
COMMENTS RECEIVED FOR PROPOSED CHAPTER 10 RULE REVISIONS:
RECREATIONAL LODGING AND REVEGETATION STANDARDS

Maine Land Use Planning Commission
Maine Department of Agriculture, Conservation and Forestry

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Comments Submitted:

Sarah Medina;

Land Use Planning Commission Staff;

Natural Resources Council of Maine; and

Appalachian Mountain Club

Rebuttal Comment Deadline: April 24, 2015

Proposed Rule Revisions: Recreational Lodging and Revegetation Standards

http://www.maine.gov/dacf/lupc/laws_rules/proposed_rules/chapter10/reclodging_revegetation/2015_March_RecLodgingRevisions.pdf

SECTION 10.02 – DEFINITIONS

“208. Transient Occupancy: “Occupancy that does not exceed 120 ~~consecutive~~ days in a calendar year” 12M.R.S.A. §682(18). ~~For the purposes of the application of the Commission’s rules regarding~~ With respect to campsites, residential campsites, and campgrounds ~~the Commission considers~~ occupancy is measured by ~~to mean~~ the length of time the tent, trailer, camper, recreational vehicle, or similar device used for camping is located on the site.”

Maine has many seasonal visitors, including returning “snow-birds” that camp for more than 120 days. Also, some people use their campers for a few months in the spring, then again in the fall, for a total of more than 120 days. Going from 120 consecutive days to 120 calendar days puts an imposition on many people. For what? If LUPC is trying to prevent people from essentially living on a campsite (only leaving for a few days at a time), then increase the calendar days to at least 180 days. That would allow seasonal use, May-October. Don’t penalize

Retain “consecutive” or change from 120 to 210 or 180 calendar days.

people who are observing the seasonal rule.

Sec 10.26 B. minimum shoreline frontage – 150’ minimum is proposed for campsites on streams & <10 acre water bodies, and 200’ proposed for campsites fronting on a flowing water draining 50 square miles or more or a body of standing water 10 acres or greater in size.

One can understand a desire to space residential campsites, but 150-200’ is excessive. For tent sites, it is extreme. If we have to commit 200’ shorefront for a lakefront public campsite (e.g. Aziscoos Lake, Richardson Lake, North Maine Woods) landowners have no incentive to ever create another campsite. Landowners typically receive no income for providing public campsites. (All the campsite income North Maine Woods collects is used to manage/maintain the sites; none goes to the landowner.) We’d be better off to create a private lease.

Campsites should not be lumped in with residential uses.

Frontages should be 50’ for *campsites and 100’ for residential campsites (with pressurized water and a structure.) *Campsites may include outhouse, picnic table shelter, picnic table, fire-ring, lean-to and/or tent platform.

Frontage should depend on the use of the site, not the size of the water body. Why should a remote campsite on the St. John River have 200' of frontage, one on the Cuscuta River 150' and one on Aziscoos Lake 200' when 50' is suitable in all locations?

Commercial campground owners need to maximize waterfront usage in order to compete with other more lucrative uses of waterfront land. At the rates people are willing to pay to camp at commercial campgrounds, and given the tax values/rates on waterfront, campground owners will likely be better off to sell for development rather than create or upgrade campsites. Who would dedicate 2000' of lakefront to a 10 lot commercial campground when a 10 lot subdivision would net far more income?

The proposed frontages may be designed to "protect" the public by screening campers from other campers, but the unintended consequence will be fewer campsites.

Sec 10.26 C. minimum road frontage – "100 feet per dwelling unit for residential uses, campsites, and residential campsites" is proposed.

Many campsites do not have road frontage. Road frontage should be n/a.

Delete campsites and residential campsites from this section.

Sec 10.26 F. maximum structure height – proposed "75 feet for residential uses, campsites, and residential campsites."

75' is excessive for a campsite. Certainly will never be exceeded, so it seems silly, but isn't a problem.

Sec. 10.27, B Vegetative Clearing

5. (a) "The property owner must submit a revegetation plan, prepared with and signed by a qualified professional..."

