# STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

17 STATE HOUSE STATION AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

MUNICIPALITY OF FARMINGDALE ) MANDATORY SHORELAND ZONING ACT

KENNEBEC COUNTY, MAINE ) 38 M.R.S.A. SECTION 438-A(4)

STATE-IMPOSED ) AMENDMENT TO ZONING MAP

SHORELAND ZONING ORDINANCE

CHAPTER 1294

Pursuant to the provisions of 5 M.R.S.A. Sections 8051‑8074, 38 M.R.S.A. Sections 435‑449, and 06‑096 CNM, Chapter 1000, *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended February 13, 2000, the Board of Environmental Protection has reviewed the existing land use regulations relating to the shoreland zone in the municipality of Farmingdale, including the State‑imposed shoreland zoning ordinance, and FINDS THE FOLLOWING FACTS:

1. On March 5, 1994 the Board of Environmental Protection adopted the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* and a shoreland zoning map for the town of Farmingdale. Such action was necessary after the Town failed to adopt a suitable ordinance as required.

2. On September 13, 1995 the Board of Environmental Protection amended the official shoreland zoning map by changing Lot 53 on the town of Farmingdale Tax Map 26 from the Limited Residential District to the Limited Commercial District.

3. On September 16, 2004 the Department received a written petition from Dr. Richard Smart requesting that Lot 3 on Farmingdale Tax Map 22 be zoned from Limited Residential to Limited Commercial. The Department, upon receiving Dr. Smart's request, conducted a review of the current districting along the Kennebec River from its northern boundary with the city of Hallowell to its southern boundary with the City of Gardiner. As a result of that review, the Department concluded that much of the shoreland zone abutting Route 201 should be placed in the Limited Commercial District. This conclusion is based on the presence of numerous commercial establishments in the current Limited Residential District.

The Department also concluded that the site currently operated by Ferraiolo Construction is currently inappropriately placed in the Limited Residential District. This industrial site would more appropriately be placed in the General Development District where industrial sites are a permitted use.

Thirdly, the Department noted that the Stream Protection District along the "stream" flowing under Route 201 at the northernmost section of the town is in close proximity to commercial development along that busy stretch of road. The sections of the stream located within 250 feet of Route 201 can appropriately be zoned as a Limited Commercial District.

4. The Department forwarded a draft of recommended map amendments to the selectmen of Farmingdale for their input. On September 29, 2004 the Board of Selectmen responded by stating that the "Town Selectmen take no official position" on the Department's draft map amendment.

5. The Department, concluding that an amendment to the zoning map is appropriate, drafted formal proposed zoning map amendments, as described in paragraph 3 above, and forwarded a copy of the proposed changes to the Town.

6. The Board of Environmental Protection held a written comment period in order to gather public input on the proposed map amendments. Public comments were accepted until December 27, 2004 at 5:00 p.m. The Department received no comments on the proposed amendments.

Based on the above FINDINGS OF FACT, the Board makes the following CONCLUSIONS:

1. The proposed zoning map amendments are consistent with the Department's *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*. The proposed changes are consistent with the current pattern of development.

THEREFORE, THE BOARD HEREBY ORDERS that the official shoreland zoning map adopted as part of the State‑imposed Shoreland Zoning Ordinance for the municipality of Farmingdale be amended by redistricting the shoreland zone as follows:

A. All land area in the shoreland zone along Route 201 from the Gardiner town line north to the point where Route 201 exits the shoreland zone shall be placed into the Limited Commercial district;

B. The portion of the lots (Map 33, Lot 28 and 28‑1) currently occupied by Ferraiolo Construction that are located' in the shoreland zone shall be placed in the General Development District; and

C. All land within 250 feet of Route 201 that is also within 75 feet of the stream that flows under Route 201 at the northern end of town, shall be placed in the Limited Commercial district.

DONE AND DATED AT AUGUSTA, MAINE, THIS 3rd DAY OF FEBRUARY, 2005.

