



## Saco River Corridor Commission

*“Communities Working Together To Protect Our Rivers”*

September 19th, 2022

Dear Corridor Member Municipalities and Citizens:

The Saco River Corridor Commission is committed to protecting public health, safety, and the quality of life for the State of Maine through the regulation of land and water uses, protection and conservation of the region’s unique and exceptional natural resources, and through the prevention of impacts caused by incompatible development.

To ensure the continued protection of the Saco River Corridor, the Commission proposes rule making changes to several performance standards, including Chapter 103; Standards to Address the Environmental Factors, Chapter 104-A; Performance Standards for Multi-Unit Uses, including Condominium and Cluster Development within the General Development District, Chapter 107; Performance Standards Governing Expansions of existing Nonconforming Uses, including Structures, and the Schedule of Fees.

The proposed rules are enclosed for your review ([click here](#) to access the rules on the Commission’s website). A public hearing will occur on Wednesday, October 26th, at 7:00 pm regarding the proposed rule changes at the Dayton Town Hall at 33 Clarks Mills Road in Dayton, Maine. All are welcome to attend. The Commission encourages public comment, and you are welcome to submit comments before the public hearing. The final comment deadline is November 5th, per Maine’s Administrative Procedure Act requirements.

Please do not hesitate to contact us if you have any questions, comments, or concerns. We look forward to strengthening our partnership with member municipalities as we all continue to strive toward the same goal, maintaining public health, safety, and quality of life in the State of Maine.

Very Sincerely,

Dalyn Houser  
Executive Director

## **BASIS STATEMENT - CHAPTER 103**

This proposal includes simple technical changes to the rule to coincide with other performance standards. These proposed changes will not alter the operation of this rule.

**Chapter 103: STANDARDS TO ADDRESS THE ENVIRONMENTAL FACTORS**

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SUMMARY: All projects approved must show no unreasonable a) degradation of water and water quality, b) harmful alteration of wetlands, c) increase in erosion or sedimentation, d) danger of increased flood damage, e) obstruction of flood flow, f) damage to fish and wildlife habitat, g) despoliation of the scenic, rural and open space character of the corridor, h) overcrowding, i) excessive noise, j) obstruction to navigation, and k) interference with the educational, scenic, scientific, historic or archeological values of those areas designated and approved for inclusions within the Resource Protection District.

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**1. Scope.**

In any application for a permit or variance, the Commission must give consideration to the requirements for granting permits/variances as enumerated in 38 M.R.S.A. Section 957-D.1.A.-K.; 959-A.1.A.-K.; and 963.1.C.(1)-(11). Where any of the factors is legitimately at issue, the following minimum standards shall apply.

**2. Standards to Address the Environmental Factors.**

- A. To show no unreasonable degradation of air and water quality, the applicant shall demonstrate that:
- (1) The proposed use either requires no State Air Emissions License or that one has or will be obtained;
  - (2) The proposed development activities will not create unpleasant odors detectable at any lot line or create any smoke or dust which is incompatible with the character of the area in which the use is to be located;
  - (3) The proposed use, both during construction and after completion, will not result in water quality degradation as the result of increased surface water runoff, erosion, or sedimentation. The applicant shall demonstrate that buffer strips or other measures to control surface runoff from the site are adequate to assure that there will be no measurable increase in runoff from the site, nor any resultant erosion or sedimentation;
  - (4) The proposed use will not result in any direct discharge to surface waters within the Saco River Corridor which discharge is unlicensed or unlicensable by the Maine Board of Environmental Protection;
  - (5) The proposed use will not result in the degradation of ground water supplies; and
  - (6) Systems of subsurface sewage disposal will be installed in accordance with current Maine Plumbing Code requirements and the requirements contained in

38 M.R.S.A. Section 962.1.A.

- B. To show no unreasonable harmful alteration of wetlands, the applicant shall demonstrate that no wetland areas, as defined in the Saco River Corridor Act and these criteria, will be affected by the proposed activity, or, if wetland areas are to be affected, that the proposed activity is necessary to the undertaking and cannot be reasonably avoided, and:
- (1) That any proposed wetland alteration will not result in significant loss of fish and wildlife habitat;
  - (2) That any proposed wetland alteration will not result in significant loss of ground water recharge capabilities or result in degradation of the quality of ground water;
  - (3) That the proposed wetland alteration will not result in any significant loss of flood storage capability or a measurable increase in flood flow; and
  - (4) That the proposed wetland alteration will not substantially change the character of the wetland as a whole, or its relationship to the surrounding environment. Cumulative impacts and the impact of incremental wetland changes both within and beyond the applicant's control could be addressed.

Note: For the purposes of these standards, the terms "wetlands" or "wetland areas" shall include, but shall not be limited to any areas below the normal or mean high water line of the Saco, Ossipee, and Little Ossipee Rivers.