Who is a "qualified professional?" Many homeowners are savvy landscapers though not formally trained. LUPC staff should have enough experience to know if the plan looks reasonable. In cases of uncertainty, there are resources within DACF to advise LUPC.

Delete requirement for a qualified professional.

5. (b) "Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed..."

Why not allow a swap of locations if the applicant can demonstrate another section of the property would benefit more than the immediate area? There may be a degraded area where restoration of vegetation would be preferable than the same segment of shoreline, or it may be environmentally preferable to spread the revegetation over a wider area so it is all partially revegetated.

Add flexibility.

5. (c) Requirements for trees and saplings

(2) "Replacement vegetation must at a minimum consist of saplings;"

The presumption must be that saplings are better for aesthetic reasons. Seedlings, however, typically adapt quicker, grow better and require less tending (watering) until they become well-established.

At the very least allow for a mix of seedlings and saplings.

5. (c) (3) "If more than three trees or saplings are planted, then at least three different species shall be used."

Why three species? If it is softwood ground, we're better off to plant longer-lived spruce rather than fir, and skip the hardwood. Spruce, cedar and hemlock would meet the requirement, but why is that better than all spruce?

Can live with three but it doesn't seem necessary.

5. (c) (6) "A survival rate of at least 80% of planted trees or saplings is required for a minimum five years period."

We've seen what happens when camp owners are asked to plant trees. Tree by tree, they die. Often it is because the camp owner is only there periodically to water them in the first couple years. After that, they get trampled or pulled or cut.

Make it 80% for 10 years minimum.

5. (d) Requirements for woody vegetation and (e) ground cover

Adjust as necessary given the above.



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
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WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

Memorandum

To: Maine Land Use Planning Commission
From: Samantha Horn Olsen, Planning Manager
Date: April 16, 2015
Re: Proposed Chapter 10 Rule Amendments Regarding Recreational Lodging and Revegetation Standards

The proposed rule revisions are intended to address a number of corrections or adjustments that have arisen since the recreational lodging rulemaking in 2013. Many of these are technical in nature, and it is important that they are executed correctly. As Commission staff have had further opportunity to hear from affected individuals, consult with each other and consider examples of these issues on the ground, it has become clear that some of the proposed corrections could be made more efficient or effective if they are revised. Because some of these issues may not be specifically addressed in public comment, the staff wish to present this information so that it may be considered by the public during the rebuttal period and subsequently by the Commissioners.

Campsites (Section 10.26)

- Minimum Frontage Requirements

The current language in section 10.26,B and C is unclear as to whether campsites must meet shoreline and road frontage requirements. The general past practice has been that campsites do not need to meet either frontage requirement. Shoreline and road frontage requirements applied on a per-campsite basis would influence which lots could be used for campsites. Based on the statutory definition of “campsite,” each campsite may have up to four camping locations, each capable of accommodating 12 individuals. The result is that up to 48 people may occupy a campsite. There is no minimum lot size for a campsite. Although there is some risk of a high density of users on lots that contain multiple camping locations, staff’s experience in the field is that this has only been an occasional problem. The variability in the number of people staying at a campsite is significantly more variable than the number of people staying at dwellings or other uses involving buildings. A regulation designed to deal with the “worst-case” scenario of a campsite with 48 people on a small lot may unduly restrict the more typical campsite with a lower capacity. In the future, more effective ways to address potential impacts associated with high density campsites on small lots could be through the application of the “no undue adverse impact” standard when permitting waterfront campsites and better defining what constitutes a campground.

Staff suggest that Sections 10.26,B and C be revised in two ways:

- i) Strike “~~campsites~~” from Section 10.26,B,1,a and 2,a, and from 10.26,C,1,a; and
- ii) In separate provisions in Sections 10.26,B,1 and 2, and 10.26,C,1, either establish a minimum

dimensional requirement for campsites or state that lots developed only with a campsite do not require any minimum shoreline frontage/road frontage.

