.21,L,3,a through c; and
- (28) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within D-RS2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Golf courses: Private and public golf courses;
- (3) Health care facilities up to 4,000 square feet of gross floor area;
- (4) Marinas;
- (5) Post offices up to 1,250 square feet of gross floor area;
- (6) Residential: Three and four unit multi-family dwellings;
- (7) Trailered ramps: Commercial and private trailered ramps; and
- (8) Water-access ways.

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, shall be prohibited in D-RS2 subdistricts.

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:
  - (a) area and shoreline length;
  - (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and

(c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

(2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

**i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

## **M. RESIDENTIAL RECREATION DEVELOPMENT SUBDISTRICT (D-RS3)**

### **1. Purpose**

The purpose of the D-RS3 subdistrict is to accommodate seasonal and year-round recreational development in high value resource areas without compromising the recreational setting. This subdistrict allows a restricted range of allowed uses in order to ensure attractive residential recreational opportunities.

### **2. Description**

The D-RS3 subdistrict shall be applied only in high natural resource value areas appropriate for residential or closely related uses in a community and shall be applied after a prospective planning process has been undertaken by the Commission. The D-RS3 subdistrict shall be located in areas that are inappropriate for intensive mixed development.

The D-RS3 subdistrict area will be located along or near the shorelines of Management Class 3, 4, 5, or 7 lakes or in other high value natural resource areas designated for growth by the Commission or zoned D-RS before January 1, 2001. The D-RS3 subdistrict will not be located in relatively remote or lightly settled areas of the jurisdiction.

Using Section 10.08 of these rules, the Commission shall designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's rules and regulations.

### **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.

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

The following uses shall be allowed without a permit from the Commission within D-RS3 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, wildlife study and photography, wild crop harvesting, horseback riding, tent and shelter camping, canoe portaging, cross country skiing and snowshoeing, excluding hunting and trapping;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within D-RS3 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;
- (6) Hand-carry launches: Public hand-carry launches;
- (7) Home occupations: Minor home occupations, provided that any tractor truck, semitrailer or heavy equipment allowed with this use is completely buffered from view from adjacent properties, roads, and water bodies, or is completely enclosed in an accessory structure;
- (8) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (13) Water crossings of minor flowing waters.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RS3 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, 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 10.21,M,3,g, h and i below:

- (1) Agricultural management activities which are not in conformance with standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;

- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Filling and grading which are not in conformance with the standards of Section 10.27,F;
- (8) Hand-carry launches: Hand-carry launches addressed in Section 10.21,M,3,b which are not in conformance with the standards of Section 10.27,L;
- (9) Land management roads;
- (10) Mineral exploration activities: Access ways for Level A mineral exploration activities; Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (11) Public and institutional: Local public parks and local public recreation areas;
- (12) Residential: Single family dwellings;
- (13) Road projects: Level B and C road projects, except for water crossings as provided for in Section 10.21,M,3,b;
- (14) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (15) Signs which are not in conformance with the standards of Section 10.27,J;
- (16) Subdivisions: Residential level 1 subdivisions;
- (17) Timber harvesting;
- (18) Utility facilities compatible with residential uses other than service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (19) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (20) Water impoundments;
- (21) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (22) Other structures, uses or services that are essential to the uses listed in Section 10.21,M,3,a through c; and
- (23) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources and uses they protect, and are of similar type, scale and intensity as other allowed uses.

**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.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

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

**e. Prohibited Uses**

All uses not expressly allowed, with or without a permit, shall be prohibited in D-RS3 subdistricts.

**f. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g

**g. Management Class 2 Lakes** (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

**h. Management Class 4 Lakes** (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:

- (a) area and shoreline length;
- (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

**i. Management Class 5 Lakes** (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

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## 10.22 MANAGEMENT SUBDISTRICTS

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

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### A. GENERAL MANAGEMENT SUBDISTRICT (M-GN)

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#### 1. Purpose

The purpose of the M-GN subdistrict is to permit forestry and agricultural management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required.

#### 2. Description

These are areas which are appropriate for forest or agricultural management activities and that do not require the special protection afforded by the protection subdistricts or the M-NC or M-HP subdistricts. Also included within M-GN subdistricts shall be areas which do not qualify for inclusion in any other subdistrict.

#### 3. Land Uses

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

The following uses shall be allowed without a permit from the Commission within M-GN subdistricts:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>2</sup>;
- (3) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S.A. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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<sup>2</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (3) Campsites;
- (4) Checkpoint buildings;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,A,3,b,(2) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Driveways associated with residential uses;
- (7) Filling and grading;
- (8) Forest management activities, except for timber harvesting<sup>3</sup>, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (9) Hand-carry launches: Parking areas, roads, signs and similar facilities associated with private and commercial hand-carry launches;
- (10) Home occupations: Minor home occupations;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (12) Mineral extraction operations, less than 5 acres in size, except for gravel extraction less than 5 acres in size;
- (13) Road projects: Level A and B road projects;
- (14) Service drops;
- (15) Signs;
- (16) Trailered ramps: Parking areas, roads, signs and similar facilities associated with public trailered ramps; and
- (17) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water.

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<sup>3</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

**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.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Campsites, Residential;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,A,3,b, above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Draining, dredging, and alteration of the water table or water level for other than mineral extraction;
- (4) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (5) Family burying grounds of not more than ¼ acre, in accordance with 13 M.R.S.A. §1142;
- (6) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (7) Home occupations: Major home occupations, **except in the townships or plantations listed in Section 10.22,A,3,d;**
- (8) Maple sugar processing operations;
- (9) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (10) Mineral extraction operations, except for gravel extraction less than 5 acres in size,
  - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;
  - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
  - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (11) Peat extraction affecting an area less than 30 acres in size;
- (12) Portable mineral processing equipment;
- (13) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B;
  - (c) Level C;
  - (d) Level D (inside the geographic allowance area); and
  - (e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;
- (14) Residential: Single and two-family dwellings;
- (15) Road projects: Level C road projects;
- (16) Sawmills and chipping mills on sites of less than 5 acres;
- (17) Signs which are not in conformance with the standards of Section 10.27,J;
- (18) Solid waste disposal facilities affecting an area less than 2 acres in size;
- (19) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other

- residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
- (20) Subdivisions: Level 2 subdivisions;
  - (21) Trailered ramps: Parking areas, roads, signs and similar facilities associated with commercial and private trailered ramps and such facilities addressed in Section 10.22,A,3,b which are not in conformance with the standards of Section 10.27,L;
  - (22) Truck and equipment storage;
  - (23) Utility facilities, excluding service drops; and wire and pipe line extensions which do not meet the definition of service drops;
  - (24) Water impoundments;
  - (25) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
  - (26) Other structures, uses, or services that are essential to the uses listed in Section 10.22,A,3,a through c; and
  - (27) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within the M-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that there is no alternative site in a development subdistrict which is both suitable to the proposed use and reasonably available to the applicant:

- (1) Home occupations: Major home occupations in the following plantations:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation.

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (2) Maple Sugar Processing Subdivisions: Subdivisions containing lots created by lease for the purpose of establishing and operating commercial maple sugar processing operations provided that:
  - The maximum number of leased lots shall be no more than one (1) per every 300 acres of the lot or parcel being subdivided<sup>4</sup>;
  - The maximum size of each leased lot shall be no more than 4 acres;
  - Any two leased lots in a maple sugar subdivision may be located less than 1,000 feet from each other; these lots will be considered a set of lots for the purpose of determining leased lot separation;

<sup>4</sup> Calculated by dividing the total acreage of the lot or parcel being subdivided by 300 and rounding down to the nearest whole number.

- Each set of leased lots must be separated from any other leased lot or set of leased lots in the subdivision by a minimum of 1,000 feet, measured horizontally from the closest point between lots or sets of leased lots; and

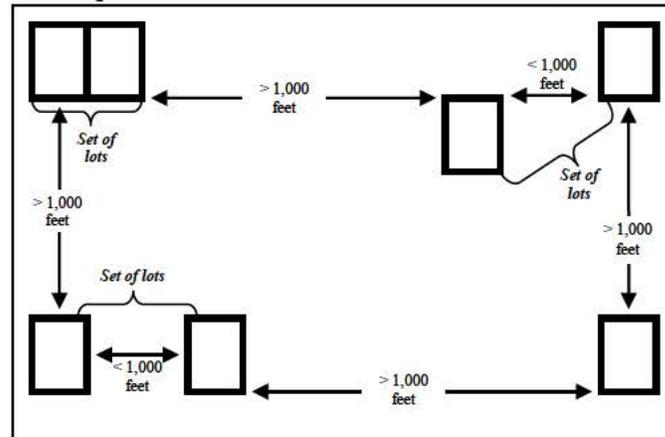


Figure 10.22,A-1. Leased lots in maple sugar subdivisions.

- Fee ownership in each of the leased lots shall only be transferred as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds.

The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

- (3) Recreational lodging facilities:
  - (a) Level C (occupancy may exceed the standard in Section 10.27,Q,1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
  - (b) Level C – Expanded Access (inside the geographic allowance area); and
  - (c) Level D – Expanded Access (inside the geographic allowance area).

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within M-GN subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction less than 5 acres in size;
- (2) Land management roads; and
- (3) Timber harvesting.

**f. Prohibited Uses**

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

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

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### **1. Purpose**

The purpose of the M-HP subdistrict is to ensure the continued availability of products from high yield or high value forest and/or agricultural lands by reserving areas for these uses.

### **2. Description**

Areas identified by the Commission, not including those in protection subdistricts or in existing patterns of development, that are identified as prime or unique forest or agricultural land of national, statewide or local importance. In selecting areas for designation in this subdistrict, the Commission shall consider the following:

- a.** Prime or unique agricultural lands currently in use for food, fiber, feed, forage, and oil seed crops that are determined in accordance with rules and regulations hereinafter adopted by the Commission as amendments to these standards.
- b.** Prime or unique forest lands currently held for commercial production of forest trees that are determined in accordance with the rules and regulations hereinafter adopted by the Commission as amendments to these standards.

### **3. Land Uses**

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

The following uses shall be allowed without a permit from the Commission within M-HP subdistricts:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>5</sup>;
- (3) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S.A. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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<sup>5</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

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

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

- (1) Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,B,3,b,(1) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Filling and grading;
- (4) Forest management activities, except for timber harvesting<sup>6</sup>, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (5) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (6) Road projects: Level A road projects;
- (7) Service drops; and
- (8) Signs.

**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.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Campsites;
- (2) Campsites, Residential;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those in Section 10.22,B,3,b above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways;
- (5) Home occupations;
- (6) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (7) Mineral extraction operations for road purposes, except for gravel extraction for road purposes less than 5 acres in size;
- (8) Residential: Single-family dwellings;
- (9) Road projects: Level B road projects;
- (10) Signs which are not in conformance with the standards of Section 10.27,J;
- (11) Structures: Structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size;

<sup>6</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (12) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (13) Other structures, uses, or services that are essential for the uses listed in Section 10.22,B,3,a through c; and
- (14) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within M-HP subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant, (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible, and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Draining or altering the water table or water level for other than mineral extraction;
- (2) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (3) Road projects: Level C road projects;
- (4) Sawmills and chipping mills on sites of less than 2 acres;
- (5) Utility facilities excluding service drops; and
- (6) Water impoundments.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within M-HP subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads; and
- (3) Timber harvesting.