- C. To show no unreasonable increase in erosion or sedimentation, the applicant shall demonstrate that:
- (1) The soils are not highly erodable, or, if erodable, a plan for control of erosion and sedimentation prepared by a qualified professional has been developed and will be used;
  - (2) A plan for control of erosion and sedimentation prepared by a qualified professional will be used if development activities are proposed for areas within 250 feet of the normal high water line where the land slope is greater than 15% or in areas more than 250 feet from the normal high water line where the land slope is greater than 20%; and
  - (3) The proposed use will not result in conditions which could increase the potential for erosion of soils on adjacent properties.
- D. To show no unreasonable danger of increased flood damage, the applicant shall demonstrate that the proposed use or activity is not within and will not affect areas within the 100-year floodplain, or, if within the floodplain, that:
- (1) Any building or structure or expansion thereof will: (a) be designed and anchored to prevent flotation, collapse, or lateral movement of the building or structure; (b) use construction materials and utility equipment that are resistant to flood

damage; and (c) use construction methods and practices that will minimize flood damage.

Note: New residential buildings are not permitted under the Saco River Corridor Act in the 100-year floodplain, except under special circumstances by variance. The Commission may require detailed construction and floodproofing plans prior to issuance of any variance.

- (2) Any residential building entitled to a variance under Section 963 or 963-A, or expansion of a previously existing residential structure, shall be constructed so that the lowest floor, including any basement, is elevated to or above the elevation of the 100-year flood and shall be certified by a registered professional engineer or architect that the above floodproofing standards are satisfied. Such certification shall include a record of the elevation above mean sea level of the lowest floor, including basement. All other residential buildings are prohibited.
- (3) Nonresidential buildings and expansions of previously existing nonresidential buildings, will be constructed so that the lowest floor, including basement, is: (a) elevated to or above the 100-year flood elevation, or (b) will be floodproofed so that the structure below the elevation of the 100-year frequency flood meets the criteria of the applicable Municipal ordinance and Shoreland Zoning ordinance requirements.

In either case, the structure shall have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy and shall be certified by a registered professional engineer or architect that the above floodproofing standards are satisfied. Such certification shall include a record of the elevation above mean sea level of the lowest floor, including basement.

- (4) No subsurface sewage disposal within the 100-year floodplain will occur as a result of the proposed use. Any buildings proposed shall, if sewage disposal is involved, employ an alternate method which does not involve disposal of sewage through the soils within the 100-year floodplain.
- (5) Any proposed electrical, gas, and other utilities shall be located and constructed to minimize flood damage.
- (6) Any floodplain encroachment (including buildings, filling and all other development requiring a permit from the Commission) will not result in any measurable or significant increase in flood levels during the occurrence of a 100-year frequency flood. The Commission may require certification from a registered professional engineer to assure compliance with this standard.

E. To show no unreasonable obstruction of flood flow, the applicant shall demonstrate that:

- (1) The proposed use or development activity will be constructed in such a manner that no reduction occurs in the flood carrying capacity of any water course; and
- (2) The proposed use will meet all applicable standards, as outlined in D. 1-6 above, to assure that no unreasonable danger of increased flood damage occurs.

F. To show no unreasonable damage to fish and wildlife habitat, the applicant shall demonstrate that:

- (1) Proposed site alterations and activities will not result in unreasonable and unnecessary destruction or disturbance of wildlife habitat, including but not limited to disturbance to: important deer wintering areas, wildlife travel corridors, the habitat of any threatened or endangered species, or important nesting or feeding sites for bird colonies; and
- (2) The proposed use will not unreasonably or unnecessarily affect aquatic resources.

Note: In the Resource Protection District or in fragile areas in or abutting freshwater or coastal wetlands, the Commission may require a professionally prepared inventory and analysis of fish and wildlife habitat and potential impacts.

G. To show no unreasonable despoliation of the scenic, rural and open space character of the corridor, the applicant shall demonstrate that:

- (1) The proposed development activity is planned to maximize retention of open space;
- (2) The proposed use will be designed in keeping with its natural surroundings or will be located, designed and landscaped to minimize its visual impact to the fullest extent possible;
- (3) The proposed use will not unreasonably obstruct scenic views from neighboring properties or public roads;
- (4) Any proposed structures will not be highly visible from the river. Appropriate buffer strips of uncleared vegetation or plantings capable of providing year-round screening will be used where necessary to reduce visual impact from the river;
- (5) In areas of exceptional scenic value because of distinct and clearly identifiable geological formations, vegetation or other natural features, such as bluffs, cliffs, rapids, falls, rock outcroppings or islands, whether or not such features are presently included in a Resource Protection District, the applicant shall affirmatively demonstrate that the proposed use will provide for the preservation of those natural features which contribute to the scenic value.

H. To show no unreasonable overcrowding, the applicant shall demonstrate that:

- (1) The proposed use meets all applicable setback standards, or if it does not meet such standards, that applicant shall demonstrate that (a) any proposed building or building addition will be set back from the river to the maximum extent possible; and (b) the proposed use will not result in the location of a building within the Limited Residential District or Resource Protection District which building or building addition, alone or in combination with existing buildings and other non-vegetated surfaces on the lot, covers more than 20% of the land area of the lot on which it is to be located. *(Items that qualify as non-vegetated surfaces are listed in Chapter 107.)*

- (2) The proposed use will not result in the location of a building or building addition within a Limited Residential District or Resource Protection District which building or building addition is located within fifty (50) feet of any legally existing building on any adjoining lot.
- I. To show no unreasonable excessive noise, the applicant shall demonstrate that:
- (1) Noises generated from the site are not of a level to cause annoyance to neighbors or to be incompatible with the character of the neighborhood;
  - (2) If the municipality has a noise control ordinance in place, noises generated from the proposed use will be in compliance with local noise control requirements; and
  - (3) The proposed use will be in compliance with all applicable noise standards promulgated by the Maine Department of Environmental Protection under the Site Location of Development Law.
- J. To show no unreasonable obstruction to navigation, the applicant shall demonstrate that the proposed use will not:
- (1) Interfere with legally existing commercial and recreational boating uses, including not limited to recreational canoeing.
- K. To show no unreasonable interference with the educational, scenic, scientific, historic, or archeological values of those areas designated and approved for inclusion within the Resource Protection District, the applicant must demonstrate that the natural value of the area which called for its inclusion in the Resource Protection District will not be decreased.

