

Chapter 101: REGULATIONS FOR THE PROCESSING OF APPLICATIONS FOR PERMITS, VARIANCES, OR CERTIFICATES OF COMPLIANCE

SUMMARY: This regulation outlines the complete process for the submission of an application to the Commission including the timeline for rendering a decision by the Commission.

1. Scope.

Section 1 through 13 of these regulations shall apply to applications filed with the Saco River Corridor Commission (hereinafter called the Commission) for permits required under Section 959, variances from performance standards under Section 963, and special use variances under Section 963-A of the Saco River Corridor Act (hereinafter referred to as the "Act"), Title 38 M.R.S.A. Section 951 et seq. Regulations regarding Certificates of Compliance as authorized under Section 954-C. of the Act are presented in Section 7 through 13 of these regulations.

2. Application, Application Fee.

- A. Two (2) written copies of each application shall be submitted in a form approved by the Commission and shall be accompanied by such fees as may be established by the Commission.
- B. Applications may be required to include at the discretion of the Commission the following information:
 - (1) Identification of applicant;
 - (2) Right, title, and interest of the applicant in the subject property;
 - (3) Identification of landowner;
 - (4) Description and purpose of proposed activity;
 - (5) Other approvals required and action taken to obtain such approval;
 - (6) Site data indicating existing site conditions;
 - (7) Site data indicating all proposed structures and alterations to the site;
 - (8) Information to indicate the impact of the project on the site;
 - (9) Proposed measures to minimize the adverse effect on the environment;
 - (10) Information to show how utilities are to be provided;

- (11) Proposed dates of commencement and completion;
- (12) Plans for future expansion beyond those presented in the application, if any;
- (13) Ownership of the subject property and abutting property as of March 19, 1974;
- (14) Information to show the applicant has the technical ability and financial capacity to complete the undertaking.

The Commission may require such additional information from an applicant as it deems necessary to determine whether the proposed use will meet the requirements of the Act; or, if a variance is being requested under Section 963 or 963-A. of the Act, information specifically addressing the factors surrounding the applicant's assertion of the need for a variance. Such additional information may include, but is not limited to, topographic or other information regarding the unique physical aspects of the property and financial information which demonstrates any claimed economic hardship imposed by the performance standard(s) form which the applicant is seeking a variance.

- C. In cases in which a proposed use within the corridor requires the approval of another municipal, state, or federal agency, the Commission may authorize the applicant to substitute either in whole or in part, the application forms filed with such other agency for the forms prepared by the Commission, provided that the information submitted to the other municipal, state, or federal agency is substantially the same as that required by the Commission.
- D. Applications shall be filed with the Commission at its office. It shall be the responsibility of the applicant to see that the completed application is received by the Commission on or before the date of filing specified in the notices required under Section 3.
- E. The Commission shall take no action with respect to an application unless it determines that:
 - (1) The application has been received in conformance with Section 2.D.,
 - (2) The application has been properly completed,
 - (3) All requested information and exhibits are properly submitted,
 - (4) The proper application fee has been paid, and
 - (5) Adequate notice of the application has been given.

3. **Notice of Application.**

- A. Prior to or at the time of filing an application under these regulations, the applicant shall submit to the Commission a copy of a notice in the form prescribed by the Commission together with proof that he/she has provided such notice to:

- (1) The chief municipal officer and the planning board of the municipality wherein the proposed activity is to occur;
- (2) Organizations qualified under Section 966-A of the Act;
- (3) Owners of land within the corridor which is either within 500 feet of the proposed land use activity or which abuts the property on which the proposed land use will occur.

Proof of notice shall be appropriate certificates of mailing, postal receipts, or dated signature of the party to be notified. Such notice shall state the date upon which the application is to be filed with the Commission.

- B. If the Commission determined that it is impracticable to provide personal notice to all landowners in paragraph A, or that the impact of the proposed activity will be so slight as to be inconsequential or *de minimus*, it may waive the requirement for such notice or require such other notice as it deems appropriate.
- C. If the application requires a public hearing or involves a use which the Commission determines could have a significant impact on the environmental quality of the Saco River Corridor, it may direct that the applicant public notice or arrange for such publication in a form and manner prescribed by the Commission, in a newspaper with a circulation in the municipality wherein the proposed activity is to occur, and the application shall not be deemed completed until such notice as been published.
- D. In cases in which a similar notice is required by another municipal, state, or federal agency, the Commission may authorize the applicant to give notice of the application being filed with the Commission at the same time and in the same manner and form as may be required by other agency, provided that such notice substantially conforms to the notice requirements established by this rule.
- E. Written comments regarding the proposed land use may be submitted to the Commission by any person within fourteen (14) days of the filing of the application or publication of notice, whichever is later. Failure of any person to receive notice shall not invalidate any subsequent action by the Commission. Comments received after fourteen (14) days may be considered by the Commission at its discretion.