**f. Prohibited Uses**

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

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

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### 1. Purpose

The purpose of the M-NC subdistrict is to maintain some of the areas that characterize the natural outdoor flavor and spirit of certain large undeveloped areas of the jurisdiction and to permit only forestry and agricultural practices and primitive recreation. Unrelated development that might interfere with these activities and natural values will not be permitted.

### 2. Description

Areas which the Commission determines:

- a. are appropriate for forest management activities;
- b. shall comprise certain few large areas which are remote and have a natural and wild character; the area is significant because of a variety and concentration of important features which in the aggregate include significant topographic features and distinctive recreation resources characteristic of the "Maine Woods" in their totality; such resources include, but are not limited to, hiking trails, canoe streams, and scenic overviews; such features include, but are not limited to, lakes, remote ponds, mountains and valleys;
- c. comprise at least 10,000 contiguous acres of land and water area; and
- d. support only those land use activities which do not appreciably detract from the natural character of the area.

Any proposal for inclusion of an area within an M-NC subdistrict, unless it is made by the owner or owners of such area, shall be considered by the Commission only when a written statement has been made stating how such area meets the criteria stated above. Such statements shall be available to the public at the time of publication of notice for the public hearing at which such proposal shall be heard.

The M-NC subdistrict may surround different protection, management, and development subdistricts. In delineating boundaries for the M-NC subdistrict, the Commission may consider property ownership or township boundaries, ridge lines, shorelines, watershed boundaries, roadways, or other rights of way or other appropriate natural or man-made features.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within M-NC subdistricts:

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>7</sup>;

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<sup>7</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (3) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S.A. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Agricultural management activities, including cranberry cultivation; the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water; and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (2) Campsites;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.22,C,3,b,(1) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Filling and grading;
- (5) Forest management activities, except for timber harvesting<sup>8</sup>, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (6) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (7) Road projects: Level A and B road projects;
- (8) Service drops; and
- (9) Signs.

**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.A. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those in Section 10.22,C,3,b above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (2) Driveways;

<sup>8</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (3) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (4) Mineral extraction operations affecting an area 5 acres or greater in size, for road purposes;
- (5) Recreational lodging facilities: Level A
- (6) Remote Camps;
- (7) Structures: Structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size;
- (8) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (9) Other structures, uses, or services that are essential for the uses listed in Section 10.22,B,3,a through c; and
- (10) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within M-NC subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Road projects: Level C road projects;
- (2) Signs which are not in conformance with the standards of Section 10.27,J; and
- (3) Utility facilities.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within M-NC subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads; and
- (3) Timber harvesting.

**f. Prohibited Uses**

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

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## 10.23 PROTECTION SUBDISTRICTS

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

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### A. ACCESSIBLE LAKE PROTECTION SUBDISTRICT (P-AL)

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#### 1. Purpose

The purpose of the P-AL subdistrict is to maintain and protect the existing natural values of the accessible, undeveloped, high value lakes within the Commission's jurisdiction. This is the class of lakes described as Management Class 2 lakes in the Commission's Comprehensive Land Use Plan. It is the intent of this subdistrict to restrict development.

#### 2. Description

Areas surrounding bodies of standing water classified as Management Class 2 Lakes (Accessible, Undeveloped, High Value Lakes).

The protection subdistrict shall extend 500 feet from and around the water body measured from the normal high water mark.

#### 3. Land Uses

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

The following uses shall be allowed without a permit from the Commission within P-AL subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>9</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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<sup>9</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

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

The following uses shall be allowed without a permit from the Commission within P-AL subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural management activities;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Driveways associated with residential uses;
- (4) Home occupations: Minor home occupations;
- (5) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (6) Road projects: Level A road projects;
- (7) Service drops;
- (8) Signs;
- (9) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,b and c,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (10) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

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

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging or alteration of the water table or water level for other than mineral extraction;
- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Filling and grading;
- (8) Home occupations: Major home occupations, **except in those plantations and townships listed in Section 10.23,A,3,d;**
- (9) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (10) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;

- (11) Residential: Single family dwellings provided that such dwelling units are limited to an average density per landownership of no more than one dwelling unit per shore mile. Parcels existing as of November 17, 1988 that have less than 1 mile of shoreline are allowed one dwelling unit within that shoreline area provided that other applicable standards are met. The shoreline is measured by following the shoreline of the lake, including all the shoreline irregularities, on the Commission's Land Use Guidance Map;
- (12) Road projects: Level B and C road projects, except for water crossings of minor flowing waters as provided for in Section 10.23,A,3,b;
- (13) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (14) Signs which are not in conformance with the standards of Section 10.27,J;
- (15) Structures: Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (16) Trails which are not in conformance with the standards of Section 10.27,B,1,b and c,2, and 4 and 10.27,F;
- (17) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings of minor flowing waters on/for land management roads; and water crossings of bodies of standing water and major flowing waters except for water crossings of bodies of standing water and major flowing waters on/for land management roads;
- (18) Water impoundments;
- (19) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (20) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,A,3,a through c; and
- (21) Other structures, uses or services which the Commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the uses or resources they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-AL subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; and further provided that there shall be no more than one development unit per shore mile except as provided in Section 10.23,A,3,c, such distance measured by following the shoreline of the lake, including all shoreline irregularities, on the Commission's Land Use Guidance Map:

- (1) Recreational lodging facilities:
  - (a) Level A; and
  - (b) Level B.

The following uses may be allowed as special exceptions provided the applicant shows, in addition to the criteria listed above, by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (2) Docking structures: New or expanded permanent docking structures;
- (3) Hand-carry launches;
- (4) Home occupations: Major home occupations in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Trailered ramps;
- (6) Utility facilities other than service drops; and
- (7) Water-access ways.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-AL subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

**f. Prohibited Uses**

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

**g. Water Quality Limiting Lakes**

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

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## **B. AQUIFER PROTECTION SUBDISTRICT (P-AR)**

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### **1. Purpose**

The purpose of the P-AR subdistrict is to protect the quantity and quality of ground water supply used or potentially available for human or industrial consumption.

### **2. Description**

Areas identified by the Commission as having soil rated as highly permeable and/or surficial geologic units that are highly permeable and are hydrologically connected through highly fractured bedrock units to a ground water supply which is currently, or anticipated to be, used for public, industrial or agricultural purposes, or areas identified by the Commission as aquifer recharge areas based on studies by appropriate qualified persons or agencies where the Commission determines that such areas warrant water quality protection.

### **3. Land Uses**

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

The following uses shall be allowed without a permit from the Commission within P-AR subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for fertilizer application and timber harvesting<sup>10</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Agricultural management activities, except for fertilizer application;
- (2) Driveways associated with residential uses;
- (3) Filling and grading;
- (4) Hand-carry launches: Commercial, private and public hand-carry launches;
- (5) Home occupations: Minor home occupations;
- (6) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (7) Road projects: Level A road projects;

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<sup>10</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (8) Service drops; and
- (9) Signs.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-AR subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, subject to the applicable requirements set forth in Sub-Chapter III, and provided that the recharge capability of the area remains the same as it would be under the area's natural state:

- (1) Agriculture management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites, provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (3) Campsites, Residential, provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (6) Fertilizer application for forest or agricultural management activities;
- (7) Hand-carry launches: Hand-carry launches addressed in Section 10.23,B,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Home occupations: Major home occupations, **except in those plantations and townships listed in Section 10.23,B,3,d;**
- (9) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (10) Mineral extraction for road purposes affecting an area less than 30 acres in size, provided the unreclaimed area is less than 15 acres, except for gravel extraction for road purposes less than 5 acres in size;
- (11) Peat extraction affecting an area less than 30 acres in size;
- (12) Recreational lodging facilities: Level A (campground only) and Level B (campground only), at both facility levels provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (13) Residential: Single-family dwellings provided that sewage is disposed of in such a manner as not to endanger the water quality of the aquifer;
- (14) Road projects: Level B road projects;
- (15) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (16) Signs which are not in conformance with the standards of Section 10.27,J;
- (17) Utility facilities, excluding service drops;
- (18) Water crossings, except for water crossings on/for land management roads;
- (19) Water impoundments;
- (20) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (21) Other structures, uses or services that are essential for uses listed in Section 10.23,B,3,a through c; and

- (22) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-AR subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Draining, dredging, or alteration of the water table or water level for purposes other than mineral extraction;
- (3) Filling and grading, that is not in conformance with the standards of Section 10.27,F;
- (4) Home occupations: Major home occupations in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Mineral exploration activities: Level B mineral exploration activities;
- (6) Road projects: Level C road projects;
- (7) Trailered ramps: Commercial, private and public trailered ramps; and
- (8) Water-access ways.

The following use, and related accessory structures, may be allowed within P-AR subdistricts as a special exception upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. § 685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; (b) the use will not pose an unreasonable risk to a valuable groundwater resource; (c) the P-AR subdistrict in which the use is proposed does not protect a sole source aquifer; and (d) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (9) Portable rock crushing equipment provided that:
  - (a) The seasonal high water table elevation is at least 5 feet below the surface in the area within 50 feet of the portable rock crusher, as determined by a test pit or monitoring well;
  - (b) An impermeable spill containment pad or container sufficient to accommodate the maximum capacity of fluids contained in the motor and fuel tank is installed under the fuel tank, motor, and refueling area;
  - (c) The borrow pit is internally drained and appropriate steps are taken to prevent any water produced during mineral washing or processing from contaminating surface water resources;

- (d) No storage of fuel or other hazardous materials occurs in the P-AR subdistrict;
- (e) No washing of equipment occurs in the P-AR subdistrict;
- (f) Operations are conducted in accordance with a Commission approved spill prevention, control and countermeasures plan. A copy of the plan and an adequately stocked oil and hazardous materials spill response kit are kept on site; and
- (g) The portable rock crushing equipment is setback from existing drinking water sources at least:
  - (i) 100 feet from a bedrock private drinking water well;
  - (ii) 200 feet from a point driven or dug private drinking water well;
  - (iii) 300 feet from a public drinking water source serving 500 or fewer people;
  - (iv) 500 feet from a public drinking water source serving between 501 and 1,000 people;
  - (v) 1,000 feet from a public drinking water source serving more than 1,000 people; and
  - (vi) 1,000 feet from a public drinking water source with a valid filtration waiver issued by the EPA in accordance with the Safe Drinking Water Act;

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-AR subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings on/for land management roads.

**f. Prohibited Uses**

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

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

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### 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, 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 Official Land Use Guidance Map shall refer to maps so adopted. In any case where the boundaries of the P-FP subdistrict on the Commission map differ from the boundaries of the FEMA zones, the FEMA boundaries shall apply. The FEMA zones shall be regulated according to the provisions of the P-FP subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

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

- (1) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Forest management activities, except for timber harvesting<sup>11</sup>;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hunting, hiking, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (5) Surveying and other resource analysis; and
- (6) Wildlife and fishery management practices.

