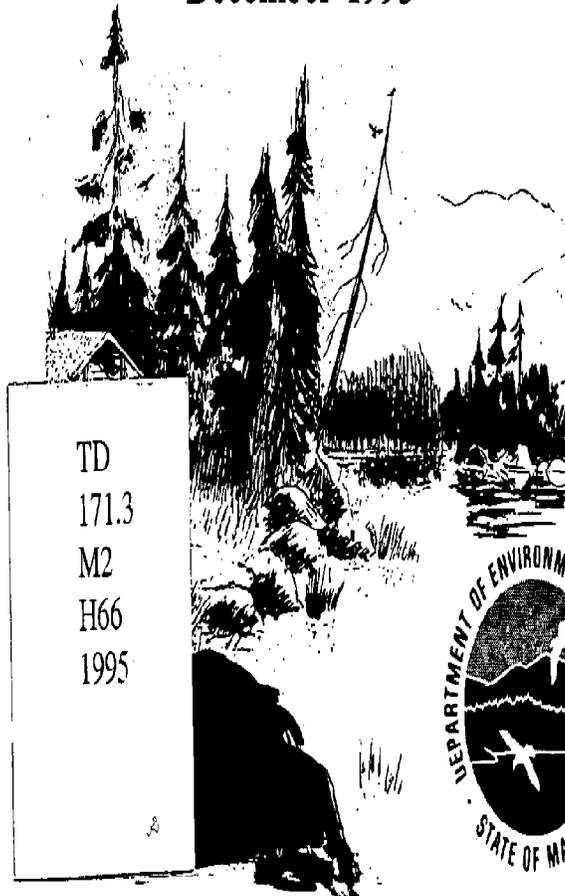


A Homeowner's Guide To Environmental Laws Affecting Shorefront Property in Maine's Organized Towns

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Maine Department of
Environmental Protection

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A Homeowner's Guide to Environmental Laws Affecting Shorefront Property in Maine's Organized Towns

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INTRODUCTION

Would you rather own shorefront property on the shore of a lake, river or coastal area that is polluted with sewage, algae or dead fish, or one that is clear, swimmable and teeming with fish and wildlife? Obviously everyone wants clean lakes, rivers and coastal areas. Maine's Legislature has enacted several environmental laws which protect these important natural resources from becoming degraded. It is important that every owner of shorefront property abide by these laws to ensure that water quality is protected.

The four state environmental laws relevant to shorefront property in Maine's towns that are explained in the following guide are: the Protection and Improvement of Waters Law; the Natural Resources Protection Act (NRPA), and its associated rules; the Seasonal Conversion Law; and the Mandatory Shoreland Zoning Act (MSZA) plus corresponding local ordinances.

This booklet is designed to cut through the extensive text of these laws and rules and provide you with a simpler, easy-to-understand version of their requirements. We hope that by providing you with information in this form, you will be better able to comply with the laws and rules.

This booklet is organized by specific law. Individual sections will briefly describe each law and summarize its requirements.

Please note this booklet only addresses activities in organized municipalities (towns) and in areas that are not located in sand dunes. Please refer to the standards of the Land Use Regulation Commission (LURC) (287-2631) for unorganized areas and to the Maine Department of Environmental Protection's Sand Dune Rules for activities in these areas. You can obtain a copy of these rules by contacting the DEP at 287-2111.



Protection and Improvement of Waters

What is the Protection and Improvement of Waters Law?

This comprehensive law regulates activities which discharge or *could potentially discharge* materials ("pollutants") into waters of the state (rivers, streams, brooks, lakes and ponds and tidal waters). This law is administered by the Maine Department of Environmental Protection (DEP).

Sections 413 and 417 of the law apply specifically to activities in shorefront areas. Both sections essentially prohibit materials from being placed in, or washed into a waterbody, or placed in such a manner that it may wash or leach into water. The purpose of this is to prevent erosion of soil into waterbodies and disposal of materials on the ice, or in and adjacent to, streams, lakes and tidal areas.

