

Chapter 103: STANDARDS TO ADDRESS THE ENVIRONMENTAL FACTORS

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.

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.

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

EFFECTIVE DATE:

January 10, 2023 – *waiting for copy of filing number*