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<sup>11</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

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

The following uses shall be 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:

- (1) Agricultural management activities;
- (2) Home occupations: Minor home occupations;
- (3) Normal maintenance and repair or renovation less than \$1,000 in cost; and
- (4) Service drops.

**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.A., §685-B, and subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agriculture management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds;
- (5) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (6) Driveways;
- (7) Filling and grading;
- (8) Hand-carry launches: Commercial, private and public hand-carry launches;
- (9) Home occupations: Major home occupations;
- (10) Mineral exploration activities: Level A mineral exploration activities, including associated access ways; and Level B mineral exploration activities;
- (11) Mineral extraction operations affecting an area up to 30 acres in size provided the unreclaimed area is less than 15 acres, for road purposes, except for gravel extraction for road purposes less than 5 acres in size;
- (12) Normal maintenance and repair or renovation equaling or exceeding \$1,000 in cost, or additions and expansions to any legally existing structure or use that do not meet the definition of substantial improvement;
- (13) Recreational lodging facilities having not more than 1,000 square feet of gross floor area:
  - (a) Level A; and
  - (b) Level B;
- (14) Road projects: Level A, B and C road projects;
- (15) Shoreland alterations, including temporary docking structures, on-shore structures used to secure docks and moorings, and reconstruction of permanent docking structures; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (16) Signs;
- (17) Trailered ramps: Commercial and public trailered ramps;
- (18) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (19) Utility facilities, except for service drops;
- (20) Water crossings, except for water crossings on/for land management roads;
- (21) Water impoundments;

- (22) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (23) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,C,3,a through c; and
- (24) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**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.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Commercial and industrial: Commercial and industrial structures of less than 8,000 square feet which 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;
- (2) Docking structures: New or expanded permanent docking structures;
- (3) 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) 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) Trailered ramps: Private trailered ramps; and
- (6) Water-access ways.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-FP subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings on/for land management roads.

**f. Prohibited Uses**

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

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

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### **1. Purpose**

The purpose of the P-FW subdistrict is to conserve important fish and wildlife habitats essential to the citizens of Maine because of their economic, recreational, aesthetic, educational or scientific value.

### **2. Description**

This subdistrict shall 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:
  - (1) The following must be shown for all shelter portions of deer wintering areas proposed for a P-FW subdistrict:
    - (a) Documentation of use as a deer wintering area during a minimum of two years over the most recent 10 year period at the time of designation; for at least one of such years, such documentations shall be based upon ground observation by a wildlife biologist of the Maine Department of Inland Fisheries and Wildlife during or following a period of winter conditions, but no later than May 1 in any year, showing extent of deer use for winter shelter as evidenced by deer tracks, current and past deer browsing, deer pellet depositions, and/or bedding sites, such that a population of at least 20 deer per square mile in the shelter area may be estimated. A P-FW subdistrict may be established for an area with an estimated population of fewer than 20 deer per square mile if, in the Commission's judgment, it is necessary to meet the purpose of the P-FW subdistrict. In this regard, the Commission may be guided by "Planning for Maine's Inland Fish and Wildlife Resources, 1986-1991", of the Maine Department of Inland Fisheries and Wildlife, and associated documents, including the white-tailed deer assessment and strategic plan; and
    - (b) Occurrence of forest stands that are composed of over 50 percent conifer stems and contain a conifer crown closure of over 50 percent with predominant tree heights of over 35 feet; and
  - (2) The Maine Department of Inland Fisheries and Wildlife (MDIFW) has submitted to the Commission a status report containing the following information:
    - (a) Deer population and deer habitat goals for the state and the applicable Wildlife Management District (WMD) – see Map 10.23,D-1;
    - (b) Estimated current population of deer in the state and the applicable WMD;
    - (c) Amount of land designated as P-FW subdistricts in the applicable WMD;
    - (d) Existing information on the amount of deer wintering habitat in organized towns within the applicable WMD;

- (e) Amount and location of land designated as P-FW subdistricts in the subject township and all townships abutting the subject township;
  - (f) A qualitative and, if available, quantitative assessment, based on existing information, of the importance of the area proposed as a P-FW subdistrict to other wildlife species of particular significance, including those identified by state or federal agencies as Endangered, Threatened, Special Concern, Indeterminate Status, or Watch List; and
- (3) The combined area of the shelter portions of deer wintering areas designated as P-FW or P-4 subdistricts within the applicable WMD must not exceed 3.5% of the area of that WMD; and
- (4) The Maine Department of Inland Fisheries and Wildlife has consulted with the landowner in one of the following ways:
- (a) The Maine Department of Inland Fisheries and Wildlife has offered, in writing, to the landowner whose land is under consideration for designation as a P-FW subdistrict the opportunity to accompany the Department and observe its ground survey of the area proposed for designation, and has met with the landowner following such survey for the purpose of reaching agreement as to the area to be designated as a P-FW subdistrict. In making its offer, the Department may require prior agreement by the landowner to reasonably limit activities that would affect designation of the area while it remains under consideration:
    - (i) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW subdistrict;
    - (ii) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported in writing to the Commission by the Department and the landowner; or
  - (b) The Maine Department of Inland Fisheries and Wildlife has not offered, in writing, to the landowner whose land is under consideration for designation as a P-FW subdistrict the opportunity to accompany the Department and observe its ground survey of the area proposed for designation, but has met with the landowner following its ground survey for the purpose of reaching agreement as to the area to be designated as a P-FW subdistrict:
    - (i) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW subdistrict;
    - (ii) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported to the Commission by the Department and the landowner. Notwithstanding that disagreement, if the Commission finds that the area meets the criteria for designation as a P-FW subdistrict and applies the P-FW designation to the area, within two years of the date of that subdistrict designation, the landowner may request reconsideration of the designation if the landowner has obtained new information indicating the area did not meet the criteria set forth in Section 10.23,D,2,b,(1) at the time of designation. The Commission will give the Department at least 90 days notice of its receipt of a request for reconsideration prior to deciding that request.

- c. Upon request or agreement by the landowner, the configuration of a P-FW subdistrict may be modified in order to provide the subdistrict with boundaries of reasonably regular shape.
- d. The provisions of Section 10.23,D,2,b, as amended on June 20, 1991, shall apply only to proposals to rezone areas to the P-FW subdistrict that are submitted to the Commission after June 20, 1991.
- e. The Commission may change a P-FW subdistrict by reducing its size or by changing it to another subdistrict designation if it finds by substantial evidence that:
  - (1) The area designated as a P-FW subdistrict is no longer substantially used as a wintering area by deer and has not been so used for a period of ten years; and
  - (2) The change is consistent with the Comprehensive Land Use Plan; and
  - (3) The change is more appropriate for the protection and management of the resource within the affected area.

Alternatively, the Commission may approve such a subdistrict change if the owner of the affected land designated as P-FW and the Commissioner of the Maine Department of Inland Fisheries and Wildlife agree that such change is appropriate or the area is not needed to meet the deer management objectives established by the Department.

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

- f. Coastal nesting islands or portions thereof, to be zoned as P-FW will be determined by the following:
  - (1) Documentation of use by significant numbers of island nesting sea birds through an on-site investigation as reported in the U.S. Fish and Wildlife Service, Maine Cooperative Wildlife Research Unit's Maine Sea Bird Inventory. Breeding population estimates shall be based upon counts of individual nesting pairs and/or visual estimate of the total nesting population of a species.
  - (2) An island or portion thereof will be considered essential to the maintenance of sea bird populations when: (a) it provides habitat for one percent or more of Maine's total island breeding population of a particular species, or (b) the sum of such percentages for all species on the island is 1 or greater (the individual percentage is determined by dividing the island breeding population by Maine's total island breeding population for a particular species as determined by the latest information available from the Maine Sea Bird Inventory), or (c) when, in the Commission's judgment, protection of an island or portion thereof is essential to the maintenance of the distribution and abundance of a specific species of sea bird.

The colonial sea bird species considered in the above determination include, but are not limited to: common eider (*Somateria moullissima*), Atlantic puffin (*Fratercula arctica*), razorbilled auk (*Alca torda*), black guillemot (*Cepphys grylle*), snowy egret (*Leucophogx thula*), glossy ibis (*Plegadis falcinellus*), arctic tern (*Sterna paradisaea*), common tern (*Sterna hirundo*), roseate tern (*Sterna dougallii*), herring gull (*Larus argentatus*), great black-backed gull (*Larus marinus*), laughing gull (*Larus arcticilla*), Leach's petrel (*Oceanodroma leucorhoa*), double-crested cormorant (*Phalacrocorax auritus*), black-crowned night heron (*Nycticorax nycticorax*), and great blue heron (*Ardea herodias*).

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within P-FW subdistricts (provided, however, only wildlife and fishery management practices approved by the Maine Department of Inland Fisheries and Wildlife or the U.S. Fish and Wildlife Service shall be permitted without prior approval of the Commission from May 1st to July 15th in P-FW subdistricts established for colonial nesting sea birds):

- (1) Docking structures: Temporary docking structures for non-commercial use in the shelter portion of deer wintering areas;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (5) Surveying and other resource analysis;
- (6) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (7) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within P-FW subdistricts, subject to the applicable requirements set forth in Sub-Chapter III (provided, however, only wildlife and fishery management practices approved by the Maine Department of Inland Fisheries and Wildlife or the U.S. Fish and Wildlife Service shall be permitted without prior approval of the Commission from May 1st to July 15th in P-FW subdistricts established for colonial nesting sea birds):

- (1) Forest management activities, except for timber harvesting<sup>12</sup> and land management roads;
- (2) Home occupations: Minor home occupations;
- (3) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (4) Road projects: Level A road projects;
- (5) Service drops;
- (6) Signs; and
- (7) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

#### c. Uses Requiring a Permit

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

- (1) Agricultural management activities;
- (2) Campsites;

<sup>12</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (5) Filling and grading;
- (6) Home occupations: Major home occupations, **except in those plantations and townships listed in Section 10.23,D,3,d;**
- (7) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (8) Mineral exploration activities: Access ways for Level A mineral exploration activities; and Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
- (9) Road projects: Level B road projects;
- (10) Shoreland alterations, including temporary docking structures, and on-shore structures used to secure docks and moorings, except as provided for in Section 10.23,D,3,a; but excluding marinas, permanent docking structures, water access ways, trailered ramps, and hand-carry launches;
- (11) Signs which are not in conformance with the standards of Section 10.27,J;
- (12) Utility facilities excluding service drops;
- (13) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings on/for land management roads; water crossings of bodies of standing water and of major flowing waters, except for water crossings of bodies of standing water and of major flowing waters on/for land management roads;
- (14) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (15) Other structures, uses or services that are essential for uses listed in Section 10.23,D,3,a through c; and
- (16) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-FW subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: Permanent docking structures;
- (2) Driveways;
- (3) Hand-carry launches;

- (4) Home occupations: Major home occupations in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Mineral exploration activities: Level B mineral exploration activities;
- (6) Residential: Single family dwellings;
- (7) Road projects: Level C road projects;
- (8) Trailered ramps;
- (9) Water-access ways; and
- (10) Water impoundments.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-FW subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