BOARD OF ENVIRONMENTAL PROTECTION

BY: Richard Wardwell, Chairman

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

17 STATE HOUSE STATION AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

MUNICIPALITY OF FARMINGDALE ) MANDATORY SHORELAND ZONING ACT

KENNEBEC COUNTY, MAINE ) 38 M.R.S.A. SECTION 438-A(4)

STATE-IMPOSED ) ADOPTION OF ZONING PROVISIONS

SHORELAND ZONING ORDINANCE

CHAPTER 1294

Pursuant to the provisions of 5 M.R.S.A. Section 8053, 38 M.R.S.A. Sections 435-449, and 06-096 CMR, Chapter 1000, *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended July 14, 1992, the Board of Environmental Protection has reviewed the existing land use regulations relating to the shoreland zone in the municipality of Farmingdale, and FINDS THE FOLLOWING FACTS:

1. The Mandatory Shoreland Zoning Act (Act) requires all municipalities to establish zoning controls in areas within 250 feet of the normal high-water line of any great pond, river or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; and within 75 feet of the normal highwater line of a stream. Such zoning standards must be consistent with or no less stringent than those in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* (Guidelines) as adopted by the Board of Environmental Protection (Board).

2. The Guidelines were revised by the Board, effective March 24, 1990, and again on July 14, 1992. The revised Guidelines include more stringent land use standards than the Board's earlier Guidelines. In addition, the revised Guidelines contain new zoning and land use provisions for activities in shoreland areas adjacent to streams and coastal and freshwater wetlands as required by the Act as amended in January of 1989. Following the Board's revisions to the Guidelines in 1990, the Maine legislature, and the Board as authorized in 38 M.R.S.A. Section 438-A(2), established July 1, 1992 as the deadline for local ordinances to be amended consistent with the Guidelines.

3, 38 M.R.S.A. Section 438-A(4) requires the Board to adopt suitable zoning ordinances for municipalities which fail to adopt shoreland zoning ordinances consistent with or no less restrictive than the Guidelines.

4. The municipality of Farmingdale has failed to adopt a shoreland zoning ordinance consistent with the Board's Guidelines within the time-frame established by the Board. As of January 26, 1994 the municipality of Farmingdale has not revised its shoreland zoning and land use standards, consistent with the Board's Guidelines.

5. The Board can ensure that the municipality of Farmingdale has adequate shoreland zoning and land use provisions for all shoreland areas within the municipality by adopting the Board's Guidelines ordinance and an appropriate zoning map based on the districting criteria contained in the Guidelines, for the municipality.

6. On October 18, 1993 copies of the Guidelines and draft zoning map were forwarded to the municipality of Farmingdale for public comment. The Board also advertised in newspapers of state-wide circulation, its intent to adopt the Guidelines and zoning map for the Municipality. No comments were received on the proposed ordinance during the comment period which ended on December 29, 1993.

BASED on the above FINDINGS OF FACT, the Board makes the following CONCLUSIONS:

1. Whereas the deadline has past for municipalities to amend local shoreland zoning ordinances consistent with the Board's Guidelines, and whereas the municipality of Farmingdale has failed to do so, the Board has a responsibility to adopt a suitable ordinance for the Municipality.

2. The Board can adopt a suitable ordinance for the Municipality by adopting the provisions contained in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended July 14, 1992, with an appropriate zoning map based on the districting criteria contained in the Guidelines.

THEREFORE, THE BOARD HEREBY ORDERS AND ADOPTS for the municipality of Farmingdale, all of the provisions contained in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended July 14, 1992, for all areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within 250 feet, horizontal distance, of the upland edge of any coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of all streams, as defined in 38 M.R.S.A. Section 436. The Board further Orders that the map entitled *Town of Farmingdale Shoreland Zoning Map, adopted by the Board of Environmental Protection* is hereby incorporated into the ordinance.

This ORDER shall remain in effect, and shall be binding upon the municipality of Farmingdale until amended or repealed by the Board, or until the municipality of Farmingdale adopts a shoreland zoning ordinance, consistent with the Board's Guidelines, and is approved by the Commissioner.

