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Buying & Selling Property: What You Should Know Before You Divide, Buy or Sell Land in the Maine Land Use Regulation Commission's Jurisdiction. 2011

Maine Land Use Planning Commission

Maine Department of Agriculture, Conservation and Forestry

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Additional Information

Zoning

All of LURC's jurisdiction is zoned into specific zones or subdistricts. The subdistricts are located within three major land use districts consisting of development, protection, or management. The subdistricts shown on our LURC zoning maps (which can be found online) determine what activities can be conducted within the subdistrict.

Commercial Uses

Commercial uses are only allowed in certain development subdistricts. They also require supplemental information (Supplement S-2) as part of their application.

Subdivision Applications

As mentioned the creation of a subdivision requires review and a permit. There is a specific subdivision permit application required. Also, a subdivision can only be allowed in certain development subdistricts.

Rezoning

Occasionally an activity requested is not allowed in the zone or subdistrict where the property is located. In that case a rezoning can be requested through a zoning petition. There are additional requirements for a rezoning including being near adjacent compatible development and that the project meets a "demonstrated need". See our guidance documents on our website for more information on "Demonstrated Need".

Change of Use/ Resumption of Use

Any proposed change of use requires a permit and may not be allowed depending on the zoning or on an increase in nonconformity. The resumption of use of a nonconforming activity or structure (if it has been discontinued for over two years) is not allowed if it has been superseded by a conforming use.

Nonconforming Uses

LURC has a section of its rules devoted specifically to legally existing nonconforming uses and structures conducted and built prior to the inception of LURC in 1971. It is located in Section 10.11 of LURC's Chapter 10 which can be found online at www.maine.gov/doc/lurc/reference/ch10.html.

When Permits are Required

Permits are typically required for all new structures, additions, expansions, accessory structures, reconstructions, and also for many activities near the shoreline such as filling and grading and clearing. Refer to the activity listings for the subdistrict your property is located within and also section 10.11 if you have a nonconforming structure/property or consult your local LURC office for more information.

When Permits are not Required

Permits are not required for most normal maintenance and repair of structures (except flood prone areas). If you are unsure, you should always contact the Commission to determine if your proposed work does not require a permit.

Variances

In limited cases, and depending on the situation and rules, there are allowances for the approval of a variance to our rules. Variance criteria is specified in section 10.10 of Chapter 10.

NEED HELP?

The Commission's staff is available to discuss any questions regarding your property. Please contact us by phone at the numbers listed below or check out our website for email addresses, office hours, locations, applications, reference materials and additional information.

AUGUSTA OFFICE

Main LURC Office

18 Elkins Lane - Harlow Building
22 State House Station
Augusta, ME 04333-0022
Tel. (207) 287-2631
Fax (207) 287-7439
TTY (888) 557-6690

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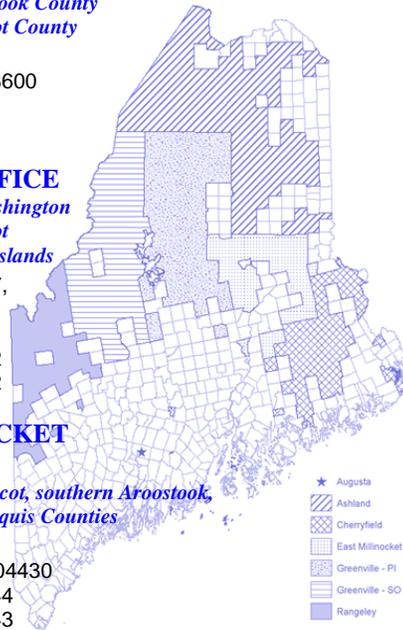
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West Farmington, ME 04992
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Oxford County (207) 670-7492



Buying and Selling Property

What you should know before you divide, buy, or sell land in the Maine Land Use Regulation Commission's Jurisdiction

LURC IS ONLINE!

Visit our web site at www.maine.gov/doc/lurc to browse our rules, find zoning maps, meeting agendas, take our customer service survey, and locate other information.

A general guide to land use regulations in the unorganized townships, towns and plantations of Maine.

The Maine Land Use Regulation Commission



The Maine Land Use Regulation Commission (LURC) was created in 1971 to serve as the planning and zoning authority for the state's unorganized areas, certain coastal islands, and towns and plantations without local planning and zoning control.

LURC has staff located in five regional offices throughout the jurisdiction along with a main office located in Augusta. The staff is divided into two divisions, the Permitting and Compliance Division and the Planning Division.

Purpose of Brochure

This brochure is intended to give basic information to those who are interested in buying or selling land and/or then developing those properties in LURC jurisdiction, real estate professionals, and all others involved in real estate transactions in LURC jurisdiction.

First Step

The first step is to determine if the property is located in LURC jurisdiction. LURC jurisdiction consists of all of the unorganized territories of the state (townships) along with 8 towns and 32 plantations that elect to have LURC provide land use rules for them. If the property is within a township and is taxed by Maine Revenue Services it is within the unorganized territory and LURC jurisdiction. For towns/plantations, you can either check with the appropriate town office where the property is located to see if they or LURC provide the local land use rules or you can check our website to see all of the towns and plantations within our jurisdiction at www.maine.gov/doc/lurc/offices.html.