**f. Prohibited Uses**

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

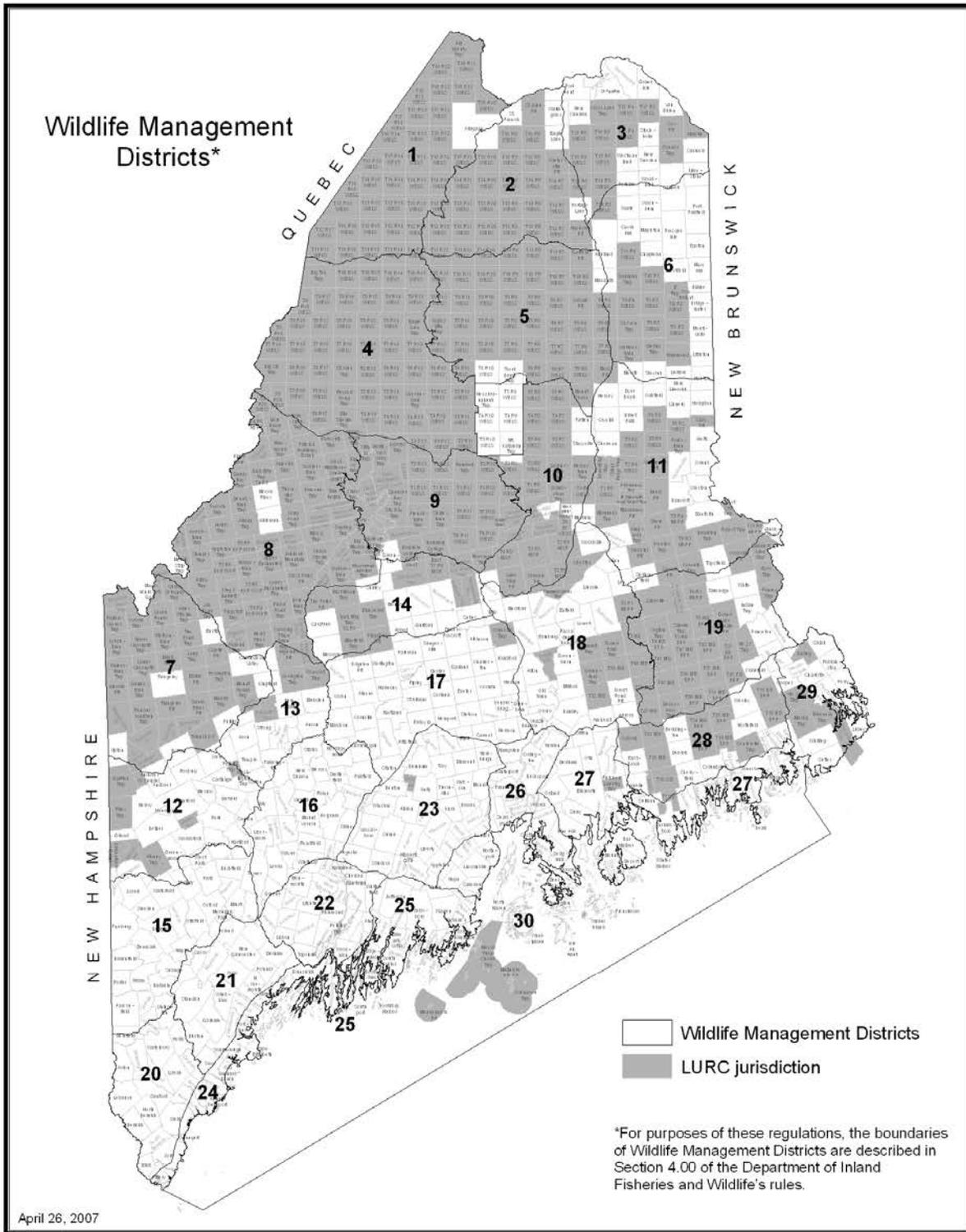


Figure 10.23,D-1 Wildlife Management Districts.

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

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### **1. Purpose**

The purpose of the P-GP subdistrict is to regulate residential and recreational development on Great Ponds to protect water quality, recreation potential, fishery habitat, and scenic character.

### **2. Description**

Areas within 250 feet of the normal high water mark, measured as a horizontal distance landward of such high water mark, of those bodies of standing water 10 acres or greater in size.

### **3. Land Uses**

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

The following uses shall be allowed without a permit from the Commission within P-GP subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>13</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

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

- (1) Accessory structures: New or expanded structures accessory to, and located on the same lot as, any legally existing principal structures and uses, provided that:
  - (a) The accessory structure is located in a subdistrict that allows the principal use; and
  - (b) The total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Driveways associated with residential uses;
- (5) Filling and grading;

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<sup>13</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (6) Hand-carry launches: Commercial and public hand-carry launches;
- (7) Home occupations: Minor home occupations;
- (8) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (9) Road projects: Level A road projects;
- (10) Service drops;
- (11) Signs;
- (12) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,b and c,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (13) Trailered ramps: Public trailered ramps; and
- (14) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

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

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Filling and grading, which is not in conformance with the standards of Section 10.27,F;
- (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,E,3,b which are not in conformance with the standards of Section 10.27,L;
- (9) Home occupations: Major home occupations, **except in those plantations and townships listed in Section 10.23,E,3,d;**
- (10) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (12) Residential: Single family dwellings;
- (13) Road projects: Level B and C road projects, except for water crossings of minor flowing waters as provided for in Section 10.23,E,3,b;
- (14) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;

- (15) Signs which are not in conformance with the standards of Section 10.27,J;
- (16) Structures: Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (17) Trails which are not in conformance with the standards of Section 10.27,B,1,b and c,2, and 4 and 10.27,F;
- (18) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.23,E,3,b which are not in conformance with the standards of Section 10.27,L;
- (19) Utility facilities other than service drops;
- (20) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except water crossings of minor flowing waters on/for land management roads; and water crossings of bodies of standing water and of major flowing waters, except water crossings of bodies of standing water and of major flowing waters on/for land management roads;
- (21) Water-dependent structures for recreational lodging facilities in compliance with Section 10.27,Q,7;
- (22) Water impoundments;
- (23) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B,(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (24) Other structures, uses, or services that are essential for uses listed in Section 10.23,E,3,a through c; and
- (25) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-GP subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Commercial: Retail stores and restaurants with a gross floor area of no more than 2,000 square feet; and
- (2) Recreational lodging facilities:
  - (a) Level A;
  - (b) Level B; and
  - (c) Level C.

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (3) Docking structures: New or expanded permanent docking structures;

- (4) Home occupations: Major home occupations in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Peat extraction affecting an area less than 5 acres in size;
- (6) Trailered ramps: Private trailered ramps; and
- (7) Water-access ways.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-GP subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

**f. Prohibited Uses**

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

**g. Water Quality Limiting Lakes**

Water Quality Limiting Lakes shall be those bodies of standing water 10 acres or greater in size where the Commission determines from available information that the maximum number of allowable dwelling units, as determined by minimum shoreline frontage requirements for such water body, would give rise to a significant risk of increasing the phosphorus concentration of the water by 5 parts per billion or more.

With respect to future development, including subdivisions, near such water bodies, the Commission may impose additional and/or more protective standards with respect to clearing, frontage and setback requirements, sewage disposal, and other aspects of such development so as to reasonably assure that the above stated maximum allowable change in phosphorus concentration for such water bodies is not exceeded.

The methodology used to identify water quality limiting lakes is shown in Appendix A of this chapter.

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

### **1. Purpose**

The purpose of the P-GP2 subdistrict is to accommodate seasonal, recreational uses on lakes valued for their semi-remote character and determined to be suitable for limited development through a prospective planning process. This subdistrict is designed to site appropriate uses at a density and in a pattern of development that conserves the essential character of these lakes, and to accommodate traditional uses such as commercial sporting camps and public access. This subdistrict also provides a greater degree of certainty to both the landowners and the public as to the amount of development and conservation that will occur along certain lake shorelines.

### **2. Description**

This subdistrict includes areas within 500 feet of the normal high water mark, measured as a horizontal distance, of those lakes listed below:

- Azischohos Lake within Lincoln Plantation, Oxford County;
- Lower Richardson Lake, Township C, Oxford County.

The depth of this subdistrict may be deeper than 500 feet to allow development design in the project area that better meets the purpose of this subdistrict. Adjustments will only be made that do not increase the acreage of the project area by more than 10 percent or deviate from the uses allowed in this subdistrict.

Lakes classified as Management Class 3 or 7 may be included on this list only after analysis and review by the Commission through a prospective planning process.

Using Section 10.08 of these rules, the Commission shall designate areas for this subdistrict that are consistent with its purpose and suitable for supporting development when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's rules and regulations.

### **3. Land Uses**

The provisions of the P-GP2 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.

Development in this subdistrict will be for seasonal and recreational uses designed to conserve the shoreline character of these lakes and other values such as fisheries and solitude. Except where already in place or in locations near an existing three-phase line, utility facilities and service drops are not an allowed use in order to maintain the existing character and semi-remote experience.

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

The following uses shall be allowed without a permit from the Commission within P-GP2 subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;

- (3) Forest management activities, except for timber harvesting<sup>14</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within P-GP2 subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural management activities;
- (2) Constructed ponds: Creation, alteration, or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27.C,2,a;
- (3) Driveways associated with residential uses;
- (4) Filling and grading;
- (5) Hand-carry launches: Commercial and public hand-carry launches;
- (6) Home occupations: Minor home occupations;
- (7) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (8) Road projects: Level A road projects;
- (9) Service drops within one half-mile of three phase utility lines in existence as of January 1, 2001;
- (10) Signs;
- (11) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,b and c,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (12) Trailered ramps: Public trailered ramps; and
- (13) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-GP2 subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, and subject to the applicable requirements set forth in Section 10.23.F,3,g below and Sub-Chapter III:

- (1) Agricultural management activities within 250 feet of the normal high water mark which are not in conformance with the standards of Section 10.27,A;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration, or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of

<sup>14</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging, or alteration of the water table or water level for other than mineral extraction;
  - (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
  - (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;
  - (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,F,3,b which are not in conformance with the standards of Section 10.27,L;
  - (9) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
  - (10) Recreational lodging facilities: Level A; and Level B having not more than 8,000 square feet of gross floor area. Individual cabins may not include permanent foundations, otherwise main lodges may be built with or without permanent foundations;
  - (11) Residential: Single family seasonal dwellings without permanent foundations;
  - (12) Road projects: Level B and C road projects, except for water crossings of minor flowing waters, as provided for in Section 10.23,F,3,b;
  - (13) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
  - (14) Signs which are not in conformance with the standards of Section 10.27,J;
  - (15) Structures: Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
  - (16) Subdivisions: Level 1 subdivisions for uses permitted in this subdistrict;
  - (17) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.23,F,3,b which are not in conformance with the standards of Section 10.27,L;
  - (18) Trails which are not in conformance with the standards of Section 10.27,B,1,b and c,2, and 4 and 10.27,F;
  - (19) Utility facilities within one half mile of existing three-phase power lines existing as of January 1, 2001;
  - (20) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings of minor flowing waters on/for land management roads; and water crossings of bodies of standing water and of major flowing waters, except for water crossings of bodies of standing water and of major flowing waters on/for land management roads;
  - (21) Water-dependent structures for recreational lodging facilities in compliance with Section 10.27,Q,7;
  - (22) Water impoundments;
  - (23) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
  - (24) Other structures, uses, or services that are essential for uses listed in Section 10.23,F,3,a through c; and

- (25) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

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

The following uses, and related accessory structures, may be allowed within P-GP2 subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that: (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; (b) there is no alternative site that is both suitable to the proposed use and reasonably available to the applicant; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Trailered ramps: Private trailered ramps; and
- (3) Water-access ways.