- Minimum Lot Coverage

In addition, it became clear during our discussions that it would also be helpful to clarify that the current practice is that the minimum lot coverage requirements of section 10.26,E are applied to campsites. This dimensional requirement may help influence the density of uses on a lot developed with a campsite.

Residential Campsites

- Definition of Residential Campsite (Section 10.02,177)

Part of the revisions proposed to Section 10.02,177 could be construed to mean that every lot, whether conforming or not, could contain a residential campsite (*i.e.*, “**Each lot may contain one** residential campsite designed to contain not more than one (1) camping site...”). However, the intent is that a lot may contain only one residential campsite, and that such a campsite is allowable with or without a dwelling on the property.

Staff recommend clarifying the definition by revising Section 10.02,177, “...**Each A single** lot may contain **only** one residential campsite, **whether or not a dwelling is present**, designed to ...”.

This is a clarification of the intent of the original rule, and there is no change in how the Commission is applying the provision.

- Dimensional Requirements (Sections 10.26,B, C, and F)

Sections 10.26,B, C, and F each include proposed text to confirm and clarify that residential campsites must meet the same dimensional requirements that residential uses must meet. However, the phrasing of the proposed additions is inappropriately structured and confusing. For example, the draft language reads... “150 feet per dwelling unit for residential campsites.” The language in these sections should be restructured or rephrased.

Further, the revisions should clearly allow a lot, located on great pond, that contains: 40,000 square feet, 200 feet of shoreline frontage, and 100 feet of road frontage; and meets the setback requirements of Section 10.26,E,1, to contain: a dwelling, a residential campsite, or a dwelling and a residential campsite.

As a result, staff recommend the following conceptual revisions:

- i) Revise 10.26,A label, “**Residential Uses and Residential Campsites**”;
- ii) Strike “~~residential campsites~~” from Section 10.26,B,1,a and 2,a, and from 10.26,C,1,a; and
- iii) In separate provisions in Sections 10.26,B,1 and 2, and 10.26,C,1, state the minimum dimensional requirement for lots that only contain a residential campsite.

The following illustrates these concepts in one of the rule sections:

1. *For lots fronting on a flowing water draining more than 2 square miles but less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, the minimum shoreline frontage shall be:*
 - a. *150 feet per dwelling unit for residential uses ~~residential campsites, and residential campsites; and~~*
 - b. *200 feet for commercial, industrial, and other non-residential uses involving one or more buildings; and*
 - c. *150 feet for a lot that only contains a residential campsite.*

Clearing (Section 10.27,Q,1 and 5)

- Drip Edge

The revision to Section 10.27,Q,1 includes, “...**measured from the drip edges of the remaining trees**...”; however this raised confusion with the use of the term “drip edge” as that term can also be used to describe

building materials in a structure. As a result, it may be more appropriate to refer to this as “from the edges of the remaining crown or canopy”.

The term drip edge in the third paragraph of Section 10.27,Q,1, could be replaced with remaining crown or canopy.

Revegetation Standards

- Hiring a Qualified Professional (Section 10.27,B,5,a)

While involving a qualified professional makes sense for complex or large clearing violations, or where sensitive resources are involved, requiring involvement of a qualified professional for smaller clearing violations may be less necessary. Are there situations where a qualified professional would not be required?

Section 10.27,b,5,f currently states:

The applicant may propose, and the Commission may approve or require, variations from the standards in Section 10.27,B,5,c through e if necessary to achieve effective buffering.

Possible revisions could include adding a clarifying statement in Section 10.27,B,5,f that provides staff the ability to not require the involvement of a qualified professional on violations or revegetation plans that are routine in nature and that do not affect a particularly sensitive resource.