Dividing Land

According to the definition, a subdivision is "a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period...". The creation of a subdivision requires a permit from LURC. While there are numerous exemptions and allowances for dividing land, you should always consult with LURC staff or a real estate professional prior to dividing land to be certain that you are not creating a subdivision. If you subdivide and sell off such a lot or lots without prior permit approval, it creates a violation of subdivision law and the new owners will not be able to legally develop the lots. Since LURC and towns are not involved in the actual real estate transaction, we will likely first become aware of an illegal subdivision of land only when a buyer eventually applies for a building permit and we review the land division history of the parcel. It is extremely beneficial for both the seller and buyer to ensure that the land was divided legally. The best way of ensuring this is through an [Advisory Ruling](#) issued by LURC.

Selling Land

If you are interested in selling your land, even if it does not result in a land division, there are two options that may be helpful for you prior to putting your property on the market. If your property already has a permit from LURC, you may want to apply to LURC for a [Certificate of Compliance](#) in which we do a compliance check and issue a formal determination that the property was developed in compliance with the permit. This may be helpful in that a potential buyer would be aware that the property is in compliance with no violations. For a Pre-LURC (prior to 1971) structure that has never required a permit from LURC an owner has the option to instead request an [Advisory Ruling](#) in which we could make a determination as to whether or not the property and all structures are legally existing. If there are any [violations](#) at the property it is best to determine them early so that they can be resolved as quickly as possible.

Buying Land

In addition to the issues noted above regarding [dividing land](#), [Certificates of Compliance](#), or [Advisory Rulings](#), the following information may also be helpful for anyone thinking about buying property in LURC jurisdiction.

Looking at purchasing an undeveloped lot

A Building Permit is required for all new construction. For residential uses, the Commission currently requires a minimum lot size of 40,000 square feet (0.92 acres), 200 feet of shore frontage (if applicable) and 100 feet of road frontage. For residential uses, a structure must be at least 100 feet from the shore of a lake, river, or large stream; 75 feet from small streams and certain wetlands; 50 feet from the traveled edge of most roads; and 15 feet from all property lines. There are also limits on structure height. Please note that even though a property may meet the above dimensional requirements, there may still be other issues that could affect a permit decision such as soils, wetlands, subsurface wastewater, etc.

Looking at property with a residential structure constructed before September 1971

If legally existing structures do not meet the current dimensional standards above, they are nonconforming structures and special rules apply to the reconstruction and expansion of these structures. Building Permits are required for all expansions (any increase in height or floor area) and reconstructions (more than 50% of structure or adding a permanent foundation) of nonconforming structures. Expansion is limited within 100 feet of a lake and no structure may become more nonconforming. Reconstructed structures must be relocated to the greatest possible extent from water bodies and roads to make the structure conforming or less nonconforming.

Looking at property with a dwelling completed after September of 1971

Contact us before you buy any property with a dwelling constructed after 1971. If a dwelling has been built after 1971, a Building Permit should

For questions visit our website at www.maine.gov/doc/lurc or call, write, or email. See page 6 for contact information.

have been issued. The permit, and all conditions associated with that permit, stay with the property. If the present owner cannot produce a copy of the permit for you please contact us and we can get you a copy. If a Building Permit has not been issued, the property may be in [violation](#) (see below) of our standards. It is important to note that violations also travel with the property from one owner to the next.

Certificates of Compliance

A Certificate of Compliance (COC) is a formal document that is issued after a compliance inspection to ensure that the development and all conditions of a permit were adequately completed. The COC is very similar to the Certificate of Occupancy that is required in many municipal towns which is required prior to occupancy of a dwelling. In some situations we also require a COC to be issued prior to occupancy. This would be noted as a condition of the permit in those cases. In most cases a COC is not required but is optional. A COC has been shown to be beneficial to those property owners looking to sell their property in that they can show proof to all potential buyers that the property is in compliance with all land use laws and rules.

Advisory Rulings

An Advisory Ruling is a document issued by LURC that is intended as advice and guidance as to how certain requirements apply to a particular situation. The Advisory Ruling can be requested by the landowner or any other party that has a title, right, or interest in the property (such as a potential purchaser with a purchase and sales agreement). While an Advisory Ruling is not a formal document such as a permit or Certificate of Compliance, it is issued by LURC based on the application of law and rules in effect at the time and gives the person requesting the ruling written advice and guidance. Advisory Rulings are most often requested based on land division questions but can also be utilized for any other question regarding a property or the application of LURC rules. Another common use is a request regarding the legal status of a property that may not have a permit such as pre-LURC legally existing nonconforming structures.

Violations

It is important to note that violations of land use laws and rules administered by LURC travel with the property and not with the owner or the person committing the violation. With the exception of an unauthorized subdivision in existence for over 20 years, there is no "statute of limitations" for our land use laws and rules. Any violation that has not been resolved, no matter how old, or no matter who committed the violation, may adversely affect the sale of a property. While LURC cannot and does not prevent the sale of a property with a violation, occasionally a sale is delayed or lost because a potential buyer will not purchase a property with a known violation. Or a new property owner may find themselves responsible for correcting the violations committed by a previous landowner. In order to prevent this happening to you, you should contact LURC and may want to look into obtaining a Certificate of Compliance or an Advisory Ruling to determine if the property that you are buying or selling is in compliance. Also in most cases where a violation exists on a property, we cannot process future applications for that property until that violation is resolved.