#### **e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-GP2 subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction affecting areas less than 2 acres in size, for road purposes;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, and bodies of standing water on/for land management roads.

#### **f. Prohibited Uses**

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-GP2 subdistricts.

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

Parcels within the P-GP2 subdistrict that are in existence as of January 1, 2001 and that have more than 200 feet but less than 400 feet of shore frontage shall be allowed one dwelling unit provided that other applicable requirements are met.

All parcels within the P-GP2 subdistrict that have more than 400 feet of shore frontage may be further developed subject to the following requirements:

- (1) Maximum density of building units. Overall density within each lot shall be no greater than 1 dwelling unit, principal building, or rental cabin for every 400 feet of shoreline up to a maximum density of 13 units per mile of shoreline.

If physical constraints restrict the development potential of more than 50% of the shore frontage of a parcel, the maximum allowable number of building units per mile of shoreline shall be reduced to one per 200 feet of shoreline that is not constrained. Constraints shall include slopes greater than 15%; wetlands; wildlife habitat such as

deer wintering areas, eagle or loon nesting areas; habitat for rare or endangered plant and animals; unique natural communities and natural areas; and historic and archeological resources.

- (2) Building units and density. For the purpose of determining density the following structures shall count as individual building units:

- (a) single family seasonal dwelling units;
- (b) rental cabins associated with campgrounds, sporting camps, or other commercial recreational facilities;
- (c) sporting camp lodges or other commercial recreational base lodge facilities containing three or fewer rental rooms; and
- (d) campgrounds.

Individual campsites, public and private trailered ramps, permanent docking facilities and water-access ways, and non-commercial structures for scientific, educational and/or nature observation purposes shall not count as building units for the purposes of calculating allowable densities. Each set of up to three additional rental rooms, at sporting camp lodges or other commercial recreational base lodge facilities with more than three rental rooms, shall count as an additional unit.

- (3) Phosphorous control. All development shall be designed in accordance with 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 shall conform to the requirements of this manual.
- (4) Extent of shoreline to be conserved. Within subdivisions, at least 50 percent of a landowner's ownership on a shoreline shall be conserved to a depth of 500 feet or the depth of the lot, whichever is less, and set aside as open space according to the provisions of Section 10.25,S. The area to be conserved shall be located so that it will create large and contiguous blocks of open space and/or to conserve sensitive resources and areas used traditionally by the public. This conservation of shoreline shall not affect the amount of development allowed under the maximum density provision above.
- (5) Build-out rate. No more than 20 individual units may be constructed in any ten-year period per lot of record as of the date of adoption of these rules, except that credit for unbuilt units may be carried over to the following time period where a maximum of 40 building units in any 10-year period may be developed.
- (6) Required buffer. No structural development shall be allowed within a ¼ mile radius of any commercial sporting camp, campground, or group of rental cabins associated with a commercial sporting camp or campground. Individual campsites are excluded from this buffering requirement.

The buffer shall extend from the edge of the principal building, dwelling unit, rental unit, or campsite that is closest to any adjacent use.

#### **h. Other Development Considerations**

- (1) Campground, campsite, and rental cabin management. All such facilities offered for rent shall be managed and supervised by an attendant who provides regular and routine oversight.

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**G. MOUNTAIN AREA PROTECTION SUBDISTRICT (P-MA)**


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**1. Purpose**

The purpose of the P-MA subdistrict is to regulate certain land use activities in mountain areas in order to preserve the natural equilibrium of vegetation, geology, slope, soil and climate in order to reduce danger to public health and safety posed by unstable mountain areas, to protect water quality, and to preserve mountain areas for their scenic values and recreational opportunities.

**2. Description**

- a.** Areas above 2,700 feet in elevation, except where the Commission determines from substantial evidence presented to it that designation otherwise would not jeopardize significant natural, recreational or historic resources and where such other designation would be consistent with the purpose, intent and provisions of the Comprehensive Land Use Plan and 12 M.R.S.A. §206-A.

Evidence submitted for consideration in determining whether areas above 2,700 feet in elevation should not be included in a P-MA subdistrict shall include the following:

- (1) Proof that the area meets the definition of the subdistrict in which it is proposed to be placed;
- (2) A soils map showing soil type or soil group names, and a description of their characteristics, demonstrating that the area possesses the following soil conditions:
  - (a) Depth to bedrock of 20" or more,
  - (b) Well or moderately well drained,
  - (c) Slope of less than 25%,
  - (d) A mature soil profile, and
  - (e) Nutrient content and pH status proper to encourage the establishment of vegetation.
- (3) A topographic map indicating the area to be excluded from the P-MA subdistrict;
- (4) A description of scenic conditions and recreational opportunities which shows that there are no areas of scenic value or recreational opportunity which will be unreasonably impaired by excluding such area from the P-MA subdistrict;
- (5) A description of the land use history of the area; and
- (6) Other information pertinent to the suitability of the area, pursuant to 12 M.R.S.A. §685-B(4) for the specific use proposed.

- b.** Mountain areas the Commission identifies below 2,700 feet in elevation when vegetative cover, geology, degree of slope, soil type, and climatic conditions indicate the need to protect such areas in order to achieve the purpose of the P-MA subdistrict.

Evidence submitted for consideration in determining whether areas below 2,700 feet in elevation should be included in a P-MA subdistrict shall include the following:

- (1) A soils map showing soil types or groups and a description of their characteristics demonstrating that the area possesses the following soil conditions:
  - (a) Depth to bedrock of less than 20",
  - (b) Less than moderately well drained,
  - (c) Slope of 25% or greater,

- (d) Soil profile which is not mature, and
  - (e) Nutrient content and pH status not conducive to the establishment of vegetation.
- (2) A topographic map indicating the area to be included in the P-MA subdistrict;
  - (3) A description of scenic conditions and recreational opportunities in the area which demonstrates that the same should be included in the P-MA subdistrict;
  - (4) A description of the land use history of the area; and
  - (5) Other information pertinent to the suitability of the area for inclusion in P-MA subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within P-MA subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest and agricultural management activities, except for timber harvesting<sup>15</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within P-MA subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (2) Road projects: Level A road projects;
- (3) Service drops; and
- (4) Signs.

#### c. Uses Requiring a Permit

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

- (1) Campsites;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (3) Draining or altering the water table or water level for other than mineral extraction;
- (4) Filling and grading;

<sup>15</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (5) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (6) Mineral exploration activities: Access ways for Level A mineral exploration activities; and Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
- (7) Road projects: Level B road projects;
- (8) Signs which are not in conformance with the standards of Section 10.27,J;
- (9) Trails;
- (10) Water crossings, except for water crossings on/for land management roads;
- (11) Water impoundments;
- (12) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (13) Other structures, uses, or services that are essential for exercise of uses listed in Section 10.23,G,3,a through c; and
- (14) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-MA subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10) and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Driveways;
- (2) Mineral exploration activities: Level B mineral exploration activities;
- (3) Road projects: Level C road projects;
- (4) Structures: Structures relating to downhill skiing and other mountain related recreation facilities; and
- (5) Utility facilities.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-MA subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Timber harvesting; and
- (3) Water crossings on/for land management roads.

**f. Prohibited Uses**

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

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## **H. RESOURCE PLAN PROTECTION SUBDISTRICT (P-RP)**

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### **1. Purpose**

The purpose of the P-RP subdistrict is to provide for the more efficient and effective management of single or multiple protection subdistricts (and in some cases adjoining management subdistricts) than can be realized through the use of other protection subdistricts and their related standards. Resource Plans for such areas that are consistent with the requirements of Section 10.23,H,2 through 9 below may be submitted to the Commission for review, and upon approval, such areas shall be designated as P-RP subdistricts.

“Concept plans,” as outlined in the Comprehensive Land Use Plan, are included under the purpose of this subdistrict.

### **2. Description**

P-RP subdistricts shall be designated in areas where the Commission has approved a Resource Plan that:

- a. Incorporates standards, which, taken as a whole, are at least as protective of the natural environment as those standards which would otherwise be applicable; and
- b. Establishes procedures that reduce the need for repetitious permit applications to the Commission; and
- c. Complies with the criteria established below for their review; and
- d. Has as its primary purpose the protection of those resources in need of protection or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection.

### **3. Permitted Uses**

Unless the Commission otherwise provides in approving the Resource Plan, those uses that are specified in the approved Resource Plan shall be allowed without a permit. The Commission may approve the creation of a subdivision within the context of a Resource Plan approved by the Commission without the need for rezoning to a development subdistrict provided such subdivision is consistent with the purpose and intent of this subdistrict.

For land within a P-RP Subdistrict, sub-areas identified in the resource or concept plan as development areas will be regulated (in regards to timber harvesting, land management roads, water crossings on/for land management roads, and gravel extraction) by the Land Use Planning Commission as development subdistricts. Areas not so identified will be regulated by the Maine Forest Service according to the underlying protection and/or management subdistrict. Specific standards incorporated into the resource or concept plans will continue to apply until the expiration or revision of the related plan.

### **4. Ownership**

Before the Commission shall consider an application, the applicant shall submit proof that the applicant owns or leases the area for which the Resource Plan is proposed.

## 5. Application Procedures

All P-RP subdistrict applications shall include at least the following information:

- a. A statement of how the proposed Resource Plan conforms with the purpose of this subdistrict and what objectives will be achieved by the proposed redistricting;
- b. A copy of an existing district map on which the area of the proposed P-RP subdistrict is clearly shown;
- c. A description of the management procedures, conservation easements, covenants, agreements or other formalized procedures that the applicant proposes to use to replace the restrictions and regulations that currently apply. The description shall specify how the Resource Plan achieves equal or better protection of resources in the area than the subdistrict(s) which would otherwise apply;
- d. A copy of all those formal procedures and agreements that will ensure the continued protection of the resources; and
- e. A statement that specifies the expiration date (if any) of the proposed Resource Plan, and of the procedures the applicant may wish to use to extend the provisions thereof.

When the Resource Plan application involves structural development, it shall include, in addition to (a) through (e) above:

- f. Forms, plans, and exhibits as are required by the Commission;
- g. Evidence that the proposal will conform with 12 M.R.S.A. §685-B; and
- h. A covenant stating that no subdivision of the designated area will take place, except as approved by the Commission as part of an approved concept plan.