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

EFFECTIVE DATE:

January 30, 2006 – filing 2006-40

**Chapter 103: STANDARDS TO ADDRESS THE ENVIRONMENTAL FACTORS**

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In either case, the structure shall have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy and shall be certified by a registered professional engineer or architect that the above floodproofing standards are satisfied. Such certification shall include a record of the elevation above mean sea level of the lowest floor, including basement.

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- (2) The proposed use will not result in the location of a building or building addition within a Limited Residential District or Resource Protection District which building or building addition is located within fifty (50) feet of any legally existing building on any adjoining lot.
- I. To show no unreasonable excessive noise, the applicant shall demonstrate that:
- (1) Noises generated from the site are not of a level to cause annoyance to neighbors or to be incompatible with the character of the neighborhood;
  - (2) If the municipality has a noise control ordinance in place, noises generated from the proposed use will be in compliance with local noise control requirements; and
  - (3) The proposed use will be in compliance with all applicable noise standards promulgated by the Maine Department of Environmental Protection under the Site Location of Development Law.
- J. To show no unreasonable obstruction to navigation, the applicant shall demonstrate that the proposed use will not:
- (1) Interfere with legally existing commercial and recreational boating uses, including not limited to recreational canoeing.
- K. To show no unreasonable interference with the educational, scenic, scientific, historic, or archeological values of those areas designated and approved for inclusion within the Resource Protection District, the applicant must demonstrate that the natural value of the area which called for its inclusion in the Resource Protection District will not be decreased.

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

EFFECTIVE DATE:

January 30, 2006 – filing 2006-40

**Chapter 104-A. Performance Standards for Multi-Unit Uses, including  
Condominium and Cluster Development within the General Development District.**

Basis Statement

This proposed new performance standard is solely for multi-unit uses, which are included but not limited to apartments, condominiums, accessory dwelling units, and cluster developments. The Commission recognizes that in these instances multi-unit uses are appropriate in the Corridor when the use is connected to Municipal sewer, dependent on the design and available land within the General Development District.

**Chapter 104-A: PERFORMANCE STANDARDS FOR MULTI-UNIT USES, INCLUDING  
CONDOMINIUM AND CLUSTER DEVELOPMENT WITHIN THE  
GENERAL DEVELOPMENT DISTRICT**

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SUMMARY: Within the General Development District the number of units within a proposed multi-unit use will fit the criteria below.

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**1. Scope.**

This regulation shall be effective in all areas of the Saco River Corridor as defined in Title 38 M.R.S.A. Section 953.

**2. Definition.**

A multi-unit use for the purpose of this standard is a building containing 2 or more separate residential units which building is on land in single, joint, or common ownership. The term may include, but is not limited to multifamily rental units, condominiums, and cluster development.

**3. Criteria for Approving a Permit for a Multi-Unit Use within the General Development District.**

- A. Multi-unit uses allowed under this standard shall be permitted only if it can be demonstrated that the proposed use will result in:
- (1) Preservation of open space, recreation areas, or prime farmland soils;
  - (2) A pattern of development in harmony with the natural features of the land; and
  - (3) More efficient use of the land with smaller networks of utilities and streets within the corridor would be present than if single family residential construction were to be proposed.
- B. The minimum setback for multi-unit uses must be no closer than 100 feet from the river.
- C. In no instance shall the minimum lot size requirement exceed that allowed by the Municipal Land Ordinance and Mandatory Shoreland Zoning Ordinance minimum lot size requirements. The lot size requirement may be reduced by the Commission in accordance with Section 959-A but may not be reduced to a size less than the Municipal Land Ordinance requirement for the lot.

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

EFFECTIVE DATE:

## **BASIS STATEMENT - CHAPTER 107**

**DETAILED SUMMARY:** This proposal accomplishes five (5) primary revisions to Chapter 107, resulting in standards that are, in some areas, more restrictive, while in others, less restrictive. This proposal provides a more consistent document that is easier for the applicant to comprehend and more effective for the Saco River Corridor Commission to enforce. Importantly, the proposals do not compromise the Commission's ability to attain its mission of lessening the environmental impacts to the Saco River Corridor.

- 1) **30% Expansion Calculations.** This proposal changes the current calculation method for a 30% expansion from a volume and/or square footage measurement to a simple footprint measurement with height parameters consistent with the Maine Department of Environmental Protection (DEP) calculation methods.