Natural Resources Council of Maine

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Tim Beaucage
22 State House Station
18 Elkins Lane, Harlow Building
Augusta, Maine 04333-0022
April 17, 2015

Dear Tim:

Thank you for the opportunity to submit comments on the proposed rulemaking related to recreational lodging and revegetation standards. Our comments are as follows:

10.27, B, 5

The proposed rules should provide a timeframe within which revegetation must occur. The Department of Environmental Protection's (DEP) revegetation standards state that "revegetation shall occur before the expiration of the permit." DEP Rules, Chap. 1000, Sec. 15(S)(3). DEP's Natural Resources Protection Act rules state that vegetation "must be reestablished immediately upon completion of the activity." DEP Rules, Chap. 305, Sec. 4(C)(3). NRCM recommends that the LUPC adopt similar standards. Specifically, revegetation of "resources of state significance" (rivers, streams, great ponds, fragile mountain areas, freshwater wetlands, significant wildlife habitat, and coastal wetlands) within LUPC jurisdiction should be reestablished upon completion of the activity. All other revegetation shall occur prior to the expiration of the permit.

10.27, B, 5, a

The proposed rules should clarify when the applicant must submit the revegetation plan. NRCM recommends that the applicant submit the plan as a part of the permit application. By including the plan as part of the application, the Commission would review the plan as a part of their permit deliberation. If the Commission found the plan to be unsatisfactory, it would deem the permit application incomplete and then provide guidance to the applicant as to how to satisfactorily complete the application. Including the plan as a part of the application will stress the importance of preventing erosion through revegetation.

10.27, Q, I, Table A

NRCM is very troubled by the proposed expansion of the footprint of clearings within 250 feet of waterbodies. The proposed rule doubles the footprint for Level A facilities (from $\leq 3,000$ square feet to $\leq 6,000$ square feet) and increases the footprint by 50% for all other facility levels. This is a very significant increase, particularly in light of the stakeholder process that carefully vetted these numbers. We believe that increasing the footprint is not sound planning; the shore lands of high-value waterbodies would quickly be consumed by recreational lodging facilities. We urge the Commission to either keep the same footprint measurements, or adopt smaller increases and then determine whether the issues that prompted the proposed revisions have been resolved.

10.27, Q, 5, b

The proposed revisions would allow for recreational lodging facilities to expand the clearing within 250 feet of a shoreline regardless of the limits in Section 10.27, Q, 1, Table A. We believe this is excessive, considering that the proposed revisions also call for expanding the allowable footprint. Once again, we believe that increasing the footprint is not sound planning; the shore lands of high-value waterbodies would quickly be consumed by recreational lodging facilities. We urge the Commission to reject this proposed revision.

Thank you again for accepting our comments. If you have any questions, don't hesitate to be in touch.

Thank you,

A handwritten signature in cursive script that reads "Eliza P. Donoghue". The signature is written in black ink and is positioned above the typed name.

Eliza Donoghue, Esq.
North Woods Policy Advocate & Outreach Coordinator

From: [Bryan Wentzell](#)
To: [Beaucage, Timothy](#)
Cc: [Kaitlyn Bernard](#); [Dan Rinard](#); [Walter Graff](#)
Subject: Recreational Lodging Facilities and Revegetation Standards
Date: Friday, April 17, 2015 4:50:36 PM

AMC Comments

Tim,

I am just back from leave and wanted to send along some comments on behalf of the AMC on the *Clearing Standards for Recreational Lodging Facilities* before the deadline today.

First, thanks for your efforts both on the Recreational Lodging rules overall. It was a good process and we appreciated the opportunity to contribute to a good outcome. As the owner of 3 traditional sporting camps in the Unorganized Territories, these rules are critical to the future operations and success of these facilities, which employ more than 40 full-time equivalent positions annually in Piscataquis County.

As can be reasonably expected with comprehensive new rules, a few issues have since emerged that needed to be addressed and resolved, the clearing standards being one of them. Again, we appreciate the level of professionalism, outreach, and communication by LUPC planning staff on this issue.

We believe that the revised standards for shoreland clearing are a reasonable and thoughtful solution for dealing with historic clearings at recreational facilities. The standards are in part “outcome based” and thus a reflection of the spirit of Recreational Lodging Rules and the stakeholder process that helped develop them. They also offer several avenues for recreational lodging owners to achieve compliance.

Thanks again for working with us on this issue and for considering our comments.

Sincerely,

Bryan Wentzell

Maine Policy and Program Director

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