DEP INFORMATION SHEET

ESTABLISHING THE STARTING POINT FOR MEASUREMENT OF THE SHORELAND ZONE AND RELATED SETBACK DETERMINATIONS

revised: March 2018 **contact: (207) 287-7688**

The Mandatory Shoreland Zoning Act (Title 38 MRSA sections 435-449) requires Maine's municipalities to adopt ordinances regulating land use activities within: 250 feet, horizontal distance, of the normal high-water line of great ponds, rivers, and tidal waters; 250 feet, horizontal distance, of the upland edge of a freshwater or coastal wetland; and 75 feet, horizontal distance, of streams as defined in the law. This document is designed to assist parties working with the law and the various municipal shoreland zoning ordinances in determining the edge of the waterbody or wetland, which is the **starting point** for measuring the shoreland zoning distances and setback measurements. Please note that this document is based on the minimum requirements as contained in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*. Municipalities may have adopted more restrictive shoreland zoning ordinances.

GREAT PONDS, RIVERS AND STREAMS

1. **Great Ponds, Rivers, and Streams, Without Adjacent Wetlands at the Elevation of the High Water Line –** The starting point for the shoreland zone is determined by locating that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

2. **Great Ponds With Adjacent Wetlands** – If a great pond has an adjacent non-forested wetland (attached or connected) the starting point for the shoreland zone is the shoreward point in the non-forested wetland that is at the same elevation as the high-water line of the great pond.

3. **Rivers with Adjacent Floodplain Wetlands** – The shoreland zone begins at the upland edge of non-forested, 100-year, floodplain wetlands (these are considered to be a part of the river).

4. **Streams** – The shoreland zone of a stream begins at the point described in #1 above in all cases, regardless of whether or not there is a floodplain wetland.

FRESHWATER WETLANDS

In order for a freshwater wetland to have a shoreland zone it must:

Be at least 10 acres in size

or

Be adjacent to a surface waterbody of less than 10 acres so that the combined area is 10 acres or more,

a**nd;**

1. Not be a forested wetland (dominated by woody vegetation that is equal to or greater than six meters, or approximately 20 feet, in height), **and**

2. Be mapped and adopted as a shoreland zone by the municipality.

Determining Non-Forested Freshwater Wetland Size When Working with Narrow Wetlands or Portions of Wetlands – For long, narrow, non-forested wetlands adjacent to, but not part of, a river or stream the following applies: If a wetland narrows to less than 100' for a length of 100' or more, it is effectively ended and another wetland begins where it widens to 100' or more. The municipality's shoreland zoning map should reflect the separation of these wetlands.

Measurement - The starting point for measuring the shoreland zone of a 10 acre or larger non-forested freshwater wetland that is mapped and identified in a municipal shoreland zoning ordinance is:

1. The upland edge of the wetland; or

2. The edge (transition zone) of where the wetland becomes a forested wetland.

Wetlands Adjacent to Small Ponds - If a pond is less than ten acres in size but has adjacent nonforested wetlands such that the pond and the adjacent wetlands total ten or more acres, the pond, together with the adjacent nonforested wetlands, is regulated as a freshwater wetland. The shoreland zone begins at the upland edge of the nonforested wetland. If the pond is greater than 10 acres the wetland would be considered part of the great pond (see paragraph 2 on page 1 above).

Overlapping Shoreland Zones – If a 10 acre or larger non-forested freshwater wetland that is identified in a municipal ordinance as having a shoreland zone is located close enough to a great pond, river or stream, its shoreland zone may overlap that of the great pond, river or stream. In that case, the shoreland zone extends from the edge of the great pond, river or stream to the edge of the wetland. The area of overlap would be subject to the more restrictive standards applicable to the two resources. Where there is no overlap, the standards for the relevant resource would apply.

COASTAL WETLANDS

1. **Elevation Method** –The method for determining the starting point of the shoreland zone for coastal wetlands is the use of Highest Annual Tide (HAT) as identified in the tide tables published by the National Ocean Service. This determination requires surveying utilizing appropriate adjustments for site specific elevations. The DEP publishes conversion tables for ease in determining these elevations.

2. **Wetland Delineation** conducted by a qualified professional could be used to determine the edge of coastal wetlands.

There are times when there is little visual evidence of the upland edge of the coastal wetland at a particular location, but at a nearby location a clear upland edge can be found. In those situations it is reasonable to transfer the elevation from the known site to the site that lacks visual evidence.

Note also that where visual evidence, such as the presence of salt tolerant vegetation, extends further inland than the measured tidal elevation, the line formed by the more restrictive criterion must be used.

Additional information can be obtained by contacting the Department's Shoreland Zoning Unit in Augusta at 287-7688 or by mail at:

Shoreland Zoning Unit
Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333
Toll free @***1-800-452-1942***

Or you may contact the Shoreland Zoning Unit at the regional office nearest you:

Eastern Maine Regional Office
106 Hogan Road
Bangor, ME 04401
(207) 941-4570
Toll free @ 1-888-769-1137

Southern Maine Regional Office
312 Canco Road
Portland, ME 04103
(207) 822-6300
Toll free @ 1-888-769-1036

Information can also be found on the Department's shoreland zoning web site at: www.maine.gov/dep/blwq/docstand/szpage.htm.