



Regulatory Update

MAINE LAND USE PLANNING COMMISSION

Presentation to MAWS, March 2023

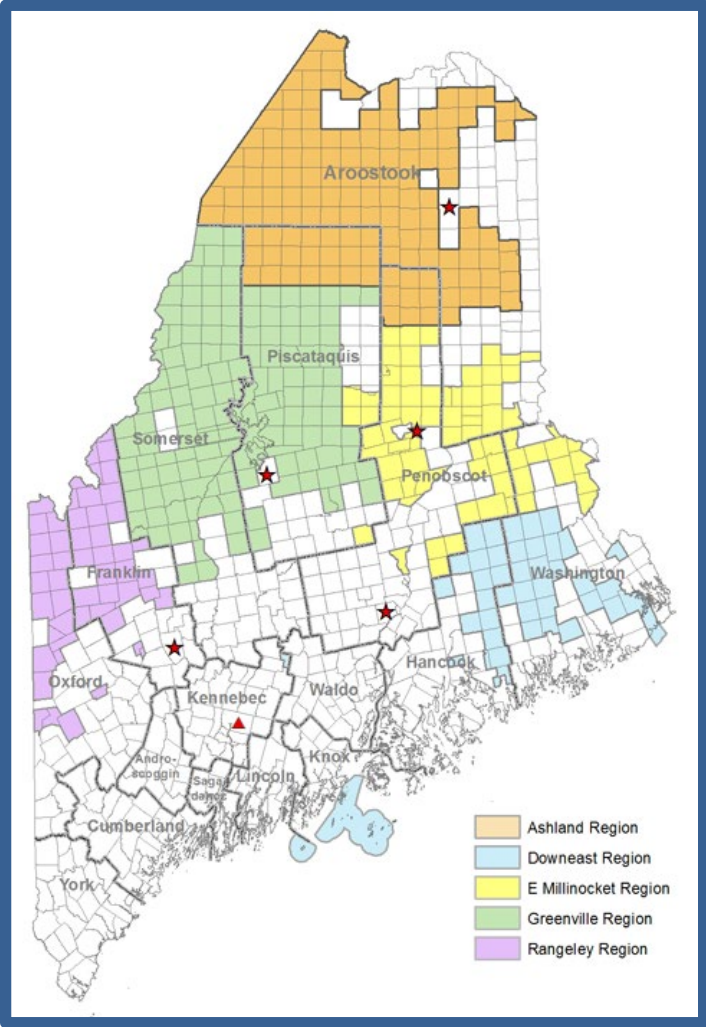
Audie Arbo, Permitting and Compliance Manager
Stacy Benjamin, Chief Planner



LUPC Roles and Responsibilities

- Charged with sound planning and zoning
- Responsible for land use permitting within:
 - Unorganized and deorganized townships
 - Most Plantations
 - Certain small towns
- Service area of 10.4 million acres
- Variety of landscape and community types

LUPC Regional Offices



[LUPC Offices: Maine DACF](#)



NRPA Permitting

Permit-granting authority delegated to the Maine Land Use Planning Commission

- The Maine Land Use Planning Commission *“shall issue all permits under this article for activities located wholly within its jurisdiction...”* 38 M.R.S.A. § 480-E-1
- The Maine Land Use Planning Commission *“in consultation with the Department, shall ...review land use standards...to ensure that the standards afford the same level of protection consistent with the goals of this article...”*



LUPC Rulemaking under NRPA

- Chapter 10 rules serve many purposes
- Our format/ approach does not exactly match DEP's
 - Primarily zoning-based
 - Adjustments made for established regulatory framework/format & predominantly rural area

Wetland Standards:

Section 10.25,P, 2

Protected Natural Resources

Water Bodies and Wetlands



2022-2023 Regulatory Updates

- **Solar Rulemaking**

The rulemaking defined size classes for solar energy generation facilities and specifies which Land Use Subdistricts will allow solar energy generation facilities.



2022-2023 Regulatory Updates

Size Class	Project Area	Allowed Subdistricts	Subject to Decommissioning
Accessory	Less than 750 sq. ft.	All, subject to allowed uses and 10.27,P	No
Small-scale	750 sq. ft. to 1 acre	D-CI, D-RD, M-GN, D-GN, D-RF, D-RB	No
Mid-scale	1-10 acres	D-CI, D-RD, D-RF, M-GN	Yes*
Large-scale	10+ acres	D-CI, D-RD	Yes

*For projects greater than 3 acres



Current Multi-Chapter Rulemaking

- Delegate wetland rezoning to staff
- Parking standards
- Miscellaneous administrative changes



Wetland Delegation to Staff: Background

- 1980's
 - U.S. Fish and Wildlife Service created the National Wetland Inventory
- Mid-1990's
 - USFW and Commission staff conducted field verifications
- November 2022
 - Commission observed recent frequency of petitions to revise P-WL subdistrict designations and directed staff to initiate the process to delegate these routine applications to staff



2023 Updates

Proposed Chapter 4 Revisions

Delegation of authority to staff:

- Amend P-WL subdistrict boundaries according to on-site wetland delineations by a “qualified professional”
- Amend P-FP subdistricts based on revised FEMA Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps

Proposed Rule Language

2. For the purposes of this section, applications for zone changes considered to be routine in nature are limited to:

- a. Requests to amend the boundaries of existing Wetland Protection Subdistricts supported by a site specific wetland delineation completed by a qualified professional in accordance with 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); and
- b. Proposals for new or amended Flood Prone Area Protection Subdistricts based on effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency, which the Commission is required to adopt as a participating community in the National Flood Insurance Program.

~~Notwithstanding the provisions of Sections 4.08(B)(1)(a) and (b), at the discretion of the Commission or the Director, any application, request, or matter may be forwarded to the Commission for discussion, decision, guidance to staff, or directive to staff.~~

3. Notwithstanding the provisions of Sections 4.08(B)(1)(a) and (b) and (2), at the discretion of the Commission or the Director, any application, request, or matter may be forwarded to the Commission for discussion, decision, guidance to staff, or directive to staff.

The rules will soon be posted for a 30-day public comment period if you want to weigh in!

Go to: [LUPC Proposed Rulemaking/ Opportunities for Public Comment \(maine.gov\)](https://www.maine.gov/lupc/proposed-rulemaking/opportunities-for-public-comment)



Agricultural Water Withdrawals

In LUPC Service Area

- In legislative process - LD 315
- The Legislature asked in the last session for DACF to recommend ways for streamlining the permitting process for agricultural water withdrawals
- There haven't been many applications submitted in the past 10 years but we expect an increase in applications due to climate changes & new drought relief funding
- Proposal is to create a streamlined application process and add a staff person to ensure timely processing
- Also propose outreach including educational materials, group presentations, one-on-one meetings



Enforcement Work Plan

Being drafted

- Enforcement Coordinator position created
- Penalty Matrix under review



Updated Application Forms

- Development permits
 - Subdivision permits
 - Zoning petitions
 - Building permits – *almost there!*
- Updated in 2020*

Fees have changed too – Check our website for the latest information!

Questions?

Any questions about LUPC's jurisdiction or
regulatory changes?