Section 413 requires that a license be obtained before directly or indirectly discharging any pollutant. Licenses are issued conditionally and contain certain treatment requirements in most instances. Therefore, if you were to cause soil or any other untreated material (oil or gasoline, sawdust, untreated sewage, refuse, concrete, paint or wood preservative, etc.) to wash into a river, stream, lake, pond or tidal water, you would need a discharge license. The DEP generally does not issue discharge licenses for soil or other untreated material. If you allow this material to wash into a wetland or waterbody without a discharge license you are in violation of Section 413.

Section 417 prohibits the discharge of certain materials into waterbodies. It also prohibits the placement of materials on the ice or banks of the waters of the State in such a manner that the material may fall or be washed into the water or that its drainage may flow or leach into the water. The section specifically targets

refuse including wood slabs, edgings, chips, sawdust, shavings, bark, scrap metal, junk, paper, garbage, septic tank sludge, rubbish, old automobiles or similar refuse. The DEP also interprets this to include slash, stumps and other debris.

How to Comply with the Protection and Improvement of Waters Law

It is important to recognize that this law addresses the impact of an activity, not its location. If soil washes into, or material can fall or be washed into a waterbody, a violation occurs regardless of how close the activity is to the affected area. It could be two feet or 200 feet away; what is important is the effect on the State's water resources. You need to plan and conduct your activity accordingly.

The following will help you ensure that you comply with the law:

- Make sure erosion control measures consistent with Best Management Practices are used, properly installed and maintained when doing any soil disturbance work.
- Take care when refueling boats and repairing structures so as not to cause a discharge into the water.
- Dispose of trash or other refuse such as leaves, grass clippings, etc. through composting if possible, or at a municipal solid waste facility.
- Properly dispose of sewage from boats and shorefront property.
- Dispose of slash and other forest refuse away from waterbodies, not in or near them.

Overboard Discharges (riverine, coastal or tidal waters only)

What Regulates Overboard Discharges?

In 1987, the Protection and Improvement of Waters Law was

amended to specifically address direct discharges of sanitary or septic wastes from residential or commercial establishments ("overboard discharges"). Although substantially amended in 1989, the law's intent is: 1) to encourage the reopening of shellfish beds by removing overboard discharges into such areas; 2) to improve the overall quality of Maine's waters by removing as many overboard discharges as possible; and 3) to improve compliance with state rules and ensure maintenance of existing systems.

The law applies to discharges to riverine, coastal or tidal waters and prohibits any new residential or commercial discharges. All existing discharges must be licensed and have appropriate treatment. If an existing discharge is not licensed or does not have adequate treatment, the owner should contact the DEP for assistance on how to proceed. In addition, certain changes to existing licensed discharges may categorize it as "new", and are therefore prohibited. These changes include adding sources of wastewater to the discharge or converting seasonal houses to year round use.

How Does this Apply to Existing Overboard Discharge Systems?

If you have an existing licensed or permitted system that discharges into a shellfish area, the DEP will issue a conditional permit to allow you continued use of the system until 6 months after the DEP offers a grant to partially offset system replacement costs. If a grant is not made available, the permit will expire 10 years from issue unless renewed. If your discharge is targeted for removal, and a grant made available, the DEP or your town will work with you to find alternative methods of wastewater disposal.

If your existing discharge is in a non-shellfish area *and* you have no alternative available for a subsurface wastewater disposal system (septic system) *and* your discharge does not lower water

quality in the area, you will be issued a 10-year license. If you do have an alternative available, you will be issued a conditional permit, expiring either 6 months after an offer of replacement system funding is made or in 10 years.

The DEP also has an inspection program designed to improve license/permit compliance. The inspection program provides for annual or semi-annual inspection of the discharge by a DEP inspector or license service contractor and is funded through annual inspection fees collected from owners.

If you have questions about overboard discharges, please call the DEP at (207) 287-3901, and ask for someone in the overboard discharge program.

Natural Resources Protection Act (NRPA)

What is the Natural Resources Protection Act (NRPA)?

The NRPA regulates activities in, on, over, and adjacent to lakes, ponds, rivers, streams, brooks, freshwater wetlands and tidal areas. Activities regulated under the NRPA include disturbing soil, placing fill, dredging, removing or displacing soil, sand or vegetation, draining or dewatering and building permanent structures, in, on, over or adjacent to these areas. The law is designed to protect these natural resources and is administered and enforced by the DEP.

