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Notice of Agency Rule-making

AGENCY: MAINE LAND USE PLANNING COMMISSION,
Department of Agriculture, Conservation & Forestry

CHAPTER NUMBER AND TITLE: Chapter 10, Land Use Districts and Standards

PROPOSED REVISION: Adoption of Rural Business Development Subdistrict in Washington County

BRIEF SUMMARY: The Maine Land Use Planning Commission is seeking public comment on proposed amendments to Chapter 10, *Land Use Districts and Standards*, regarding extending the opportunity for Rural Business Development subdistricts into Washington County in partnership with the Washington County Commissioners through the Commission's Community Guided Planning and Zoning program. This regional planning effort implements the directive in Public Law 2011, Chapter 682, Section 34, for the Commission to initiate prospective zoning in the unorganized and deorganized parts of the state. The purpose of the Rural Business Development Subdistrict (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 the D-RB are selected to maintain the rural character of the region and avoid significant visual, natural resource, and fiscal impacts of unplanned growth. The D-RB subdistrict would 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.

Date, time and location of PUBLIC HEARING: None scheduled

COMMENT DEADLINE:

Written comments must be submitted on or prior to October 30, 2017;

Written rebuttal comments must be submitted on or prior to November 13, 2017.

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STATUTORY AUTHORITY FOR THIS RULE: 12 M.R.S. §§ 685-A(3); 685-A(7A); and §685-C(5)

AGENCY WEBSITE: www.maine.gov/doc/lupc.



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

**Proposed Rulemaking: Adoption of the Rural Business
Development Subdistrict in Washington County**

September 13, 2017 Draft

The following revisions propose changes to Chapter 10, *Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission*. This document only includes relevant sections of Chapter 10.

Underlined text indicates additions and stricken text indicates deletions. Text relocated without changes was not tracked for the purposes of this draft.

I. RURAL BUSINESS DEVELOPMENT SUBDISTRICT (D-RB)

(Applies only to certain locations within Aroostook County and Washington 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:

(a) Aroostook County

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.

(b) Washington County

Baring Plt., Brookton Twp., Cathance Twp., Edmunds Twp., Marion Twp., and Trescott, Twp.

Except as provided in Section 10.21.I.2.b.(2) below, the D-RB subdistrict must be fully located within one half mile of the following public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns: Routes 1, 86, 189, and 191.

To be eligible, the parcel or at least one parcel in a contiguous group of parcels proposed for re-zoning to a D-RB subdistrict in Washington County must have frontage on at least one of the public roads listed in Section 10.21.I.2.b.(1),(b) above.

- (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

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) Aroostook County: 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);

(b) Washington County: 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 listed in Section 10.21.I.2,b,(1),(b), or in accordance with Section 10.21.I.2,b(2);

...

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:

...

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) Aroostook County: 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);

(b) Washington County: Rural Business in conformance with the requirements of Section 10.27,R:

(i) Category 3, within one quarter mile of a public road listed in Section 10.21,I,2,b,(1),(b), or in accordance with Section 10.21,I,2,b(2);

...

10.26 DIMENSIONAL REQUIREMENTS

F. MAXIMUM STRUCTURE HEIGHT

1. Except as provided for in Section 10.26,F,2, 4, and 45 below, the maximum structure height shall be:
 - a. 75 feet for residential uses, campsites, and residential campsites; and
 - b. 100 feet for commercial, industrial, and other non-residential uses involving one or more structures.
2. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater or coastal wetland shall be no higher than 30 feet. The Commission may apply this provision at greater distances from the normal high water mark of bodies of standing water having

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significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Bodies of standing water having such scenic values are shown in Appendix C.

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

4. Structure Height in Prospectively Zoned Areas.

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

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