

§4401. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2. Dwelling unit. "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

2-A. Freshwater wetland. "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and [PL 1989, c. 404, §1 (NEW).]

B. Not considered part of a great pond, coastal wetland, river, stream or brook. [PL 1989, c. 404, §1 (NEW).]

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

[PL 1989, c. 404, §1 (NEW).]

2-B. Farmland. "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or [PL 2009, c. 356, Pt. C, §1 (NEW).]

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2. [PL 2009, c. 356, Pt. C, §1 (NEW).]

[PL 2009, c. 356, Pt. C, §1 (NEW).]

3. Principal structure. "Principal structure" means any building or structure in which the main use of the premises takes place.

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §1 (RPR).]

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

- (2) The division of the tract or parcel is otherwise exempt under this subchapter. [PL 2001, c. 359, §1 (AMD).]
- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]
- C. A lot of 40 or more acres must be counted as a lot, except:
- (2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance. [PL 2001, c. 651, §1 (AMD).]
- D. [PL 2001, c. 359, §2 (RP).]
- D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]
- D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]
- D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]
- D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate. [PL 2001, c. 359, §3 (NEW).]
- D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §3 (NEW).]
- D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection. [PL 2013, c. 126, §1 (AMD).]
- E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

G. [PL 2017, c. 104, §1 (RP).]

H. [PL 2001, c. 651, §2 (RP).]

H-1. [PL 2017, c. 104, §1 (RP).]

H-2. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2021. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2020 for the definition to remain valid for the grace period ending January 1, 2021. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located. [PL 2019, c. 174, §1 (AMD).]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [PL 2001, c. 359, §5 (AMD).]

J. Unless the intent of a transferor is to avoid the objectives of this subchapter, the division of a tract or parcel of land accomplished by the transfer of any interest in the land to a holder does not create a lot or lots for purposes of this definition if:

(1) The transferred interest, as expressed by conservation easement, binding agreement, declaration of trust or otherwise, is to be permanently held for one or more of the following conservation purposes:

- (a) Retaining or protecting the natural, scenic or open space values of the land;
- (b) Ensuring the availability of the land for agricultural, forest, recreational or open space use;
- (c) Protecting natural resources; or
- (d) Maintaining or enhancing air quality or water quality; and

(2) The transferred interest is not subsequently further divided or transferred except to another holder.

As used in this paragraph, "holder" has the same meaning as in Title 33, section 476, subsection 2. [PL 2023, c. 79, §1 (AMD).]

[PL 2023, c. 79, §1 (AMD).]

5. New structure or structures. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

6. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each

a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

[PL 2007, c. 49, §1 (AMD).]

7. Outstanding river segments. In accordance with Title 12, section 402, "outstanding river segments" means:

A. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. The Crooked River from its inlet into Sebago Lake to the Waterford and Albany Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

E. The Dennys River from the Route 1 bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

F. The East Machias River, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

Q. The Saco River from the Little Ossipee River to the New Hampshire border; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

R. The St. Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

S. The St. George River from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

U. The Sandy River from the Kennebec River to the Madrid and Township E town line; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

W. The West Branch of the Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §3 (AMD).]

X. The West Branch of the Union River from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §3 (AMD).]
[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 497, §3 (AMD).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 326, §1 (AMD). PL 1989, c. 404, §1 (AMD). PL 1989, c. 497, §§1-3 (AMD). PL 1989, c. 772, §2 (AMD). PL 1991, c. 500, §§1,2 (AMD). PL 2001, c. 359, §§1-5 (AMD). PL 2001, c. 359, §8 (AFF). PL 2001, c. 523, §§1,2 (AFF). PL 2001, c. 651, §§1-3 (AMD). PL 2007, c. 49, §1 (AMD). PL 2009, c. 356, Pt. C, §1 (AMD). PL 2013,

c. 126, §1 (AMD). PL 2017, c. 104, §1 (AMD). PL 2019, c. 174, §1 (AMD). PL 2023, c. 79, §1 (AMD).

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