How are the "Natural Resources" Defined?

- A *lake or pond* (called a "great pond" under the law) includes natural ponds greater than 10 acres and artificially formed ponds of greater than 30 acres.
- A *river stream or brook* includes the river, stream or brook channel that is created by the action of surface water (whether it flows year-round or just 3 months per year)

- A *freshwater wetland* is an area flooded or saturated by surface or groundwater at a frequency and for a time sufficient to support wetland vegetation typically adapted for life in saturated soils. A forested wetland is a wetland that is dominated by trees that are 19.5 feet tall or taller.
- A *tidal area/wetland* is called a “coastal wetland” under the law and is any area that is influenced by the highest spring tides.

Activities that are Exempt From the NRPA:

- Any activity that occurs in an area more than 100 feet away from a lake, pond, river, stream, brook, freshwater wetland or tidal area.
- Any activity within 100 feet of a lake, pond, river, stream, brook, freshwater wetland or tidal area that does not disturb the soil or place fill. (Disturbing soil includes activities such as excavation for landscaping. Placing fill includes activities such as beach construction. Both types of activities are subject to the NRPA.)
- Any repair, maintenance or replacement of an existing culvert, provided any replacement culvert is not more than 25% longer than the culvert being replaced and not longer than 75 feet. In addition, erosion must be controlled and fish passage cannot be blocked for the activity to be exempt.
- The installation of a waterline from a great pond to a single family home or the installation of cables for utilities, such as telephone and power cables, if the excavated trench for access to the water is backfilled and riprapped to prevent erosion AND the landward side of the trench is seeded and mulched.

NOTE: The Bureau of Public Lands (207) 287-3061 must approve the placement of any utility cable across the bottom of the great pond to the extent that it has jurisdiction.

- The installation of a temporary structure, such as a dock, walkway or float, in place less than 7 months per year.

- Maintenance and minor repair of a structure in, on, over or adjacent to a lake, pond, river, stream or tidal area, and maintenance and repair of private crossings of a river, stream or brook provided erosion control measures are taken; there is no additional intrusion into the resource; and the dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure is considered eligible by the Maine Historic Preservation Commission for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure. In addition, if the project consists of the repair of a crossing, it must not block fish passage.
- The replacement of a floating dock with another floating dock IF the dimensions of the replacement dock do not exceed those of the dock being replaced AND the configuration of the replacement dock is the same as the one being replaced.
- The placement of a mooring.
- The installation or repair of a subsurface wastewater disposal system (septic system) in compliance with all the requirements of the Subsurface Wastewater Disposal Rules (10 CMR 241) (effective July 1, 1995) adopted by the Department of Human Services.

If the work you are doing meets one or more of these exemptions, you do not have to file a permit application with the Department of Environmental Protection.

Common Activities Requiring Permits

- Road building, excavating, filling for patios and boat ramps, landscaping work, removing stumps and bulldozing IF done within 100 feet of lakes, ponds, rivers, streams or brooks, tidal areas and some freshwater wetlands.

- Installing or replenishing a beach area, moving rocks or removing vegetation below the normal high water line or installing new culverts for road crossings of portions of lakes and ponds, rivers, streams or brooks and tidal areas.
- Building or placing permanent structures in, on or over lakes and ponds, rivers, streams, brooks, tidal areas and freshwater wetlands.

