



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF JEFFERSON ) MANDATORY SHORELAND ZONING ACT  
LINCOLN COUNTY )  
SHORELAND ZONING ORDINANCE )  
ORDER #05-2023 ) CONDITIONAL APPROVAL

Pursuant to the provisions of 38 M.R.S. §§ 435-448, the *Mandatory Shoreland Zoning Act* (Act), and the Maine Department of Environmental Protection's *Guidelines for Municipal Shoreland Zoning Ordinances*, 06-096 C.M.R. ch. 1000 (amended January 26, 2015) (Guidelines), the Department of Environmental Protection (Department) has considered the request for approval of the Town of Jefferson Shoreland Zoning Ordinance (Ordinance), as amended on November 8, 2022, and FINDS THE FOLLOWING FACTS:

1. The Act requires municipalities to establish zoning controls in areas within 250 feet of the normal high-water line of great ponds and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of the normal high-water line of streams. Such zoning standards must be consistent with or no less restrictive than those in the Guidelines. 38 M.R.S. §§435 & 438-A.
2. The Act specifies that before a locally adopted shoreland zoning ordinance, or amendment to that ordinance, is effective, it must be approved by the Commissioner of the Department of Environmental Protection (Commissioner). The Commissioner may approve, approve with conditions, or deny the ordinance or amendment. If denied, or approved with conditions, such action must be preceded by notice to the municipality. If the Commissioner fails to act within 45 days of receipt of the ordinance or amendment, then the ordinance or amendment is automatically approved. 38 M.R.S. § 438-A.
3. On January 15, 2023, the Town of Jefferson submitted the following amendments to its Ordinance as adopted on November 8, 2022, to the Department for review:
  - A. The amendments make extensive revisions throughout the Ordinance, including minor corrections and clarifications, as well as substantive changes in standards including, among other things, expansion of nonconforming structures, lot coverage, shoreline stabilization projects, hazard and storm damaged tree removal, revegetation requirements, and associated definitions. The submitted amendments update the Ordinance to bring it into compliance with the Guidelines as amended on January 26, 2015.
  - B. Section 16 (C) *Permit Application* was amended to include the following:
    - (5) The applicant is required to provide to the municipal permitting authority preconstruction photographs and, no later than 20 days after completion of the

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development, post-construction photographs of the shoreline vegetation and development site. (Pursuant to 36 M.R.S. Sec. 439-A(10)). Photographs shall be in color and of sufficient size and quantity such that a panoramic view of the shoreline vegetation and development site is clearly visible. If multiple photographs are necessary to capture the full view, then number each photo to ensure the proper view is correctly pieced together.

- C. The Town of Jefferson has also chosen to pursue Option 1 for timber harvesting,<sup>1</sup> deferring all administration and regulation of all forestry activities within the municipality to the Bureau of Forestry (also commonly referred to as the Maine Forest Service) by adopting Chapter 21, Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas.
4. The Department's review of the Ordinance has revealed the following significant deficiencies:
- A. Section 15 B (1) *Principal and Accessory Structures* fails to establish a setback for principal and accessory structures located in a Resource Protection District.
5. On February 27, 2023, the Town of Jefferson was notified by the Department of the above deficiency, and the proposed conditional approval of the Ordinance.

BASED on the above Findings of Fact, the Commissioner makes the following CONCLUSION:

1. The deficiencies noted in paragraph 4 above can be addressed by the Commissioner approving the Ordinance with conditions. This will result in the Ordinance being fully consistent with the requirements of the Mandatory Shoreland Zoning Act, 38 M.S.R., Section 438-A, and the Guidelines in effect as of the date of this Order.

THEREFORE, the Commissioner APPROVES the Ordinance, as amended on November 8, 2022, SUBJECT TO THE ATTACHED CONDITIONS:

1. Section 15 B (1) *Principal and Accessory Structures*, shall be amended as follows to include the *italics* language:
- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet,

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<sup>1</sup> Title 38, section 438-A provides that, notwithstanding other provisions in the Mandatory Shoreland Zoning Act, the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Bureau of Forestry. Section 438-B establishes three options from which each municipality may choose. The options are further identified in a Note Relating to Timber Harvesting Standards, located in the Guidelines between Ch. 1000, § 15(N) and § 15(O-1).

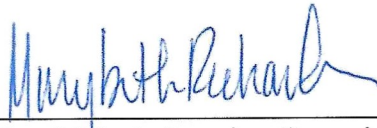
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horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. *In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.*

DONE AND DATED AT AUGUSTA, MAINE, THIS 28<sup>th</sup> DAY OF FEBRUARY 2023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:   
For: Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

**FILED**  
February 28<sup>th</sup>, 2023  
State of Maine  
Board of Environmental Protection