Currently, the terms footprint, floor area, square footage, land area, height (indicating volume), and dimension are used interchangeably. The rule changes include consistent and clear standards that will be easier for applicants to understand and more effective for the Commission to apply and enforce. Additionally, the current expansion standards for basements are complicated by the square footage expansion standards leading to a large amount of time and consideration over how those areas are calculated for an expansion. The use of the building footprint for expansions eliminates the need to consider criteria such as interior floor area or non-living space. Last, the rule changes better define how accessory structures count toward expansions.

Approximately five years ago, the Maine DEP, having experienced the same issues while struggling to provide consistent recommendations across Maine's communities, simplified their 30% expansion rules to be based on footprint and height exclusively. Thus far, the DEP staff indicates that the new rules are less confusing, provide more consistency, and, importantly, achieve the same goal.

This proposal will enable the Commission to oversee 30% expansion projects more efficiently and consistently. In some cases, this proposal will permit a taller expansion than previously allowed, but height restrictions will still govern these projects.

- 2) **Height Restrictions.** This proposal establishes clear height restrictions for expansions, reconstructions, and relocations of nonconforming structures within the Saco River Corridor, based on setback measurements from the mean or normal high water lines. Currently, expansions are limited to a 30% increase in height and can be perceived as inconsistent and limiting for the applicant. The new proposed standards are consistent with DEP's Shoreland Zoning restrictions, resulting in more consistency and easier understanding for the applicant while still accomplishing the Commission's goal.
- 3) **Revegetation requirements.** This proposal enhances and clarifies the Commission's standards to ensure that an adequate vegetation plan is supplied for any expansions, reconstructions, or relocations of structures within the Corridor. The current standards focus on trees, while this proposal addresses all vegetation. These standards will provide more clarity for the applicant and a more effective policy for the Commission.
- 4) **Lot Coverage.** This proposal increases the maximum percentage of non-vegetated surfaces on lots within the Shoreland Zone from 15% to 20%. Additionally, this proposal clarifies

what is considered non-vegetated and provides consistency with DEP's Shoreland Zoning regulations. Since this proposal includes a broader definition of non-vegetated surfaces, the increase from 15% to 20% will not be a significant change.

- 5) **Minor grammatical changes.** This proposal includes a few minor grammatical and verbiage changes that enhance the readability and clarity of the document without affecting the document's intent.

**Chapter 107: PERFORMANCE STANDARDS GOVERNING EXPANSIONS OF EXISTING NONCONFORMING USES, INCLUDING STRUCTURES**

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SUMMARY: The expansion of any existing nonconforming structure within the Shoreland Zone is limited to 30% based on the footprint that existed as of March 19, 1974, and the structure may not be expanded any closer to the normal or mean high water line. The maximum height of the proposed structure will not exceed the height limits shown in Table A in section 5. Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot within the shoreland zone. The reconstruction or replacement of existing nonconforming structures may be allowable by permit if the reconstruction or replacement meets certain criteria. A nonconforming use may not be changed to another nonconforming use unless it is determined that the new use will not result in an increased adverse impact on the lands and waterways of the corridor.

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**1. Scope**

This regulation shall be effective in all areas of the Saco River corridor as defined in Title 38 M.R.S.A. Section 953 and shall apply to all nonconforming uses or structures in existence prior to March 19, 1974, and to all nonconforming uses or structures established after March 19, 1974, and which legally exist as a result of the granting of a variance by the commission.

**2. Definitions**

**Footprint: The entire area of ground covered by the structure(s) on a premises, including but not limited to cantilevered or similar overhanging extensions, as well as attached structures such as garages, decks, porches or steps.**

The terms “expansion,” “enlargement,” and “extension” shall, for the purposes of these standards, be synonymous and shall mean any increase in the footprint covered by an existing nonconforming use or any increase in any dimension of a nonconforming structure, including height.

**3. Criteria for Approving an Expansion, Reconstruction or Replacement of an Existing Nonconforming Structure within the Corridor**

- A. The proposed structure will be on soils suitable for the proposed use and will not unreasonably involve any of the factors enumerated in 38 M.R.S.A. Section 959-A.1.A.–K. of the *Saco River Corridor Act*.
- B. The proposed structure will not result in an increase in nonconformity of all applicable performance standards.
- C. If the structure involves any increase in the number of bedrooms in a single or multi-family residential dwelling, or if it involves an anticipated increase in the amount of

wastewater generated by the expanded use, then, prior to issuance of any permit for the construction, the applicant shall provide documentation that the existing system of sewage disposal is adequate under the provisions of the *Maine Subsurface Wastewater Disposal Rules*, *Maine State Plumbing Code*, and/or other applicable state requirements, or shall, as part of the permit application, submit a proposal for a new system adequate to serve the expanded use. No permit shall be issued by the commission until the applicant has demonstrated that the existing sewage disposal system is adequate or that a system of sewage disposal adequate for the intended use can and will be installed. The commission may require, when a new system is found to be necessary, that the new system be installed prior to the commencement of the proposed expansion.

- D. A permit from the Commission is required for the construction of a new or enlarged basement.
- E. After September 1, 1983, in areas of the Saco River corridor which are also within the shoreland zone established by 38 M.R.S.A. Section 435, if any portion of a structure does not meet applicable setback standards, that portion of the structure shall not be expanded in footprint by more than 30% during the lifetime of the structure.
- F. Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot within the shoreland zone. For purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, patios and other areas from which the vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces. This standard shall not apply to areas of the corridor designated as a General Development District prior to September 1, 1983.
- G. Any building expansion must be an integral part of the primary residential structure. This shall be accomplished by a direct, physical above-ground connection of the addition or accessory structure to the existing structure by load-bearing surfaces, including roofs and common walls.
- H. If the proposed structure can be relocated or reconstructed to meet the applicable setback and frontage requirements, then no portion of the reconstructed structure shall be replaced at less than the setback and frontage requirements for a new structure. This requirement shall not apply within General Development Districts established prior to September 1, 1983.