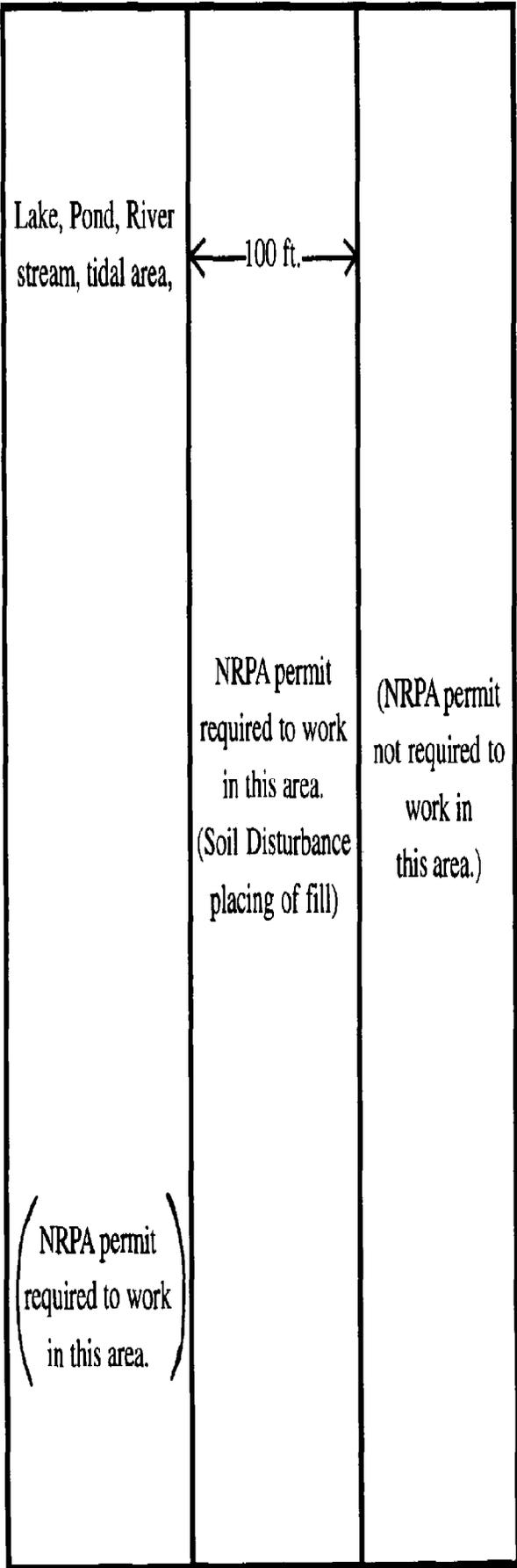
NRPA Permitting Requirements

There are two permitting programs under the NRPA: permit-by-rule and full NRPA permitting. Permit-by-rule covers most minor activities such as installing bridges and culverts in rivers, streams or brooks, filling or disturbing soil within 100 feet (but greater than 25 feet) of a waterbody or wetland, and moving rocks or vegetation along the shoreline. The permit-by-rule procedure simply requires filing a one-page notice with the DEP, providing a location map and photographs (in some cases) and following applicable construction and erosion control standards. The processing fee for a permit-by-rule notification is \$35.

The full NRPA permitting process covers activities with greater potential impacts than those under permit-by-rule. A permit application form must be filed with the DEP along with notification. The review process for the application is about 5 months.

The DEP has staff available to answer questions about NRPA permitting from 8 A.M. to 5 P.M. Monday thru Friday. These people can be reached at (207) 287-2111. Please call if you need assistance.

Designing and conducting your project to take advantage of NRPA exemptions and the permit-by-rule program will minimize paperwork and down time.



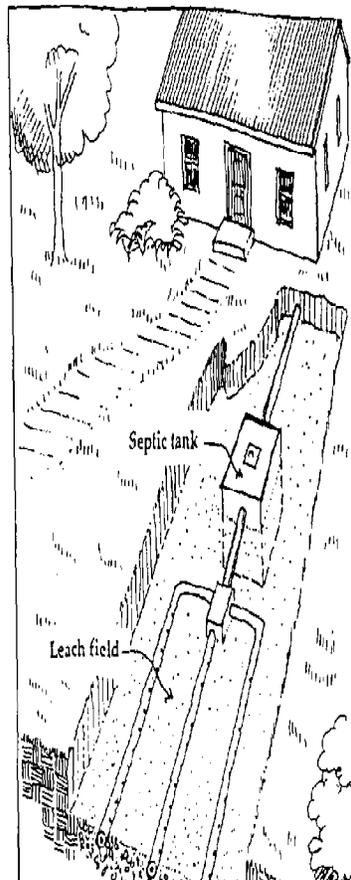
Seasonal Conversion Law

What is the Seasonal Conversion Law?

