

# Shoreland Zoning: State & Municipal Collaboration to Protect Maine's Natural Resources



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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

*Protecting Maine's Air, Land and Water*

# Shoreland Zoning Purposes and Standards



# What is the Shoreland Zoning?

## Mandatory Shoreland Zoning Act passed in 1971

- DEP writes the minimum standards for shoreland zoning ordinances
- Municipalities, through local ordinances administer and enforce shoreland zoning

## Where it applies

- to all land areas within 250 feet of
  - great ponds;
  - defined rivers;
  - coastal wetland, including all areas affected by tidal action;
  - defined freshwater wetlands; and
- to all land areas within 75 feet of
  - defined streams



# What are the purposes of the Act?

## **Protect:**

- Fish & wildlife habitat
- Buildings from flooding
- Archaeological and historical sites
- Freshwater and coastal wetlands
- Commercial fisheries and maritime industries

## **Conserve character of our State:**

- Natural beauty
- Open space
- Access to waters

## **Control threats to our State's assets:**

- Water pollution
- Soil erosion
- Other problems from building in inappropriate locations





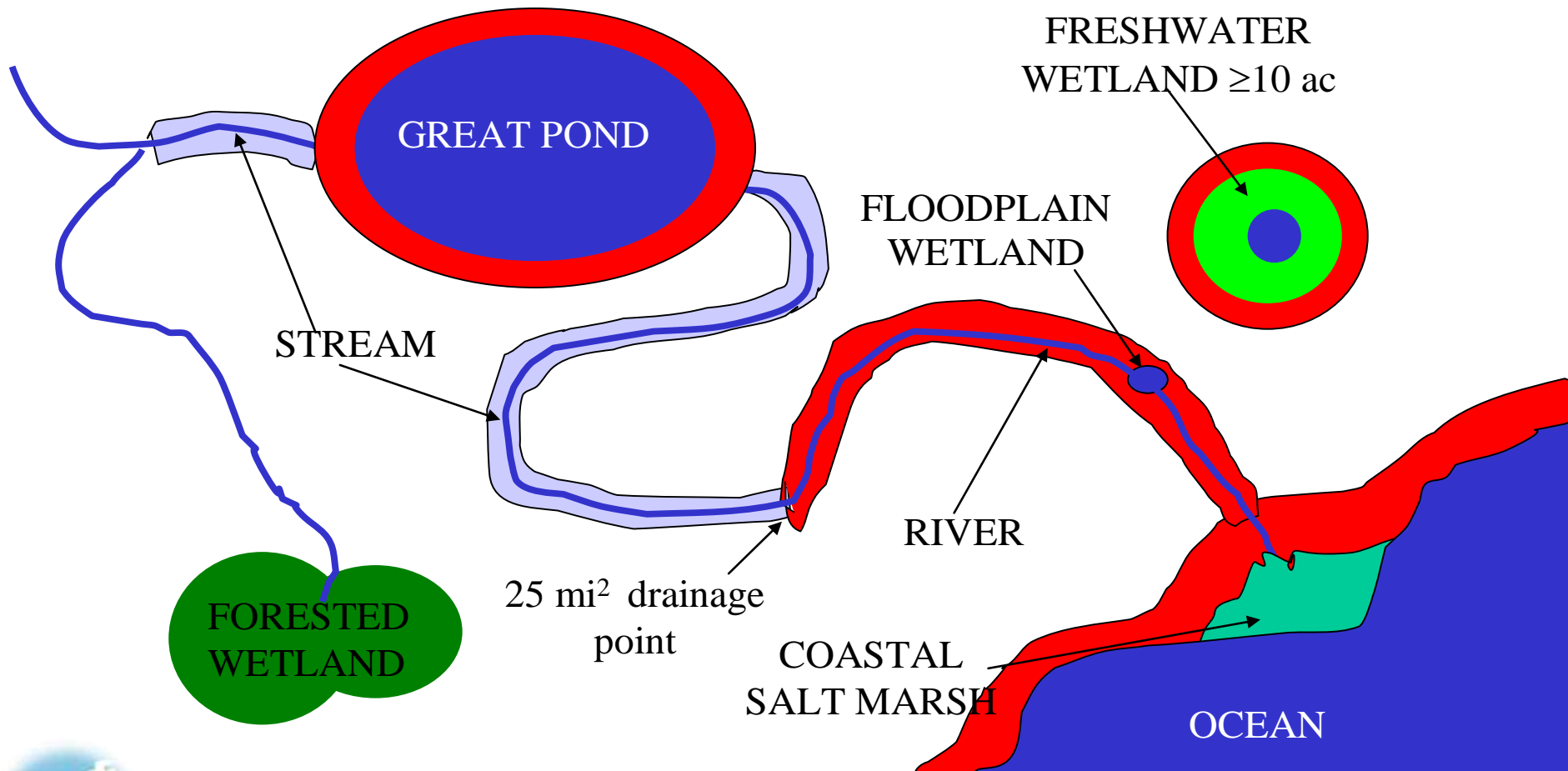
# Protected Resources



# Areas Subject to Shoreland Zoning

■ = 250' ZONE

■ = 75' ZONE





# Chapter 1000 State of Maine Guidelines for Municipal Shoreland Zoning Ordinances

- Guidelines are published by DEP to help municipalities craft ordinances. They're set up like an ordinance and contain the minimum standards.
- Ordinances can vary, and may be more restrictive.
- Special local conditions can allow for less restrictive ordinances with DEP approval



# Shoreland Zoning Districts

- Resource Protection – floodplain, steep slopes, wetland areas, severe erosion
- Stream Protection – stream shoreland zones
- Limited Residential – (default) not RP or SP, but not developed like LC, GD, or CFMA
- Limited Commercial – light commercial use, some residential
- General Development I and II – industrial/heavy commercial
- Commercial Fisheries/Maritime Activities – pattern of development supports fisheries and water dependent uses