4. **Initial Decision.**

Within sixty (60) days of the date that an application for a permit, variance, or special use variance is properly completed, the Commission shall render a written decision on such application (1) denying the application, (2) granting the application with such conditions as the Commission deems necessary, or (3) ordering a public hearing.

Should the Commission be evenly divided as to whether to approve or deny the application, such a vote shall have the effect of denying the application.

5. **Reconsideration and Final Decision.**

- A. Within thirty (30) days of the date of issuance of a written decision of the Commission which decision was made without a hearing, any person aggrieved by the decision may file a petition for reconsideration with the Commission. Such petition shall be filed with the Commission at its office and shall set forth, in detail, the findings, conclusions, or conditions to which such applicant or aggrieved person objects, the basis for such objections and the nature of the relief requested. It shall be the responsibility of the petitioner to see that the request for reconsideration is received by the Commission on or before the date specified in notices required by Section 5B.
- B. Notice of such request shall be provided in the same manner as the notice required under Section 3 of these regulations.
- C. The Commission shall, within sixty (60) days of receipt of a petition for reconsideration, provide the petitioner with the opportunity to appear before the Commission to present evidence and answer questions with regard to his or her petition. The Commission shall either (1) affirm its original decision; (2) grant the petition in whole or in part and issue such appropriate orders as are necessary; or (3) order a public hearing on the application.
- D. No appeal pursuant to Section 968 of the Act shall be taken from a decision of the Commission which decision was made without a hearing, until the applicant or other aggrieved person has made a request for reconsideration and the Commission has made a final determination on the merits of the application.

6. **Reapplication.**

If the Commission denies an application for a permit or variance, a second application substantially the same as the first may not be entertained by the Commission within two years of the date of the Commission's final written decision denying the application unless the Commission has determined that a substantial change in conditions has occurred or that other consideration materially affecting the merit of the subject matter have intervened between the time of the written denial and the subsequent application.

7. **Hearings.**

In the event that the Commission determines to hold a public hearing it shall hold such hearing within sixty (60) days of such determination. Notice of such hearing shall be made in accordance with the rules of the Commission. Within sixty (60) days of the close of such hearing, the Commission shall make written findings and issue an order on the application. Hearings under these regulations shall be conducted in accordance with regulations established by the Commission.

8. **Inspection and Compliance.**

Commission members, staff, and such consultant personnel and municipal officials as may be designated by the Executive Director shall have access to the premises of an applicant at any

reasonable time for the purpose of inspecting the proposed site or insuring compliance with conditions of any permit, variance, or certificate of compliance issued pursuant to these regulations.

9. **Change in Ownership.**

After the issuance of any permit or variance but prior to the issuance of a certificate of compliance, where one is required, the applicant or his or her successor in interest shall notify the Commission of any change in ownership of the premises on which the proposed land use activity is to occur. Where a certificate of compliance is not required by the conditions of a permit or variance, the applicant or his successor in ownership shall notify the Commission of any change in ownership of the premises on which the proposed land use activity is to occur prior to the expiration date of the permit or variance.

10. **Certificates of Compliance.**

A. The Commission may require the applicant to apply for and obtain a certificate of compliance prior to the use or occupancy of any structure or development for which a permit or variance has been issued. When such a requirement is deemed necessary by the Commission, it shall be set forth as a condition in the permit or variance issued by the Commission. The Commission staff may issue such certificates, which shall be granted within thirty (30) days of a showing by the applicant that: (1) the structure or development conforms with the specifications, plans, or other information upon which the permit was granted; (2) all applicable conditions to the permit granted by the Commission have been met.

A certificate of compliance may contain such continuing conditions as required by the permit or as may be established by the Commission in accordance with the provisions of the Act. Any person aggrieved by a decision of the staff with regard to a certificate of compliance shall have the right to review of such decision by the Commission within thirty (30) days of the decision, provided that a request for such review is filed with the Commission within ten (10) days of the staff's decision. It shall be unlawful to use or occupy a structure or development prior to the issuance of a certificate of compliance where one is required by the Conditions of a permit or variance.

B. Notwithstanding the requirements of paragraph A, a temporary certificate of compliance with conditions may be issued at the discretion of the Commission staff upon a showing by the applicant that he or she has substantially conformed to Section A.1 and A.2.

11. **Miscellaneous.**

Any permit or variance or certificate of compliance granted in part or in whole upon the basis of any information which is false or misleading shall be null and void. All rights and obligation of the Commission, including all functions relating to the processing of applications under these regulations, may be performed by the Executive Director or his or her subordinate, under the general supervision and control of the Commission, except the granting or denial of permits or

variances under these regulations.

12. **Fees.**

Fees for permits, variances, and certificates of compliance shall be payable to the Commission in accordance with its schedule of fees.

13. **Burden of Proof.**

An applicant for any permit, variance, or certificate of compliance or a petitioner for reconsideration under these regulations shall have the burden of proof, unless otherwise provided by law or regulation.

STATUTORY AUTHORITY: 38 M.R.S.A. Section 954-C.

EFFECTIVE DATE:

January 30, 2006 – filing 2006-38