## 6. Criteria for Review

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

- a. The plan conforms with redistricting criteria;
- b. The plan conforms, where applicable, with the Commission's Land Use Districts and Standards;
- c. The plan conforms with the Commission's Comprehensive Land Use Plan;
- d. The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measures;
- e. The plan has as its primary purpose the protection of those resources in need of protection, or, in the case of concept plans, includes in its purpose the protection of those resources in need of protection;
- f. In the case of concept plans, the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and

- g. In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation.

## **7. Approval or Denial of Resource Plan**

The Commission, after staff review and recommendation, shall approve or deny the redistricting application. If the Resource Plan proposal contemplates structural development, except as provided in Section 10.23,H,3, the Commission may simultaneously with its approval of the P-RP subdistrict, grant, grant with conditions, or deny, applications for such permits as are required for structural development.

Upon approval of the Resource Plan, a P-RP subdistrict shall be designated on the official Land Use Guidance Map and recorded in accordance with the provisions of Section 10.04.

## **8. Duration of Plan**

The provisions of an approved and recorded Resource Plan shall apply for the duration of the approved time period, except that any conservation measures taken to strike a reasonable and publicly beneficial balance in a lake concept plan shall continue to apply to the extent that they are covered by legal contract, deeded covenants, permit requirements, or other legal instruments. The Resource Plan shall be for a minimum of 10 years and may be extended upon approval of the Commission and the applicant. The Resource Plan shall become invalidated if the provisions therein are not complied with.

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

In the event that a plan is terminated, all transactions initiated as a component of the plan, including without limitation, the granting of conservation easements or restrictive covenants on subdivided lands will continue to apply to the extent that they are covered by legal contract, deeded covenants, permit or other legal requirements.

## **9. Amendments**

Proposed amendments to the Resource Plan shall be made in writing to the Commission. An amendment shall be granted provided it meets the criteria for review listed in Section 10.23,H,6 above. An increase in the size of a P-RP subdistrict may be allowed by amendment, upon approval of the Commission, provided that the Resource Plan is amended to include such expanded area.

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## I. RECREATION PROTECTION SUBDISTRICT (P-RR)

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### 1. Purpose

The purpose of the P-RR subdistrict is to provide protection from development and intensive recreational uses to those areas that currently support, or have opportunities for, unusually significant primitive recreation activities. By so doing, the natural environment that is essential to the primitive recreational experience will be conserved.

### 2. Description

P-RR: Trails, and areas surrounding bodies of standing and flowing water and other areas which the Commission identifies as providing or supporting unusually significant opportunities for primitive recreational experiences.

Bodies of standing water so classified include, but are not limited to, those found to meet the definition of Management Class 1 or Management Class 6 Lakes.

In the case of Management Class 1 Lakes, the Protection District shall extend 1/4 mile out from and around the water body; in the case of Management Class 6 Lakes, the Protection District shall extend 1/2 mile out from and around the water body; and in the case of trails and flowing water, the Protection District shall extend 250 feet on each side of the trail or flowing water, measured from the center of the trail or the normal high water mark of the water, provided that such distance may be decreased where a lesser distance will satisfy the purpose of this subdistrict. The extent, as delineated above, of any P-RR subdistrict may be increased upon land owner agreement.

The river segments within the Commission's jurisdiction identified as meriting special protection in the Governor's Executive Order on Maine Rivers Policy, issued July 6, 1982, based upon the 1982 Maine Rivers Study of the Department of Conservation, shall qualify as flowing water appropriate for protection within this subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within P-RR subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Motorized vehicular traffic and snowmobiling with the following exceptions:
  - (a) in the instance of trails designated as P-RR, such traffic and snowmobiling is allowed only on those portions of such trails which are located within the right-of-way of a roadway or utility line; and
  - (b) within any P-RR subdistrict surrounding a body of standing water, such traffic is allowed only in connection with forest or agricultural management activities or in connection with access to and use of existing remote camps; but snowmobiling shall be allowed in such subdistrict;

- (4) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (5) Surveying and other resource analysis; and
- (6) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within P-RR subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Forest and agricultural management activities, except for timber harvesting<sup>16</sup>;
- (2) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, provided that such access ways located in P-RR subdistricts established to protect bodies of standing water shall be discontinued, gated, obstructed or otherwise made impassable to two wheel drive vehicles upon completion of the mineral exploration activity, further provided that, when approval for such is legally required, the Maine Forest Service approves the discontinuance of such access ways, which approval the operator shall request;
- (3) Road projects: Level A road projects;
- (4) Service drops;
- (5) Signs;
- (6) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,b and c,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (7) Water crossings of minor flowing waters, except as provided in Section 10.23,I,3,c below, except water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

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

- (1) Campsites;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (3) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (4) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with Section 10.23,I,3,b or Section 10.27,C;
- (5) Road projects: Level B road projects;
- (6) Shoreland alterations, including permanent on-shore structures used to secure docks and moorings, but excluding marinas, permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (7) Signs which are not in conformance with the standards of Section 10.27,J;
- (8) Trails which are not in conformance with the standards of Section 10.27,B,1,b and c,2, and 4 and 10.27,F;

<sup>16</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (9) Water crossings of major flowing waters, except for water crossings of major flowing waters on/for land management roads; water crossings of all flowing waters surrounded by a P-RR subdistrict established to protect such waters, except for water crossings of all flowing waters surrounded by a P-RR subdistrict established to protect such waters on/for land management roads;
- (10) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (11) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,I,3,a through c; and
- (12) Other structures, uses or services which the Commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the uses or resources they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-RR subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: Permanent docking structures;
- (2) Filling and grading;
- (3) Hand-carry launches;
- (4) Mineral exploration activities: Level B mineral exploration activities;
- (5) Mineral extraction for road purposes, except for gravel extraction less than 5 acres in size and except as provided in Sections 10.23,I,3,b and c above;
- (6) Road projects: Level C road projects;
- (7) Trailered ramps: Public trailered ramps on rivers and streams zoned P-RR to protect flowing waters;
- (8) Utility facilities other than service drops; and
- (9) Water-access ways.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-RR subdistricts but are regulated by the Maine Forest Service. Instances where a permit for the activity issued by the Maine Forest Service also requires review and approval by the Commission are noted.

- (1) Gravel extraction for road purposes less than 5 acres in size (Permits for gravel pits less than 5 acres in size in P-RR subdistricts shall require review and approval by the Commission);
- (2) Land management roads (Permits for land management roads in P-RR subdistricts shall require review and approval by the Commission);

- (3) Skid trails, skid roads, and winter haul roads in P-RR subdistricts established to protect a trail or flowing water;
- (4) Timber harvesting (Permits for timber harvesting in P-RR subdistricts established to protect a trail or flowing water shall require review and approval by the Commission); and
- (5) Water crossings of minor flowing waters, major flowing waters, and of all flowing waters surrounded by a P-RR subdistrict established to protect such waters on/for land management roads (Permits for water crossings on/for land management roads in P-RR subdistricts shall require review and approval by the Commission).

In instances where review and approval by the Commission are required, the Commission will consider all applicable requirements set forth in Sub-Chapter III, except for any criteria that are duplicative of criteria considered by another state agency, and the Commission will consider whether the activity will adversely affect the resources protected by the P-RR subdistrict.

In the case of land management roads in P-RR subdistricts around bodies of standing water, the Commission shall also consider whether there is any reasonable alternative route for the road and whether reasonable and adequate provisions will be made by the applicant to make the road impassable to two wheel drive vehicles following termination of the road's use.

In the case of gravel extraction for road purposes in P-RR subdistricts other than those established to protect flowing waters, the Commission shall require the applicant to show by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.

**f. Prohibited Uses**

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

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

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### **1. Purpose**

The purpose of the P-RT subdistrict is to protect the special resource values of the flowing waters and shorelands of Maine's outstanding river segments as defined in 12 M.R.S.A. §403, while allowing for responsible land management and compatible development in those communities situated as transition areas between unorganized townships and municipalities outside of the Commission's jurisdiction. Such areas are subject to different pressures and uses than those in less developed areas of the jurisdiction.

### **2. Description**

Areas within 250 feet of special rivers as identified in The Maine Rivers Act, 12 M.R.S.A. §403, that are transition areas because they (a) are on the downstream ends of these rivers within the Commission's jurisdiction, and thus are situated between municipalities outside the Commission's jurisdiction and less developed upstream areas, and (b) have established communities and substantial development either on or proximate to the shoreline.

### **3. Land Uses**

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

The following uses shall be allowed without a permit from the Commission within P-RT subdistricts:

- (1) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (2) Motorized vehicular traffic and snowmobiling;
- (3) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (4) Surveying and other resource analysis; and
- (5) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within P-RT subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Driveways associated with residential uses;
- (2) Forest and agricultural management activities, except for timber harvesting<sup>17</sup>;
- (3) Home occupations: Minor home occupations;
- (4) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (5) Road projects: Level A road projects;
- (6) Service drops;
- (7) Signs; and

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<sup>17</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

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

**c. Uses Requiring a Permit**

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

- (1) Campsites;
- (2) Campsites, Residential, provided the setback from the normal high water mark is a minimum of 125 feet;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by a flowing water;
- (4) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (5) Filling and grading;
- (6) Home occupations: Major home occupations, **except in those plantations and townships listed in Section 10.23,J,3,d;**
- (7) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (8) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C;
- (9) Residential: Single family dwellings, provided the setback from the normal high water mark is a minimum of 125 feet;
- (10) Road projects: Level B road projects provided that such roads are set back as far as practicable from the normal high water mark and screened from the river by existing vegetation;
- (11) Shoreland alterations, including temporary docking structures and on-shore structures used to secure docks and moorings for non-commercial use; but excluding marinas, permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (12) Signs which are not in conformance with the standards of Section 10.27,J;
- (13) Trails which are not in conformance with the standards of Section 10.27,B,1,b and c,2, and 4 and 10.27,F;
- (14) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (15) Other structures, uses or services that are essential for the exercise of uses listed in Sections 10.23,J,3,a through c; and
- (16) Other structures, uses or services which the Commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the uses or resources they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-RT subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: Permanent docking structures on rivers and streams zoned P-RT;
- (2) Hand-carry launches on rivers and streams zoned P-RT;
- (3) Home occupations: Major home occupations in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (4) Mineral exploration activities: Level B mineral exploration activities;
- (5) Road projects: Level C road projects, provided that:
  - (a) no reasonable alternative route outside of the P-RT subdistrict exists and that;
  - (b) such roads are set back as far as practicable from the normal high water mark; and
  - (c) they are screened from the river by existing vegetation;
- (6) Trailered ramps: Public trailered ramps on rivers and streams zoned P-RT;
- (7) Utility facilities other than service drops; and
- (8) Water-access ways on rivers and streams zoned P-RT.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-RT subdistricts but are regulated by the Maine Forest Service. Instances where a permit for the activity issued by the Maine Forest Service also requires review and approval by the Commission are noted.