DONE AND DATED AT AUGUSTA, MAINE, THIS 26th DAY OF JANUARY, 1994

BOARD OF ENVIRONMENTAL PROTECTION

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Owen R. Stevens, Chairman

**BASIS STATEMENT**

The Mandatory Shoreland Zoning Act, Title 38 section 438-A, requires all municipalities to adopt shoreland zoning provisions for shoreland areas. Shoreland areas include areas within 250 feet of the normal high-water line of tidal waters, great ponds, and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of streams. Section 438-A also requires the Board of Environmental Protection to adopt minimum guidelines for shoreland zoning ordinances. Municipal ordinances must be consistent with or no less restrictive than the Board's guidelines.

In 1990 the Board of Environmental Protection amended its shoreland zoning guidelines and later established July 1, 1992 as the deadline for municipalities to update their local ordinances consistent with the guidelines. The Mandatory Shoreland Zoning Act requires the Board to adopt suitable ordinances for those municipalities which fail to adopt updated ordinances. This rule adopts a suitable ordinance for this municipality consistent with the Board's Guidelines, and repeals the state-imposed ordinance, Chapter 70, adopted January 11, 1982 by the Board of Environmental Protection and the Land Use Regulation Commission.

The Department received no comments on the proposed ordinance during the public comment period which ended December 29, 1993.

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

17 STATE HOUSE STATION AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

MUNICIPALITY OF FARMINGDALE ) MANDATORY SHORELAND ZONING ACT

KENNEBEC COUNTY, MAINE ) 38 M.R.S.A. SECTION 438-A(4)

STATE-IMPOSED ) AMENDMENT OF ZONING MAP

SHORELAND ZONING ORDINANCE

CHAPTER 1294

Pursuant to the provision of 5 M.R.S.A. Section 8053, 38 M.R.S.A. Section 435-449, and 06-096 CMR, Chapter 1000, *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, as amended August 7, 1994, the Board of Environmental Protection has reviewed the existing land use regulations relating to the shoreland zone in the municipality of Farmingdale, including the State-imposed shoreland zoning ordinance, AND FINDS THE FOLLOWING FACTS:

1. On March 5, 1994 the Board of Environmental Protection adopted *the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* and a shoreland zoning map for the town of Farmingdale. Such action was necessary after the town failed to adopt a suitable ordinance as required.

2. On May 24, 1995 Don McFarland, who has a "contract for sale of real estate" agreement to purchase land from Central Maine Power Company, petitioned the Board of Environmental Protection to change the zoning on that land from the Limited Residential District to the Limited Commercial District. The land is located adjacent to route 201 in Farmingdale and is in the shoreland zone of the Kennebec River.

3. There is existing commercial development in the vicinity of the property which is shown as Map 26 Lot 53 on the Farmingdale tax maps. The purpose of the rezoning request would be to allow limited commercial development where only residential development is currently permitted.

4. Department staff viewed the property with Mr. McFarland and confirmed that the areas near the subject property are commercially developed along with some residential structures.

5. The Board of Environmental Protection held a written comment period in order to gather public input on the proposed change. Public comments were accepted until August 11, 1995 at 5:00 P.M. The Department received no written comments on the proposed zone change.

BASED on the above FINDINGS OF FACT, the Board makes the following CONCLUSIONS:

1. The proposed zoning change is consistent with the Department's minimum Guidelines for municipal shoreland zoning ordinances. The area has significant commercial development and can be rezoned for commercial purposes.

THEREFORE, THE BOARD HEREBY ORDERS that the official zoning map adopted as part of the State-imposed Shoreland Zoning Ordinance for the municipality of Farmingdale, be amended by rezoning Lot 53 on the town of Farmingdale tax map #26 from the Limited Residential District to the Limited Commercial District.

DONE AND DATED AT AUGUSTA, MAINE, THIS 13 DAY OF SEPTEMBER, 1995.

