



STATE OF MAINE
 DEPARTMENT OF CONSERVATION
 MAINE FOREST SERVICE
 22 STATE HOUSE STATION
 AUGUSTA, MAINE
 04333-0022

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 GOVERNOR



**Sample Subdivision Review Process for
 New Criterion #20 for Municipal Planning Boards**

A new law, Public Law Chapter 622, An Act to Improve Subdivision Standards, prohibits a municipality or the Land Use Regulation Commission from approving a subdivision application if the parcel has been harvested in violation of Liquidation Harvesting rules adopted by the Maine Forest Service on January 2, 2005. The new law adds a twentieth criterion to the existing list of subdivision review criteria.

Review Criteria (*Existing language at top of list of review criteria*): When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14." (30-A MRS §4404, sub-§20)

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The Maine Forest Service suggests that municipalities consider the following series of questions when considering subdivision review criteria #20.

Questions to assess mandatory Subdivision Review Criterion 20 concerning subdivision of liquidated forestland.	Yes/No	Optional Additional Data	Action
1. Has the parcel changed ownership within 5 years prior to the date of the subdivision application?		Date of last conveyance:	"No" – end of Criterion 20 review "Yes" - Proceed to 2
2. Has timber been harvested on the parcel within 5 years prior to the date of the subdivision application?		Indicate date(s) of timber harvest(s):	"No" – end of Criterion 20 review "Yes" - Proceed to question 3
3. Did the timber harvesting result in a violation of liquidation harvesting rule, based on a request for technical assistance from the Maine Forest Service? ¹ If MFS has not agreed to provide assistance proceed to next question.		Date request forwarded to MFS: Date MFS indicated ability to provide technical assistance:	"No" – end of Criterion 20 review "Yes" - Deny Subdivision
4. Has a violation occurred based on a determination that is certified by a forester licensed pursuant to Title 32, chapter 76? <u>Note:</u> Applicant to obtain this information and provide to municipality.		Date of determination by MFS or forester licensed pursuant to Title 32, chapter 76:	"No" – end of Criterion 20 review "Yes" - Deny Subdivision

Questions may be directed by email to jim.blanc@maine.gov

¹ "The bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall provide a written copy of its finding and determination as to whether a rule violation has occurred to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester."

PUBLIC LAWS OF MAINE
Second Special Session of the 121st

CHAPTER 622
H.P. 1195 - L.D. 1617

An Act To Improve Subdivision Standards

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §685-B, sub-§4-A is enacted to read:

4-A. Subdivision of land subject to liquidation harvesting. The commission may not approve an application for a subdivision if the commission determines that timber on the parcel proposed for subdivision has been harvested in violation of rules adopted pursuant to section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the commission must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The commission may request technical assistance from the Maine Forest Service to determine if a rule violation has occurred.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to section 8869, subsection 14.

Sec. 2. 30-A MRSA §4404, sub-§18, as amended by PL 1997, c. 226, §3, is further amended to read:

18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision; ~~and~~

Sec. 3. 30-A MRSA §4404, sub-§19, as enacted by PL 1997, c. 226, §4, is amended to read:

19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; ~~and~~

Sec. 4. 30-A MRSA §4404, sub-§20 is enacted to read:

20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

Effective July 30, 2004, unless otherwise indicated.

*Office of the Revisor of Statutes
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