If the existing nonconforming structure is located within a General Development District established prior to September 1, 1983, the structure may be reconstructed or replaced in its existing location. Where there is a conflict between this standard and the DEP Shoreland Zoning Ordinance, the stricter provision shall prevail.

- I. The proposed structure must meet the setback requirements to the greatest extent practical as determined by the commission or its designee. In determining whether the proposed structure meets the setback to the greatest extent practical, the commission shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of any other structures on the property and on adjacent properties, the current location of the septic system and on-site soils suitable for septic systems, the type and amount of vegetation to be removed to accomplish a relocation, the type and physical condition of the current foundation, and any other applicable standards to address the

environmental factors pursuant to Chapter 103. These criteria shall not apply in areas established as a General Development District prior to September 1, 1983.

- J. In the event the proposed structure does not meet the standards contained in 3.A.–I. above, the applicant may seek a variance under the provisions of 38 M.R.S.A. Section 963.

#### 4. Additional Criteria Specific to Accessory Structures

- A. An accessory structure located within 100 feet of the normal or mean high water line may not be expanded.

An accessory structure located between 100 feet and 250 feet of the normal or mean high water line may not be expanded if it is located closer to the mean or normal high water line than the principal structure.

The footprint area of a legally permitted accessory structure may be included in the calculations of the expansion of another structure on the lot only if the accessory structure is permanently removed.

Saco River Corridor Commission staff reserve the right to grant exceptions for accessory structures that have minimal footprint measurements, included but not limited to fences, flagpoles etc.

#### 5. Additional Conditions Specific to Height Restrictions

- A. Within an area extending 250 feet from the normal or mean high water line of the Saco, Ossipee, or Little Ossipee rivers, an existing nonconforming structure that does not meet the required setback or frontage requirements may be expanded, reconstructed or replaced if the proposed project meets the following additional criteria:

- (1) The proposed structure is no larger than the area of the footprint of the original structure, except as allowed pursuant to Section 3.E. above. The proposed structure does not exceed the height restrictions identified in Table A below. The height requirement shall not apply to areas of the corridor designated as a General Development District prior to September 1, 1983.

**Table A**

Setback from the Normal or Mean High Water Line	Maximum Height
0 feet to <25 feet setback	15 feet
25 feet to <75 feet setback	20 feet
75 feet to <100 feet setback	25 feet
100 feet to 250 feet setback, and beyond	35 feet
100 feet to 250 feet setback in Resource Protection District	25 feet

- (2) If the proposed structure meets all criteria above, the existing structure may be reconstructed or replaced and also may be expanded in footprint by 30% once during the lifetime of the structure.
- (3) The standards noted above in subsections 5.A.(1-2) , 3.B, and 3.E. shall not apply to areas of the corridor within 100–250 feet from the normal or mean high water line of the rivers designated as a General Development District prior to September 1, 1983.

**6. Revegetation Requirements for the Removal, Reconstruction, or Replacement of an Existing Nonconforming Structure in the Corridor**

- A. Any vegetation removed in order to reconstruct or replace an existing nonconforming structure must be replaced with native species of the same size and species to the extent possible. SRCC may require more than a one-for-one replacement planting depending on specific circumstances. Replacement vegetation must be replanted no further from the water than the vegetation that was removed, unless approved by SRCC. The applicant must submit a revegetation plan to the commission along with a proposal for development. The SRCC will make the final determination to accept or deny the revegetation plan.

Where feasible, when a structure is removed or relocated on a parcel, the original location of the structure shall be revegetated with a combination of native vegetation, size and species to be approved by the Commission.

**7. Nonconforming Uses**

- A. An existing nonconforming use may not be changed to another nonconforming use unless it is determined by the commission that the proposed use will have no greater adverse impact on the rivers or lands adjacent to the use than the current existing use.
- B. The applicant will be required to submit a written application for approval of the proposed change of use along with documentation addressing any standards concerning the applicable environmental factors in Chapter 103. This will allow the commission to determine if the proposed change of use will result in a greater adverse impact on the land or waterways in the corridor.

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

EFFECTIVE DATE:

January 30, 2006 – filing 2006-44

AMENDED:

July 1, 2019 – filing 2019-107

**Chapter 107: PERFORMANCE STANDARDS GOVERNING EXPANSIONS OF EXISTING NONCONFORMING USES, INCLUDING STRUCTURES**

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SUMMARY: The expansion of any existing nonconforming structure within the Shoreland Zone is limited to 30% ~~calculated by both square footage and height, and the structure can go no closer to the water than the existing closest point.~~ based on the footprint that existed as of March 19, 1974, and the structure may not be expanded any closer to the normal or mean high water line. The maximum height of the proposed structure will not exceed the height limits shown in Table A in section 5. Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot within the Shoreland Zone. The reconstruction or replacement of existing nonconforming structures may be allowable by permit if the reconstruction or replacement meets certain criteria. A nonconforming use may not be changed to another nonconforming use unless it is determined that the new use will not result in an increased adverse impact on the lands and waterways of the corridor.