- (1) Gravel extraction for road purposes less than 5 acres in size (Permits for gravel pits less than 5 acres in size in P-RT subdistricts shall require review and approval by the Commission);
- (2) Land management roads (Permits for land management roads in P-RT subdistricts shall require review and approval by the Commission);
- (3) Skid trails, skid roads, and winter haul roads;
- (4) Timber harvesting (Permits for timber harvesting in P-RT subdistricts shall require review and approval by the Commission); and
- (5) Water crossings for skid trails, skid roads and winter haul roads of minor flowing waters and water crossings of major flowing waters (Permits for water crossings in P-RT subdistricts shall require review and approval by the Commission).

In instances where review and approval by the Commission are required, the Commission will consider all applicable requirements set forth in Sub-Chapter III, except for any criteria that are duplicative of criteria considered by another state agency, and the Commission will

consider whether the activity will adversely affect the resources protected by the P-RT subdistrict.

In the case of land management roads in P-RT subdistricts, the Commission shall also consider whether: no reasonable alternative route outside of the P-RT subdistrict exists; they are set back as far as practicable from the normal high water mark; they follow the shortest practicable route in traversing the subdistrict; they are screened from the river by existing vegetation; and they are built in compliance with the road standards for P-SL1 subdistricts.

In the case of gravel extraction, the Commission shall also consider whether the developer has demonstrated that no reasonable alternative mining sites exist outside of the P-RT subdistrict. When new sites must be located within the P-RT subdistrict, the Commission shall require that they shall be set back as far as practicable from the normal high water mark and no less than 75 feet and shall be screened from the river by existing vegetation.

**f. Prohibited Uses**

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

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## **K. SOILS AND GEOLOGY PROTECTION SUBDISTRICTS (P-SG)**

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### **1. Purpose**

The purpose of the P-SG subdistrict is to protect areas that have precipitous slopes or unstable characteristics from uses or development that can cause accelerated erosion, water sedimentation, mass movement, or structural damage, all of which could cause public danger or threaten public health.

### **2. Description**

Areas, 10 acres or more in size, identified by the Commission as having average slopes greater than 60 percent, or areas, 10 acres or more in size, identified by the Commission as having unstable soil which, due to a combination of slope, vegetation, soil type and underlying geology, are subject to accelerated erosion or mass movement.

### **3. Land Uses**

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

The following uses shall be allowed without a permit from the Commission within P-SG subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>18</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

The following uses shall be allowed without a permit from the Commission within P-SG subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural management activities;
- (2) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (3) Road projects: Level A road projects;
- (4) Service drops; and
- (5) Signs.

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<sup>18</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

**c. Uses Requiring a Permit**

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

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (3) Draining, dredging, or alteration of the water table or level for other than mineral extraction;
- (4) Filling and grading;
- (5) Mineral exploration activities: Access ways for Level A mineral exploration activities, Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C, and Level B mineral exploration activities;
- (6) Mineral extraction for road purposes not to exceed 30 acres in size provided the unreclaimed area is less than 15 acres, except for gravel extraction for road purposes less than 5 acres in size;
- (7) Road projects: Level B and C road projects;
- (8) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, and boat ramps and ways;
- (9) Signs which are not in conformance with the standards of Section 10.27,J;
- (10) Trails;
- (11) Utility facilities, except service drops;
- (12) Water crossings, except for water crossings on/for land management roads;
- (13) Water impoundments;
- (14) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (15) Other structures, uses, or services that are essential for the exercise of uses listed in Section 10.23,K,3,a through c; and
- (16) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-SG subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Driveways.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-SG subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings on/for land management roads.

**f. Prohibited Uses**

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

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## L. SHORELAND PROTECTION SUBDISTRICT (P-SL)

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### 1. Purpose

The purpose of the P-SL subdistrict is to regulate certain land use activities in certain shoreland areas in order to maintain water quality, plant, fish and wildlife habitat and in order to protect and enhance scenic and recreational opportunities.

### 2. Description

**P-SL1:** Areas within 250 feet of the normal high water mark, measured as horizontal distance landward of such high water mark, of (a) coastal wetlands, and (b) flowing waters downstream from the point where such waters drain 50 square miles or more.

**P-SL2:** Areas within 75 feet, measured as a horizontal distance landward, of (a) the normal high water mark of flowing waters upstream from the point where such channels drain 50 square miles; (b) the upland edge of those freshwater wetlands identified in Section 10.23,N,2,a,(1),(c) and (2), and (3); and (c) the normal high water mark of bodies of standing water less than 10 acres in size, but excluding bodies of standing water which are less than three acres in size and which are not fed or drained by a flowing water.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within P-SL subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting<sup>19</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis; and
- (7) Wildlife and fishery management practices.

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

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

- (1) Agricultural management activities;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;

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<sup>19</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection “e. Uses Regulated by the Maine Forest Service.”

- (3) Driveways associated with residential uses;
- (4) Filling and grading;
- (5) Hand-carry launches: Commercial and public hand-carry launches;
- (6) Home occupations: Minor home occupations;
- (7) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (8) Road projects: Level A road projects;
- (9) Service drops;
- (10) Signs;
- (11) Trailered ramps: Public trailered ramps;
- (12) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,b and c,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (13) Water crossings of minor flowing waters, except for water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

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

- (1) Agricultural management activities which are not in conformance with the standards of Section 10.27,A and cranberry cultivation;
- (2) Campsites;
- (3) Campsites, Residential;
- (4) Constructed ponds: Creation, alteration or maintenance of constructed ponds 4,300 square feet or greater in size which are not fed or drained by flowing waters, or of such ponds less than 4,300 square feet in size which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (5) Draining, dredging, or alteration of water table or water level for other than mineral extraction;
- (6) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (7) Filling and grading which is not in conformance with the standards in Section 10.27,F;
- (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (9) Home occupations: Major home occupations, **except in those plantations and townships listed in Section 10.23,L,3,d;**
- (10) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (12) Peat extraction affecting an area less than 5 acres in size;
- (13) Recreational lodging facilities: Level A;
- (14) Residential: Single family dwellings;
- (15) Road projects: Level B and C road projects, other than crossings of minor flowing waters as provided for in Section 10.23,L,3,b;

- (16) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (17) Signs which are not in conformance with the standards of Section 10.27,J;
- (18) Structures: Non-commercial structures for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (19) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.23,L,3,b which are not in conformance with the standards of Section 10.27,L;
- (20) Trails which are not in conformance with the standards of Section 10.27,B,1,b and c,2, and 4 and 10.27,F;
- (21) Utility facilities, excluding service drops;
- (22) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except for water crossings of minor flowing waters on/for land management roads; water crossings of coastal wetlands, bodies of standing water, and of major flowing waters, except water crossings of coastal wetlands, bodies of standing water and of major flowing waters on/for land management roads;
- (23) Water-dependent structures for recreational lodging facilities in compliance with Section 10.27,Q,7;
- (24) Water impoundments;
- (25) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (26) Other structures, uses or services that are essential for the exercise of uses listed in Section 10.23,L,3,a through c; and
- (27) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-SL subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible, and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Commercial and industrial: Commercial and industrial structures of less than 8,000 square feet which rely on the water resource for their existence; and
- (2) Recreational lodging facilities:
  - (a) Level B; and
  - (b) Level C.

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (3) Docking structures: New or expanded permanent docking structures;
- (4) Home occupations: Major home occupations in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (5) Trailered ramps: Private trailered ramps; and
- (6) Water-access ways.

**e. Use Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-SL subdistricts but are regulated by the Maine Forest Service.

- (1) Gravel extraction for road purposes less than 5 acres in size;
- (2) Land management roads;
- (3) Timber harvesting; and
- (4) Water crossings of minor flowing waters, major flowing waters, bodies of standing water, and coastal wetlands on/for land management roads.

**f. Prohibited Uses**

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

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## M. UNUSUAL AREA PROTECTION SUBDISTRICT (P-UA)

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### 1. Purpose

The purpose of the P-UA subdistrict is to protect areas of significant natural, recreational, historic, scenic, scientific or aesthetic value which are susceptible to significant degradation by man's activities, and for which protection cannot adequately be accomplished by inclusion in any of the other subdistricts.

### 2. Description

Areas identified by the Commission as important in preserving the historic, scenic, scientific, recreational, aesthetic or water resources of the region or State and which have special land management requirements which cannot adequately be accomplished within another subdistrict, provided that the area is essential to the values sought to be preserved and is no larger than reasonable to protect such values. P-UA subdistricts shall include, but are not limited to, historic or archeological sites or structures, scientific phenomena, natural areas, or important water supply sources. Federal and State Parks and lands, except for public reserved lots, that are not included in P-RP subdistricts may be placed in this subdistrict.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within P-UA subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except timber harvesting<sup>20</sup>;
- (4) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (5) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (6) Surveying and other resource analysis;
- (7) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (8) Wildlife and fishery management practices.

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

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

- (1) Agricultural management activities on Federal or State owned land;
- (2) Campsites owned or operated by Federal or State agencies;
- (3) Hand-carry launches: Public hand-carry launches;
- (4) Home occupations: Minor home occupations;

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<sup>20</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

- (5) Mineral exploration activities: Level A mineral exploration activities, excluding associated access ways;
- (6) Road projects: Level A road projects;
- (7) Service drops;
- (8) Signs; and
- (9) Trailered ramps: public trailered ramps.

**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within P-UA subdistricts upon issuance of a permit from the Commission subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural management activities, except as provided for in Section 10.23,M,3,b;
- (2) Campsites except as provided for in Section 10.23,M,3,b;
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters;
- (4) Driveways;
- (5) Hand-carry launches: Commercial and private hand-carry launches, and hand-carry launches addressed in Section 10.23,M,3,b which are not in conformance with the standards of Section 10.27,L;
- (6) Land application of septage, sludge and other residuals, and related storage and composting activities;
- (7) Mineral exploration activities: Access ways for Level A mineral exploration activities; and Level A mineral exploration activities which are not in conformance with the standards of Section 10.27,C;
- (8) Recreational lodging facilities owned or operated by Federal or State agencies:
  - (a) Level A (campground only);
  - (b) Level B (campground only); and
  - (c) Level C (campground only);
- (9) Road projects: Level B road projects;
- (10) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, and hand-carry launches;
- (11) Trailered ramps: Trailered ramps addressed in Section 10.23,M,3,b which are not in conformance with the standards of Section 10.27,L;
- (12) Water crossings, except for water crossings on/for land management roads;
- (13) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (14) Other structures, uses or services that are essential for the uses listed in Section 10.23,M,3,a through c; and
- (15) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

The following uses are allowed upon issuance of a permit from the Commission according to 12 M.R.S.A. §685-B and subject to the applicable requirements set forth in Sub-Chapter III,

provided that the applicant can show by substantial evidence that the use is compatible with and will not detract from the values of the resources protected by the P-UA subdistricts:

- (16) Campsites, Residential;
- (17) Commercial: Retail stores and restaurants with a gross floor area of no more than 1,000 square feet;
- (18) Filling and grading;
- (19) Home occupations: Major home occupations, **except in those plantations and townships listed in Section 10.23,M,3,d;**
- (20) Recreational lodging facilities: Level A, except as provided for in Section 10.23,M,3,c;
- (21) Residential: Single family dwellings;
- (22) Road projects: Level C road projects;
- (23) Signs which are not in conformance with the standards of Section 10.27,J; and
- (24) Water impoundments.