The Seasonal Conversion Law was enacted to regulate the conversion of seasonal dwellings within the shoreland zone to year-round use. The law only applies to dwellings that existed on, or before July 1, 1974, and that were not used as a principal or year-round residence during the period from 1977 to 1981. The overall purpose of the law is to ensure protection of the state's waterbodies and groundwater resources. It specifically targets subsurface disposal systems by requiring that permits for seasonal conversions be obtained from the town's local plumbing inspector.

Under what Conditions are Permits Granted for Seasonal Conversions?

Permits can only be issued by the plumbing inspector when it can be demonstrated that:



- A disposal system design application, completed after July 1, 1974, is on record indicating that the dwelling's existing waste water disposal system substantially complies with Department of Human Services (DHS) Rules and applicable municipal ordinances. The disposal system must have been installed with the required plumbing inspector permit and certificate of approval. If no such application is on record, a replacement system must be installed which substantially complies with DHS rules and applicable municipal ordinances; or
- The dwelling's waste water is connected to an approved public or private sanitary sewer system.

Shoreland Zoning

What is Shoreland Zoning?

The Mandatory Shoreland Zoning Act was enacted by the Legislature in the early 1970's in order to prevent water pollution, and damage to the natural beauty and habitat provided by lakes, ponds, rivers, tidal areas, freshwater wetlands and streams. The law targets development along the immediate shoreline of these resources and requires towns to enact a shoreland zoning ordinance at least as stringent as a model ordinance developed by the state. The ordinance must apply to all areas within 250 feet of lakes, ponds, rivers, tidal areas and freshwater wetlands, and at least 75 feet from certain streams. These areas make up the *shoreland zone*.

Activities in the shoreland zone are regulated by the town through its codes enforcement officer and planning board. The DEP oversees the town's administration and enforcement of shoreland zoning but does not issue town permits under this statute.

Since the law allows towns to enact more stringent ordinances as well as ordinances which may differ from the state's guidelines, you should always check with the town in which you propose to work to ensure that you are meeting its requirements. If you have tried and cannot reach municipal officials, the DEP may be able to provide you with information on the town's ordinance. Please contact the DEP at (207) 287-2111 and ask for the Shoreland Zoning Unit.

Activities exempt from shoreland zoning requirements include:

- Timber harvesting and road construction work located outside of the shoreland zone;
- Filling or earth moving activity and construction of structures outside of the shoreland zone;
- Timber cruising, forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, and regeneration of forest stands inside or outside of the shoreland zone;
- Fire prevention activities and wildlife management practices;
- Surveying and resource analysis; and
- Soil and water conservation practices and emergency operations.

Common activities that must meet town shoreland zoning requirements include:

- Construction or expansion of structures
- Timber harvesting, individual tree removal and clearing of vegetation
- Campground and marina construction
- Filling or earth moving activity, such as road or driveway construction

- Construction of piers, wharves, and bridges
- Siting of commercial and industrial uses

Shoreland Zoning Law Requirements

The following is a summary of requirements established under the Mandatory Shoreland Zoning Act which all municipalities must adopt in their ordinances as minimum requirements:

- Within the shoreland area zoned for “Resource Protection” abutting a great pond, there may be no timber harvesting or cutting of vegetation within the strip of land extending 75 feet inland from the normal high water line except to remove safety hazards;
- In all shoreland areas, with the exception of “Resource Protection” areas mentioned above, timber harvesting must be limited to selective cutting of no more than 40% of the trees 4 inches or more in diameter measured 4.5 feet above the ground, on any lot in any 10 year period, provided that a well-distributed stand of trees and other natural vegetation remains (this provision may be exceeded, with planning board approval, upon a clear showing that an exception is necessary for good forest management and is carried out in accordance with the purposes of shoreland zoning);
- Any expansion of a structure which increases the volume or floor area by 30% or more must meet the required setback requirements.
- Within a strip extending 75 feet inland from the normal high water line, there shall be no cleared opening or openings, except for approved construction, and a well distributed stand of vegetation shall be retained.