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**1. Scope**

This regulation shall be effective in all areas of the Saco River corridor as defined in Title 38 M.R.S.A. Section 953 and shall apply to all nonconforming uses or structures in existence prior to March 19, 1974, and to all nonconforming uses or structures established after March 19, 1974, and which legally exist as a result of the granting of a variance by the commission.

**2. Definitions**

**Footprint: The entire area of ground covered by the structure(s) on a premises, including but not limited to cantilevered or similar overhanging extensions, as well as attached structures such as garages, decks, porches or steps.**

The terms “expansion,” “enlargement,” and “extension” shall, for the purposes of these standards, be synonymous and shall mean any increase in the ~~land area~~ footprint covered by an existing nonconforming use or any increase in any dimension of a nonconforming structure, including height.

**3. Criteria for Approving an Expansion, Reconstruction or Replacement of ~~to~~ an Existing Nonconforming Structure within the Corridor**

- A. The proposed ~~expansion~~ structure will be on soils suitable for the proposed use and will not unreasonably involve any of the factors enumerated in 38 M.R.S.A. Section 959-A.1.A.–K. of the *Saco River Corridor Act*.
- B. The proposed structure will not result in an increase in nonconformity of all applicable performance standards.
- C. If the ~~expansion~~ structure involves any increase in the number of bedrooms in a single or

multi-family residential dwelling, or if it involves an anticipated increase in the amount of wastewater generated by the expanded use, then, prior to issuance of any permit for the ~~expansion~~ construction, the applicant shall provide documentation that the existing system of sewage disposal is adequate under the provisions of the *Maine Subsurface Wastewater Disposal Rules*, *Maine State Plumbing Code*, and/or other applicable state requirements, or shall, as part of the permit application, submit a proposal for a new system adequate to serve the expanded use. No permit shall be issued by the commission until the applicant has demonstrated that the existing sewage disposal system is adequate or that a system of sewage disposal adequate for the intended use can and will be installed. The commission may require, when a new system is found to be necessary, that the new system be installed prior to the commencement of the proposed expansion.

- D. A permit from the Commission is required for the construction of a new or enlarged basement. A new or enlarged basement built under an existing structure is not considered an "expansion" if: (a) the structure and new foundation go no closer to the shoreline than the prior foundation and are set back from the shoreline to the greatest practical extent, and (b) the completed foundation does not extend beyond the exterior dimensions of the structure.
- E. After September 1, 1983, in areas of the Saco River corridor which are also within the shoreland zone established by 38 M.R.S.A. Section 435, if any portion of a structure does not meet applicable setback standards, that portion of the structure shall not be expanded in ~~floor area by 30% or more~~ footprint by more than 30% during the lifetime of the structure.
- F. Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot within the shoreland zone. For purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, patios and other areas from which the vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces. This standard shall not apply to areas of the corridor designated as a General Development District prior to September 1, 1983. Any buildings or building additions — including decks, porches, stoops, and other portions of a building or building addition — shall not, when taken in total, cover more than 15% of the land area of the lot on which the building or building addition is situated. This standard shall not apply to areas of the corridor designated as a General Development District prior to September 1, 1983.
- G. Any building ~~addition~~ expansion must be an integral part of the primary residential structure. This shall be accomplished by a direct, physical above-ground connection of the addition or accessory structure to the existing structure by load-bearing surfaces, including roofs and common walls.
- H. If the proposed structure can be relocated or reconstructed to meet the applicable setback and frontage requirements, then no portion of the reconstructed structure shall be replaced at less than the setback and frontage requirements for a new structure. This requirement shall not apply within General Development Districts established prior to September 1, 1983.

If the existing nonconforming structure is located within a General Development District established prior to September 1, 1983, the structure may be reconstructed or replaced in its existing location. Where there is a conflict between this standard and the DEP

Shoreland Zoning Ordinance, the stricter provision shall prevail.

- I. The proposed structure must meet the setback requirements to the greatest extent practical as determined by the commission or its designee. In determining whether the proposed structure meets the setback to the greatest extent practical, the commission shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of any other structures on the property and on adjacent properties, the current location of the septic system and on-site soils suitable for septic systems, the type and amount of vegetation to be removed to accomplish a relocation, the type and physical condition of the current foundation, and any other applicable standards to address the environmental factors pursuant to Chapter 103. These criteria shall not apply in areas established as a General Development District prior to September 1, 1983.
- J. In the event the proposed structure does not meet the standards contained in 3.A.–I. above, the applicant may seek a variance under the provisions of 38 M.R.S.A. Section 963.