BOARD OF ENVIRONMENTAL PROTECTION

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Owen R. Stevens, Chairman

**BASIS STATEMENT**

This rule amends the state-imposed shoreland zoning map for the Town of Farmingdale. The Mandatory Shoreland Zoning Act, Title 38 Section 438-A, requires the Board of Environmental Protection to adopt suitable ordinances for municipalities which fail to adopt a shoreland zoning ordinance consistent with the Board's Guidelines. The Board adopted an ordinance for Farmingdale on March 5, 1994. Ordinance amendments can only be enacted by the Board.

This amendment, adopted by the Board at the request of the landowner, changes the zoning from the Limited Residential District to the Limited Commercial District. The general pattern of development in the adjacent area is a mix of commercial and residential structures. The rezoning is consistent with the Board's guidelines for municipal shoreland zoning ordinances.

No comments were received during the written comment period which closed on August 11, 1995.

STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE HOUSE STATION 17 AUGUSTA, MAINE 04333

BOARD ORDER

IN THE MATTER OF

AMENDMENT TO STATE-IMPOSED MANDATORY SHORELAND ZONING ACT

SHORELAND ZONING ORDINANCE 38 M.R.S.A., SECTION 438-A

FILE #BEP-B-94

Pursuant to the provisions of the Mandatory Shoreland Zoning Act, 38 M.R.S.A., Sections 435-449, and 06-096 CMR, Chapter 1000, *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* (Guidelines), effective August 7, 1994, the Board of Environmental Protection (Board) has considered the shoreland zoning ordinances for the municipalities listed in Appendix A (attached) and FINDS THE FOLLOWING FACTS:

1. Since 1974, the Mandatory Shoreland Zoning Act (MSZA) has required all municipalities to establish zoning and land use controls in areas located within 250 feet of the normal high water line of any great pond, river or saltwater body. In 1989, that requirement was expanded to also include areas within 250 feet of the upland edge of freshwater and coastal wetlands, and within 75 feet of the normal high water line of streams.

2. The Board establishes minimum guidelines for the local land use control ordinances. The MSZA authorizes the Board to establish a deadline for municipalities to adopt local ordinances consistent with the Guidelines and the purposes of the MSZA. The MSZA also authorizes the Board to adopt shoreland zoning ordinances for those municipalities which fail to adopt a suitable local ordinance.

3. On March 24**,** 1990, the Board of Environmental Protection amended the Guidelines. The Board also established July 1, 1992 as the deadline for amending local ordinances consistent with the Guidelines. The municipalities listed in Appendix A did not meet the July 1 deadline, resulting in the Board adopting the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*, including amendments which became effective on July 14, 1992**,** for those municipalities. Those state-imposed ordinances can only be amended by the Board.

4. Additional amendments were made to the Guidelines effective August 7, 1994. It is the responsibility of the Board to amend the state-imposed ordinances for the municipalities listed in Appendix A, in order to make those ordinances consistent with the current Guidelines.

5. The August 7, 1994 amendments as listed in Appendix B, and made part of this Order, include provisions which allow :

A. The issuance of a special exception permit by the planning board, for a single family residence in a resource protection district under certain limited conditions.

B. Conversion of seasonal residences in a Resource Protection District.

C.Subsurface sewage disposal systems in a Resource Protection District for uses allowed in that district.

D. Existing road culverts to be replaced without the need for a permit, regardless of the diameter of the replacement culvert; and

E. The applicability of the shoreland zoning ordinance to structures built in, on, or over a water body or wetland but not attached to the shoreline.

6. Amendments referred to in paragraphs A. , B. , C. , D. above, result in a relaxation of the Guideline standards. Paragraph E. requires additional permitting activities, whereas that paragraph establishes a greater area of jurisdiction.