Other important standards to remember which are not found in the Mandatory Shoreland Zoning Act but in State guidelines that towns must adopt in zoning ordinances, include the following:

- Beyond the 75 foot no-harvest strip in resource protection areas along great ponds, timber harvesting must not reduce the average residual basal area of trees over 1 inch in diameter (at 4.5 feet above ground level) to less than 30 square feet per acre.
- At distances greater than 100 feet of a great pond or river flowing to a great pond and greater than 75 feet from other waterbodies or the upland edge of a wetland, harvesting operations cannot create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart.
- In non-tidal areas the minimum lot size for residential dwelling units is 40,000 square feet with a minimum shore frontage of 200 feet. In tidal areas the lot size and frontage requirements are 30,000 square feet and 150 feet respectively.
- With the exception of structures in general development districts or those requiring direct access to water (piers docks retaining walls), all new principal and accessory structures must be setback at least 100 feet from the normal high water line of lakes and ponds and rivers that flow to lakes and ponds, and 75 feet from the normal high water line of other waterbodies, tributary streams or the upland edge of a wetland.
- All new construction and development must be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- The minimum setback for new subsurface sewage disposal systems must be no less than 100 feet from the normal high water line.
- All activities which involve filling, grading, excavating, or other similar activities which result in soil disturbance, require a written soil erosion and sedimentation control plan.

Please note that the above mentioned standards are only a partial listing of requirements. Ordinances in some municipalities may be more stringent or in some special cases may be less stringent. PLEASE MAKE SURE TO CHECK WITH THE MUNICIPALITY THAT YOU WILL BE WORKING IN TO OBTAIN UP-TO-DATE INFORMATION ON ORDINANCE REQUIREMENTS!

Shoreland Zoning Permitting Requirements

If permits are necessary under shoreland zoning, they are obtained through the Codes Enforcement Officer or Planning Board in the town you will be working in. To be sure that you adhere to the requirements of the municipal ordinance, contact the Codes Enforcement Officer or Planning Board Chairman to determine permitting requirements and obtain a copy of the municipality's ordinance.



Activity	Laws that apply	Contact
Cutting of trees along the shoreline and pulling stumps	Shoreland Zoning, Natural Resources Protection Act	Town Codes Enforcement Officer, Department of Environmental Protection
Installation of a new septic system	Plumbing Code, Shoreland Zoning	Town Plumbing Inspector, Codes Enforcement Officer
Installation of a temporary dock	Shoreland Zoning	Town Codes Enforcement Officer (CEO)
Installation of a permanent dock	Natural Resources Protection Act (NRPA), Shoreland Zoning	Department of Environmental Protection (DEP), Town Planning Board
Construction of a dwelling	Shoreland Zoning, Plumbing Code, Natural Resources Protection Act	Town Planning Board, Town Plumbing Inspector, CEO, DEP
Boat Ramps	Shoreland Zoning, NRPA	Town Planning Board, DEP
Clearing of rocks and vegetation along the shore	NRPA, Shoreland Zoning	DEP, Town CEO
Placement of stairs down to the shoreline	Shoreland Zoning, NRPA	Town Planning Board/CEO, DEP
Expanding or enclosing a deck	Shoreland Zoning	Town Planning Board/CEO
Shoreline stabilization	Shoreland Zoning, NRPA	Town CEO/ Planning Board, DEP

Activity	Laws that apply	Contact
Adding bedrooms to a dwelling with an overboard discharge system	Shoreland Zoning, Protection and Improvement of Waters Law (Overboard Discharges)	Town Planning Board, CEO, DEP
Conversion of a seasonal dwelling to a year round home	Seasonal Conversion Law	Town Plumbing Inspector

Note: the laws and contacts listed for each activity represent all possible state environmental laws and contacts that could potentially be involved in regulating an activity. In many cases, some of these will not apply. In all cases you should check with the contacts listed.