**~~4.—Criteria for Approval of Reconstruction or Replacement of an Existing Nonconforming Structure within the Corridor—~~**

~~A. Within an area extending 100 feet from the normal or mean high water line of the Saco, Ossipee, or Little Ossipee rivers, an existing nonconforming structure that does not meet the required setback or frontage requirements may be reconstructed or replaced if the proposed project meets the following criteria:—~~

- ~~(1) The proposed structure is no larger than the area of the footprint of the original structure, except as allowed pursuant to Section 3.E. above. The proposed structure is no greater than 30% taller than the height of the original structure. The height requirement shall not apply to areas of the corridor designated as a General Development District prior to September 1, 1983.—~~
- ~~(2) The proposed structure does not increase the nonconformity of the existing, original structure.—~~
- ~~(2) If the proposed structure can be relocated or reconstructed to meet the applicable setback and frontage requirements, then no portion of the reconstructed structure shall be replaced at less than the setback and frontage requirements for a new structure. This requirement shall not apply within General Development Districts established prior to September 1, 1983.—~~

~~———— If the existing nonconforming structure is located within a General Development District ———— established prior to September 1, 1983, the structure may be reconstructed or replaced in its ———— existing location. Where there is a conflict between this standard and the DEP Shoreland ———— Zoning Ordinance, the stricter provision shall prevail.—~~

- ~~(3) The proposed structure must meet the setback requirements to the greatest extent practical as determined by the commission or its designee. In determining whether the proposed structure meets the setback to the greatest extent practical, the commission shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of any other structures on the property and on adjacent properties, the current location of the septic system and on-site soils suitable for septic systems, the type and amount of vegetation to be removed to accomplish a relocation, the type and physical condition of the current foundation, and any other applicable standards to address the environmental factors pursuant to Chapter 103. These criteria shall not apply in areas established as a General Development District prior to September 1, 1983.—~~

~~B. Within an area extending from 100 feet to 250 feet from the normal or mean high water line of the Saco, Ossipee, or Little Ossipee rivers, an existing nonconforming structure that does not meet the required setback or frontage requirements may be reconstructed or replaced if the proposed project meets the following criteria:~~

- ~~(1) The proposed structure does not increase the nonconformity of the original structure.~~
- ~~(2) If the structure can be relocated or reconstructed to meet the applicable setback and frontage requirements, no portion of the proposed structure shall be replaced at less than the setback requirement for a new structure.~~
- ~~(4) The proposed structure must meet the setback requirements to the greatest extent practical as determined by the commission or its designee. In determining whether the proposed structure meets the setback to the greatest extent practical, the commission shall consider the same criteria listed in subsection 4.A.(4) above.~~
- ~~(5) If the proposed structure meets all criteria above, the existing structure may be reconstructed or replaced and also may be expanded in floor area and height by 30% once during the lifetime of the structure.~~
- ~~(6) The standards noted above in subsection 4.B.(1-4) and 3.E. shall not apply to areas of the corridor within 100-250 feet from the normal or mean high water line of the rivers designated as a General Development District prior to September 1, 1983.~~

~~C. In the event the proposed structure does not meet the standards contained in 4.A. or 4.B., the applicant may seek a variance under the provisions of 38 M.R.S.A. Section 963.~~

## **5. Additional Criteria Specific to Accessory Structures**

- A. An accessory structure located within 100 feet of the normal or mean high water line may not be expanded.

An accessory structure located between 100 feet and 250 feet of the normal or mean high water line may not be expanded if it is located closer to the mean or normal high water line than the principal structure.

The footprint area of a legally permitted accessory structure may be included in the calculations of the expansion of another structure on the lot only if the accessory structure is permanently removed.

Saco River Corridor Commission staff reserve the right to grant exceptions for accessory structures that have minimal footprint measurements, included but not limited to fences, flagpoles etc.

## **5. Additional Conditions Specific to Height Restrictions**

- A. Within an area extending 250 feet from the normal or mean high water line of the Saco, Ossipee, or Little Ossipee rivers, an existing nonconforming structure that does not meet

the required setback or frontage requirements may be expanded, reconstructed or replaced if the proposed project meets the following additional criteria:

- (1) The proposed structure is no larger than the area of the footprint of the original structure, except as allowed pursuant to Section 3.E. above. The proposed structure does not exceed the height restrictions identified in Table A below. The height requirement shall not apply to areas of the corridor designated as a General Development District prior to September 1, 1983.

**Table A**

<u>Setback from the Normal or Mean High Water Line</u>	<u>Maximum Height</u>
<u>0 feet to &lt;25 feet setback</u>	<u>15 feet</u>
<u>25 feet to &lt;75 feet setback</u>	<u>20 feet</u>
<u>75 feet to &lt;100 feet setback</u>	<u>25 feet</u>
<u>100 feet to 250 feet setback, and beyond</u>	<u>35 feet</u>
<u>100 feet to 250 feet setback in Resource Protection District</u>	<u>25 feet</u>

- (2) If the proposed structure meets all criteria above, the existing structure may be reconstructed or replaced and also may be expanded in footprint by 30% once during the lifetime of the structure.
- (3) The standards noted above in subsections 5.A.(1-2) , 3.B, and 3.E. shall not apply to areas of the corridor within 100–250 feet from the normal or mean high water line of the rivers designated as a General Development District prior to September 1, 1983.