# Setback Versus Zone of Jurisdiction

- Setbacks are based on the district and/or the adjacent resource
- Zone of jurisdiction refers to the entire shoreland zone
- The shoreland zone is either 250 feet adjacent to the ocean, rivers, ponds, and wetlands; and/or



- 75 feet adjacent to streams
- The only time the setback from the resource, is the same as the jurisdiction zone is when it is a use not permitted in a Resource Protection District; and when in a Stream Protection District

# Structure Standards: Setbacks

- Resource Protection District **250'**  
(except allowed uses, see below)
- Great pond and rivers into great ponds **100'**
- Other rivers, streams and wetlands **75'**
- Tributary streams (within shoreland zone) **75'**
- General Development II District **75'**
- General Development I District **25'**
- Functionally water-dependent uses **0'**



# Implementation Roles

## Municipality

- Adopts/Amends ordinance
- Administers ordinance
- Enforces ordinance
- Decides administrative and variance appeals

## Maine DEP

- Approves amendments
- Provides advisory opinions
- Provides enforcement assistance
- Comments on variances



# Amendment Process

Who will be involved:

- Planning board or a committee task?
- Appoint a drafter (computer user)
- Other officials, for getting public input?

Assistance from shoreland staff:

- Review draft amendment language
- Discuss pros and cons of various options
- Advise on any necessary map amendments



# Following Through

After local adoption:

- Submit copy of amendments, attested by the clerk
- 45-day review period
- Receive DEP Order
- Contact Maine Forest Service

If conditional approval:

- Notice of DEP Order first
  - Contact shoreland staff with concerns
- Attach conditions to ordinance





# Local Procedures

Determine timeline, work backwards from:

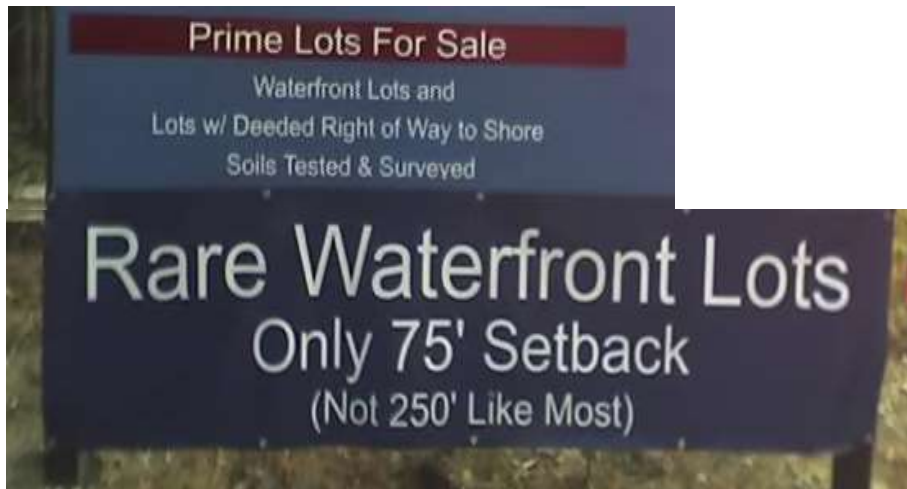
- Date of adoption (town meeting / council vote)
- Warrant/agenda deadline
- Required public hearing
- Public/individual notices
- PB consideration/passage?
- Map refinement
- DEP draft review?
- Map drafted
- Ordinance drafted