*** All activities which involve soil disturbance or materials which could fall or be washed into a waterbody could potentially violate the Protection and Improvement of Waters Law. To ensure compliance with this law, make sure that all soil and other materials are properly contained.**

AGENCY DIRECTORY

Maine Department of Environmental Protection
 Bureau of Land and Water Quality
 State House Station #17
 Augusta, Maine 04333
 Tel. (207) 287-2111 or 1-800-452-1942

DEP Southern Maine Regional Office
 312 Canco Road
 Portland, Maine 04103
 Tel. (207) 822-6300

DEP Eastern Maine Regional Office
106 Hogan Road
Bangor, Maine 04401
Tel. (207) 941-4570

DEP Northern Maine Regional Office
1235 Central Drive
Presque Isle, Maine 04769
Tel. (207) 764-0477

Maine Department of Human Services
Division of Health Engineering
State House Station #11
Augusta, Maine 04333
Tel. (207) 287-5338

Maine Department of Conservation
Bureau of Public Lands
State House Station #22
Augusta, Maine 04333
Tel. (207) 287-3061

Maine Department of Conservation
Land Use Regulation Commission
State House Station #22
Augusta, Maine 04333
Tel. (207) 287-2631

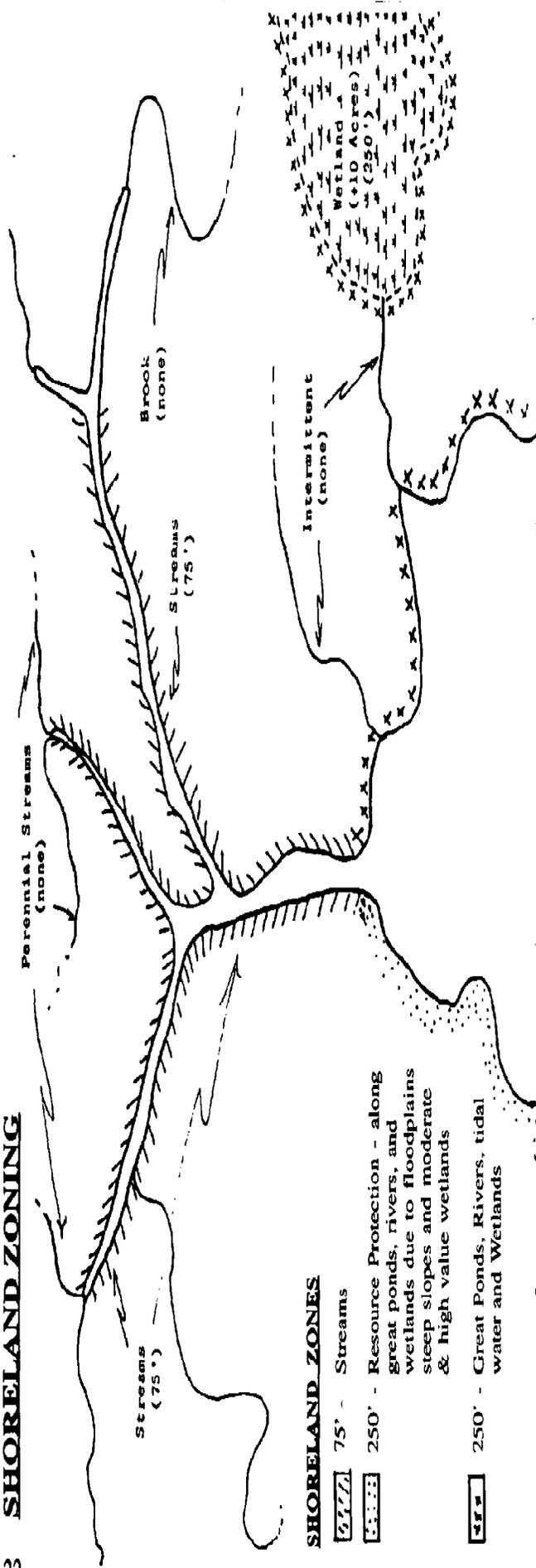
Maine Historic Preservation Commission
State House Station #65
Augusta, Maine 04333
Tel. (207) 287-2132

This publication is updated and reprinted periodically. In the interest of continually improving its contents to make it as useful as possible to homeowners, we invite your input. We are particularly interested in your thoughts on the usefulness of the information presented in addition to the publication's readability and layout. Please send any comments you may have to:

Maine Department of Environmental Protection
Division of Watershed Management
State House Station #17
Augusta, Maine 04333

TIMBER HARVESTING STANDARDS

SHORELAND ZONING

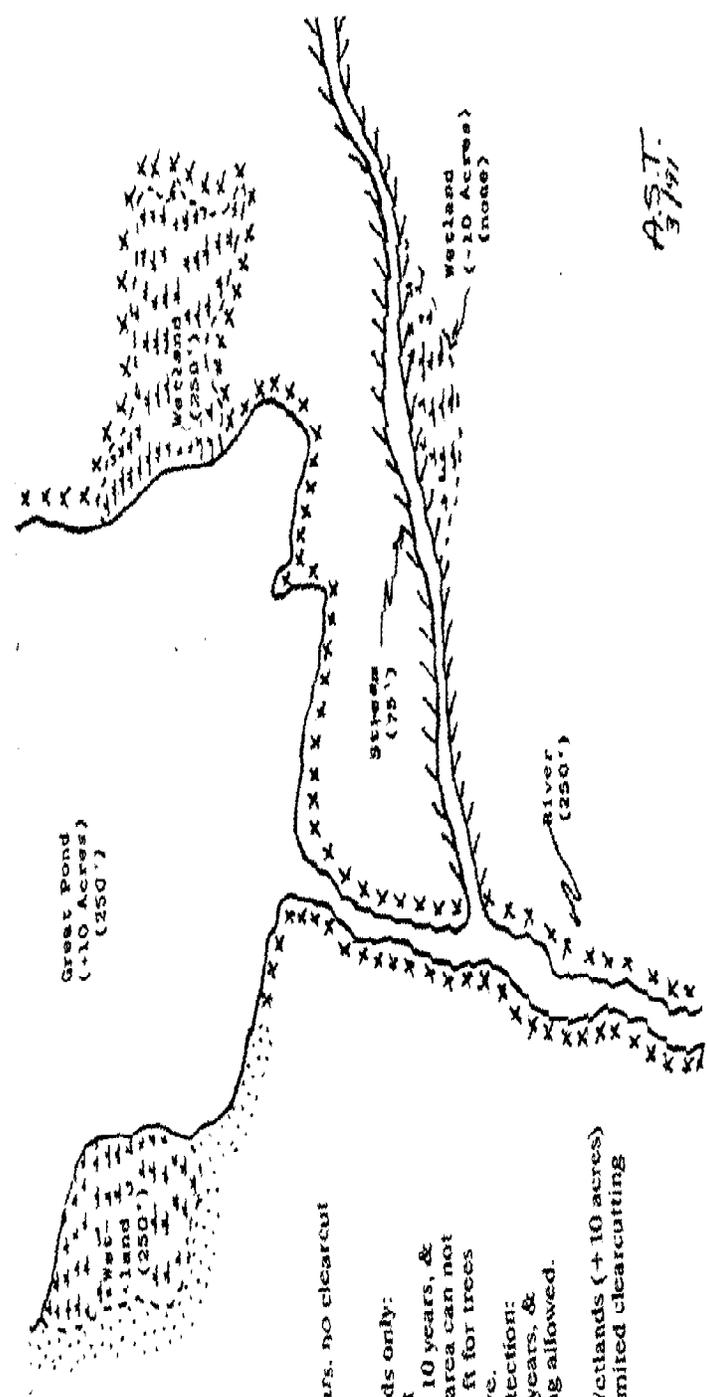


SLASH

- 0 - 50' - None
- 50' + - Less than 4' above the ground

HARVEST INFORMATION

-  Streams = 40% in 10 years, no clearcut
-  Resource Protection Adjacent to great ponds only:
 - 0 - 75' - no harvest
 - 76' - 250' - 40% in 10 years, & the residual basal area can not be less than 30 sq. ft for trees 1" DBH and above.
- All other resource protection:
 - 0-250' - 40% in 10 years, & limited clear-cutting allowed.
-  Great Ponds, Rivers, Wetlands (+ 10 acres) 40% in 10 years, limited clearcutting allowed.



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