## **6. Revegetation Requirements for the Removal, Reconstruction, or Replacement of an Existing Nonconforming Structure in the Corridor**

- A. Any vegetation removed in order to reconstruct or replace an existing nonconforming structure must be replaced with native species of the same size and species to the extent possible. The SRCC may require more than a one-for-one replacement planting depending on specific circumstances. Replacement vegetation must be replanted no further from the water than the vegetation that was removed, unless approved by SRCC. The applicant must submit a revegetation plan to the commission along with a proposal for development. The SRCC will make the final determination to accept or deny the revegetation plan. ~~Trees removed in order to reconstruct or replace an existing noneonforming structure must be replaced. For every tree that is removed, it must be replaced with one native tree over three feet in height. The applicant may submit a revegetation plan to the commission for consideration along with a proposal for development, but replacement trees must be replanted no further from the water than the trees that were removed.~~

Where feasible, when a structure is removed or relocated on a parcel, the original location of the structure shall be revegetated with a combination of native ~~shrubs, trees, and grasses.~~ vegetation, size and species to be approved by the Commission.

**7. Nonconforming Uses**

- A. An existing nonconforming use may not be changed to another nonconforming use unless it is determined by the commission that the proposed use will have no greater adverse impact on the rivers or lands adjacent to the use than the current existing use.
  - B. The applicant will be required to submit a written application for approval of the proposed change of use along with documentation addressing any standards concerning the applicable environmental factors in Chapter 103. This will allow the commission to determine if the proposed change of use will result in a greater adverse impact on the land or waterways in the corridor.
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STATUTORY AUTHORITY: 38 M.R.S. Section 954-C

EFFECTIVE DATE:

January 30, 2006 – filing 2006-44

AMENDED:

July 1, 2019 – filing 2019-107

**SACO RIVER CORRIDOR COMMISSION**

Schedule of Fees  
Adopted September 18, 1974  
Revised 2/10/75, 9/26/76, 10/26/77, 6/26/85, 5/28/86,  
6/24/87, 5/16/90, 9/18/91, 9/1/93 and 4/23/08

**Proposed Revisions-September 14, 2022**

The following list of fees, charges, costs, or expenses shall be applicable unless or until amended:

- |     |   |                                |
|-----|---|--------------------------------|
| 1.  | Single family residence with or without garage  |                                |
|     | a. No hardship required   | \$ 350.00                      |
|     | b. Hardship Variance required   | \$ 550.00                      |
| 2.  | Accessory structure or addition   |                                |
|     | a. No Hardship Variance required  |                                |
|     | 100 square feet or less   | \$ 125.00                      |
|     | More than 100 square feet   | \$ 175.00                      |
|     | b. Hardship Variance required   | cost per size above + \$200.00 |
| 3.  | New or Replacement septic system or well  | \$ 50.00                       |
| 4.  | Excavating or filling   |                                |
|     | 50 cubic yards or less  | \$ 150.00                      |
|     | 51 cubic yards to 100 cubic yards   | \$ 225.00                      |
|     | More than 100 cubic yards   | \$ 300.00                      |
| 5.  | Establishment of new use-no new construction  | \$ 175.00                      |
| 6.  | Commercial Development  |                                |
|     | Less than 2,000 sq. ft.   | \$500.00*                      |
|     | 2,000 sq. ft to 5,000 sq. ft. (current \$350.00)  | \$1,000.00*                    |
|     | 5,000 sq. ft. to 10,000 sq. ft. (current \$500.00)  | \$1,500.00*                    |
|     | Greater than 10,000 sq. ft. (current \$750.00)  | \$2,000.00*                    |
|     | *All Commercial Development projects are subject to additional fees to cover the cost of licensed and expert reviews as required by the Commission. |                                |
| 7.  | All Other   | \$ 450.00                      |
| 8.  | Amendment to previous permit approval   | \$ 100.00                      |
| 9.  | Reconsideration of previously submitted application   | \$ 150.00                      |
| 10. | Time Extension  | \$ 100.00                      |

11. After the Fact Permits for any category are double and do not preclude other financial penalties and or conditional requirements.

Printed Materials/Recordings.

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|----|--|-----------|
| a. | Informational pamphlet   | free      |
| b. | Copy of Saco River Corridor Act.   | \$ 10.00  |
| c. | Materials printed by the Commission (8 ½ by 11”) per page or actual cost whichever is greater                                      | \$ .50    |
| d. | Sound recording of hearing (when available) or actual cost, whichever is greater   | \$ 150.00 |
| e. | Hearing transcript (when available) per page   | \$ 10.00  |
| f. | Copies of Evidentiary Materials from Hearings (Exhibits and other materials 8 ½ x 11) per page or actual cost whichever is greater | \$ .50    |
| g. | Reproduction of documents other than those listed above per page or actual cost, whichever is greater                              | \$ 1.00   |
| h. | Certified copies of any of the above in addition to the regular fee  | \$ 15.00  |
- 
12. No permit or variance shall be issued until such applicable costs, charges, fees, or expenses listed above have been paid in full. No action shall be taken on proceedings before the Commission, nor shall any application be considered complete until all applicable charges and fees listed above have been paid in full. Fees are nonrefundable.
  13. If the Executive Director of the Commission determines that a request for materials would place an undue burden on the Commission because of the size or character of the material, the quantity desired, or the time limitations or the commission staff, the request may be denied.
  14. All materials shall be available for public inspection at such reasonable time and place as the Executive Director might determine.
  15. The Commission may set specific fees for special documents published or distributed by the Commission, including but not limited to, copies of the Comprehensive Plan, newsletters, and regular notices of meetings and hearings.
  16. This Schedule of Fees shall become effective upon adoption by the Commission.