# Permitting Process

Provide assistance when applicants:

- Seek assistance with application forms
- Need introduction to shoreland zoning
- Provide faithful attempts, not abstract hypotheticals
- Need shoreland zoning standards or definitions





# Permitting Decisions

Applications must show conformance to standards:

- Require any additional information from applicant
- Deny applications that show the project won't conform
  - If due to dimensional standard, refer to the board of appeals
- Put findings of fact in writing
  - Required for denials, still wise for approvals
- **IMPORTANT:** Any project amendment must be documented as a permit amendment in the town's records, if amendment meets standards



# Clearing Vegetation



# Vegetated Buffers

- Buffers—area where vegetation removal is more limited
  - 100 feet from shoreline of great ponds and rivers that flow to great ponds
  - 75 feet from shoreline of other rivers, streams, tributary streams, and wetlands
  - Notice, same as the shoreline setback for structures
- 3 primary buffer standards:
  - Limit cleared canopy openings
  - Maintain well-distributed stand of trees and other vegetation
  - Limit total volume of trees removed



- No cleared openings in the canopy of more than 250 sq. ft.
- Meandering footpath of no greater than 6 feet allowed
- Selective cutting in buffer strip meeting point system and maintaining other natural vegetation (5 saplings less than 2" in diameter) allowed
- No vegetation less than 3 ft. in height, and other ground cover shall be removed
- No more than 40% of the total volume of trees 4 inches or more can be removed in a 10-year period
- Can prune bottom 1/3 of trees
- Removal of safety hazards, storm damaged, diseased or dead trees are allowed, however if removal does not meet standards replanting is require, unless new growth is present



Keep cleared openings  
within the buffer to  
less than 250 square  
feet



# Well-Distributed Stand

## 25x50 plot area

- 24 points for great ponds, and rivers and streams flowing to great ponds
- 16 points for other water bodies and wetlands

## DBH (inches)      Points

2<4	1
4<8	2
8<12	4
12 +	8



## Outside the Buffer

- No more than 40% of the volume of trees four inches or more can be removed in any ten year period. This includes trees removed in conjunction with the development of permitted uses.
- Cleared opening cannot exceed 10,000 sq. ft. or 25% of the lot area (whichever is greater). This includes previously cleared land

## General Allowances

- Can maintain legally existing cleared openings, but cannot be enlarged
- Fields and other cleared opening that have reverted back to primarily shrubs, trees, or other woody vegetation, must be regulated according to rules in clearing section





A photograph of a forest with a view of a lake through the trees. The trees are tall and thin, with green foliage. The lake is visible in the background, and there are mountains in the distance. The ground is covered in brown leaves and ferns.

Buffer cut, and trees pruned, in  
compliance with the standards;  
there's still a view!





Definitely enough  
points to remove  
a few trees...



...but instead







...and even that wasn't good enough!





# Wiscasset- tree cutting violation





# Wiscasset- tree cutting violation







## Wiscasset- tree cutting violation





# Setback Violations

If it looks like a duck...











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Violations, intentional or not, must be corrected.



- Restoration can be expensive; then add a fine & fees



# Erosion and Sedimentation

Soil is #1 pollutant to Maine's waters:

- Nutrients feed algae, discoloring waters
- Decomposers of dead algae starve the pond of oxygen

Little economic/recreational value:

- Algae = unpleasant swimming
- No oxygen = no fish
- Icky water = low property value



# E & S Standards

Before soil disturbance:

- Plan and prepare site
- Written plan required if permit required

During all phases of construction:

- Plans must be followed
- Controls must be functioning
- Minimize amount of exposed soils

At end of construction:

- Permanent stabilization required



# Technical Assistance

If needed, the DEP can provide CEO's, PB's, and ZBA's:

- General interpretations or guidance
- Assistance in determining application completeness
- Written advisory opinions referencing the local ordinance
  - For complex projects or after-the-fact permitting, or variances
  - Regarding enforcement actions for violations





# Final Thoughts

Working in cooperation Municipalities and State Agencies can protect Maine's Natural Resources through:

- State Rules and Local Ordinance adoption
- Permitting review and compliance
- Buffer Vegetation management
- Coordinated Enforcement efforts
- Public Outreach





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