**d. Special Exceptions**

The following uses, and related accessory structures, may be allowed within P-UA subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Home occupations: Major home occupations in the following plantations and townships provided there is no suitable or reasonably available location in a development subdistrict:
  - Dallas Plantation,
  - Rangeley Plantation, and
  - Sandy River Plantation;
- (3) Mineral exploration activities: Level B mineral exploration activities;
- (4) Peat extraction affecting an area less than 5 acres in size;
- (5) Trailered ramps: Commercial and private trailered ramps;
- (6) Utility facilities excluding service drops; and
- (7) Water-access ways.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-UA subdistricts but are regulated by the Maine Forest Service. Instances where a permit for the activity issued by the Maine Forest Service also requires review and approval by the Commission are noted.

- (1) Gravel extraction for road purposes less than 5 acres in size (Permits for gravel pits in P-UA subdistricts shall require review and approval by the Commission);
- (2) Land management roads (Permits for land management roads in P-UA subdistricts shall require review and approval by the Commission);

- (3) Timber harvesting (Permits for timber harvesting in P-UA subdistricts shall require review and approval by the Commission); and
- (4) Water crossings on/for land management roads (Permits for water crossings on/for land management roads in P-UA subdistricts shall require review and approval by the Commission).

In instances where review and approval by the Commission are required, the Commission will consider all applicable requirements set forth in Sub-Chapter III, except for any criteria that are duplicative of criteria considered by another state agency, and the Commission will consider whether the activity will adversely affect the resources protected by the P-UA subdistrict.

**f. Prohibited Uses**

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

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

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### 1. Purpose

The purpose of the P-WL subdistrict is to conserve coastal and freshwater wetlands in essentially their natural state because of the indispensable biologic, hydrologic and environmental functions which they perform.

Preserving wetlands will promote the public health and safety of persons and protect property against the hazards of flooding and drought by holding back water during floods and retaining water during dry periods. Wetlands also maintain water quality for drinking, store nutrients from upland run-off in plant tissue, serve as settling basins for silt and sediment from upland erosion, stabilize water supply by maintaining the groundwater table and groundwater recharge and discharge areas, and provide plant, fish and wildlife habitat. Wetlands function as integral and irreplaceable parts of a larger natural system, influencing our climate, economy, environment, and natural heritage.

Insofar as this protection subdistrict also includes the area enclosed by the normal high water mark of surface water bodies within the Commission's jurisdiction, the purpose of this subdistrict shall also be to help insure compatible surface water uses on those water bodies where there is the potential for conflict with other uses and values of such water bodies.

### 2. Description

- a. Water bodies and areas meeting the definition of coastal or freshwater wetlands shall be included in P-WL subdistricts as described below:
- (1) **P-WL1:** Wetlands of special significance:
    - (a) Areas enclosed by the normal high water mark of flowing waters and bodies of standing water, except for constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
    - (b) Coastal wetlands, together with areas below the normal high water mark extending seaward to the limits of the State's jurisdiction; or
    - (c) Freshwater wetlands, as follows:
      - (i) Within 250' of the normal high water mark of a coastal wetland or any body of standing water greater than 10 acres;
      - (ii) Containing at least 20,000 square feet in total of the following: aquatic vegetation, emergent marsh vegetation, or open water, unless the wetlands are the result of constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
      - (iii) That are inundated with floodwater during a 100 year flood event;
      - (iv) Containing significant wildlife habitat;
      - (v) Consisting of, or containing, peatlands, except that the Commission may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance;
      - (vi) Within 25 feet of the normal high water mark of a flowing water; or
      - (vii) Containing a natural community that is critically imperiled (S1) or imperiled (S2).

- (2) **P-WL2:**
    - (a) Scrub shrub and other nonforested freshwater wetlands, excluding those covered under P-WL1; and
    - (b) Constructed ponds less than 10 acres in size which are not fed or drained by flowing waters.
  - (3) **P-WL3:** Forested freshwater wetlands, excluding those covered under P-WL1 and P-WL2.
- b.** Areas meriting protection as P-WL1, P-WL2, or P-WL3 subdistricts will be identified by the Commission after consideration of relevant data including, without limitation, identification of freshwater and coastal wetlands 15,000 square feet or larger by the National Wetlands Inventory and, when on-site delineation is required, identification of freshwater and coastal wetlands of any size by 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).
- c.** P-WL subdistricts described in Section 10.23,N,2,a above and identified on the Commission Land Use Guidance Maps may contain inclusions of upland areas or other wetland types smaller than 15,000 square feet that do not conform to the description of P-WL subdistricts in Section 10.23,N,2,a. Such inclusions will be regulated in accordance with the mapped P-WL subdistrict in which they are located.

### 3. Land Uses

#### a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within P-WL subdistricts:

- (1) Boating, with the exception of the use of personal watercraft on bodies of standing water listed in Appendix D of these rules;
- (2) Docking structures: Temporary docking structures, and moorings for non-commercial use;
- (3) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (4) Fish weirs and traps;
- (5) Forest management activities, except for timber harvesting<sup>21</sup>;
- (6) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (7) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (8) Sea or ski plane use;
- (9) Surveying and other resource analysis; and
- (10) Wildlife and fishery management practices.

<sup>21</sup> Explanatory note: Timber harvesting is not prohibited in this subdistrict, but instead is regulated by the Maine Forest Service. (See P.L. 2011, ch. 599.) Refer to subsection "e. Uses Regulated by the Maine Forest Service."

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

The following uses shall be allowed without a permit from the Commission within P-WL subdistricts, subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Agricultural management activities, excluding cranberry cultivation;
- (2) Constructed ponds: Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size within P-WL2 or P-WL3 subdistricts which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (3) Draining, dredging or otherwise altering less than 4,300 square feet of a P-WL2 or P-WL3 subdistrict;
- (4) Driveways associated with residential uses within P-WL2 and P-WL3 subdistricts;
- (5) Filling and grading or otherwise altering less than 4,300 square feet of a P-WL2 or P-WL3 subdistrict;
- (6) Hand-carry launches: Commercial, private and public hand-carry launches within a P-WL2 or P-WL3 subdistrict or below the normal high water mark of flowing waters or bodies of standing water;
- (7) Mineral exploration activities: Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring and digging and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition;
- (8) Motorized recreational gold prospecting within the normal high water mark of flowing waters;
- (9) Road projects: Level A road projects;
- (10) Service drops for telephone or electrical service, including associated vegetative clearing, provided:
  - (a) the line extension does not cross or run beneath a coastal wetland, or flowing water;
  - (b) the placement of wires or installation of utility poles is located entirely upon the premises of the customer requesting service, upon an established utility line easement, upon a roadway right-of-way or, in the case of telephone service, on existing utility poles; and
  - (c) the total length of the extension is less than 2,000 feet;
- (11) Signs;
- (12) Trailered ramps: Public trailered ramps within a P-WL2 or P-WL3 subdistrict or extending below the normal high water mark of flowing waters or bodies of standing water;
- (13) Trails, provided that any associated vegetation clearing or filling and grading are in conformance with the standards of 10.27,B,1,b and c,2, and 4 and 10.27,F, and provided the trails are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (14) Water crossings of minor flowing waters, except water crossings of minor flowing waters on/for land management roads.

**c. Uses Requiring a Permit**

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

- (1) Constructed ponds: Creation, alteration or maintenance of constructed ponds which are not fed or drained by flowing waters
  - (a) of less than 4,300 square feet in size within a P-WL2 or P-WL3 subdistrict which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
  - (b) 4,300 square feet in size or greater within a P-WL2 or P-WL3 subdistrict; and
  - (c) within a P-WL1 subdistrict;
- (2) Cranberry cultivation;
- (3) Docking structures: Temporary docking structures and moorings associated with commercial marinas and recreational lodging facilities, and moorings established for rent or lease on a commercial basis in areas not regulated by a harbor master;
- (4) Dredging, other than for riprap associated with water crossings and except as provided for in Section 10.23,N,3,b;
- (5) Driveways associated with non-residential uses within P-WL2 and P-WL3 subdistricts; driveways associated with residential uses within P-WL2 and P-WL3 subdistricts which are not in conformance with the standards of Section 10.27,H; driveways within P-WL1 subdistricts;
- (6) Filling and grading except as provided for in Section 10.23,N,3,b;
- (7) Hand-carry launches addressed in Section 10.23,N,3,b which are not in conformance with the standards of Section 10.27,L;
- (8) Motorized recreational gold prospecting which is not in conformance with the standards of section 10.27, G;
- (9) Peat extraction affecting an area less than 30 acres in size;
- (10) Road projects: Level B road projects, other than crossings of minor flowing waters as provided for in Section 10.23,N,3,b;
- (11) Shoreland alterations, including reconstruction of permanent docking structures; but excluding marinas, new or expanded permanent docking structures, water access ways, trailered ramps, hand-carry launches, water crossings of minor flowing waters, and motorized recreational gold prospecting;
- (12) Signs which are not in conformance with the standards of Section 10.27,J;
- (13) Trailered ramps: Trailered ramps addressed in Section 10.23,N,3,b which are not in conformance with the standards of Section 10.27,L;
- (14) Trails which are not in conformance with the standards of Section 10.27,B,1,b and c,2, and 4 and 10.27,F;
- (15) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D, except water crossings of minor flowing waters on/for land management roads; and water crossings of coastal wetlands, bodies of standing water, and of major flowing waters, except water crossings of coastal wetlands, bodies of standing water, and of major flowing waters on/for land management roads;
- (16) Water impoundments;
- (17) Wind projects: Community-based offshore wind energy projects, as defined in 12 M.R.S.A. §682(19); offshore wind power projects, as defined in 38 M.R.S.A. §480-B(6A); and wind energy development in accordance with 35-A M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;

- (18) Other structures, uses or services that are essential to the uses listed in Section 10.23,N,3,a through c; and
- (19) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses which they protect, and are of similar type, scale and intensity as other allowed uses.

**d. Special Exceptions**

Except as provided for in Section 10.23,N,3,b,(3) and (5), the following uses, and related accessory structures, may be allowed within P-WL subdistricts as special exceptions upon issuance of a permit from the Commission according to 12 M.R.S.A. §685-A(10) and subject to the applicable requirements set forth in Sub-Chapter III provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses or resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Docking structures: New or expanded permanent docking structures;
- (2) Draining or altering of the water table or water level for other than mineral extraction;
- (3) Hand-carry launches, except as provided for in Sections 10.23,N,3,b and c;
- (4) Lobster sheds and fish sheds, as provided for in Section 10.25,T,2,p,(6);
- (5) Marinas;
- (6) Mineral exploration activities: Level A mineral exploration activities, except as provided for in Section 10.23,N,3,b,(8), 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.

**e. Uses Regulated by the Maine Forest Service**

Pursuant to Statute, the following uses are not regulated by the Commission within P-WL subdistricts but are regulated by the Maine Forest Service.

- (1) Land management roads;
- (2) Timber harvesting; and
- (3) Water crossings of minor flowing waters, major flowing waters, bodies of standing water and coastal wetlands on/for land management roads.

**f. Prohibited Uses**

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