7. No written comments were received during a written comment period which ended on December 1, 1994.

BASED on the above Findings of Fact, the Board makes the following CONCLUSIONS:

1. The municipalities listed in Appendix A (attached) are subject to a state-imposed shoreland zoning ordinance consisting of the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances,* effective July 14, 1992. It is the Board's responsibility to amend the existing state-imposed ordinances, consistent with the August 7, 1994 amended Guidelines. However, the Guideline amendment which broadens the scope of the shoreland zone to include structures located beyond the normal highwater line, is not a mandatory requirement and should not be imposed upon the municipalities listed in Appendix A.

THEREFORE, the Board hereby AMENDS the State-imposed Shoreland Zoning Ordinances for the municipalities listed in Appendix A (attached), by adopting as the text of the ordinance, the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances,* effective August 7, 1994, except that the ordinance shall not apply to those structures located beyond (waterward) the normal high water line or upland edge of a wetland.

DONE AND DATED AT AUGUSTA, MAINE, THIS 14 DAY OF December, 1994.

BOARD OF ENVIRONMENTAL PROTECTION

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Owen R. Stevens, Chairman

APPENDIX A TO BOARD ORDER #BEP-B-94

|  |  |  |  |
| --- | --- | --- | --- |
| AMITY | (1267) | LIMINGTON | (1299) |
| ATHENS | (1245) | LOVELL | (1276) |
| AURORA | (1288) | LUDLOW | (1277) |
| BANCROFT | (1268) | MECHANIC FALLS | (1300) |
| BOWDOINHAM | (1246) | MEDFORD | (1279) |
| BOWERBANK | (1289) | MERRILL | (1281) |
| BRADFORD | (1247) | MILO | (1301) |
| BRIDGTON | (1290) | MOOSE RIVER | (1257) |
| BROWNVILLE | (1291) | NEWCASTLE | (1302) |
| CARTHAGE | (1292) | NORTH HAVEN | (1304) |
| CENTERVILLE | (1235) | ORIENT | (1282) |
| CHARLOTTE | (1249) | PARIS | (1260) |
| CHESTER | (1250) | PARSONSFIELD | (1306) |
| COLUMBIA | (1251) | PASSADUMKEAG | (1264) |
| COOPER | (1270) | PENOBSCOT | (1307) |
| CORINTH | (1271) | PLYMOUTH | (1308) |
| CRYSTAL | (1320) | ROCKLAND | (1325) |
| DURHAM | (1321) | SEDGWICK | (1241) |
| EDINBURG | (1253) | SHIRLEY | (1309) |
| ETNA | (1322) | SPRINGFIELD | (1261) |
| EXETER | (1293) | STACYVILLE | (1283) |
| FARMINGDALE | (1294) | STEUBEN | (1262) |
| FRANKFORT | (1295) | STOCKTON SPRINGS | (1310) |
| FREEDOM | (321.1) | STONINGTON | (1311) |
| GREENE | (1237) | STOW | (1326) |
| GUILFORD | (1296) | TALMADGE | (1263) |
| HANOVER | (1254) | TROY | (1243) |
| HARRINGTON | (1327) | VANCEBORO | (1285) |
| HERSEY | (1272) | WADE | (1286) |
| HIRAM | (1273) | WAITE | (1265) |
| ISLE AU HAUT | (1323) | WALDO | (1312) |
| KNOX | (1255) | WHITEFIELD | (1244) |
| LAGRANGE | (1275) | WOODVILLE | (1266) |
| LIMERICK | (1256) |  |  |
|  |  | TOTAL:67 |  |

APPENDIX B TO BOARD ORDER #BEP-B-94

CHAPTER 1000: AMENDMENTS TO *THE STATE OF MAINE GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES*

1. Change Section 3. Applicability, to read:

This ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within **250** feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over, or abutting a dock, wharf or pier,, or other structure extending or located beyond the normal high-water line of a water body or within a wetland.

2. Change Section 14. Table 1, Land Uses in the Shoreland Zone to read:

Land Uses District

RP

15. Principal structures and uses

A. One and two family residential ~~no~~ PB9

18. Conversion of seasonal residences ~~no~~ LPI

to year-round residences

20. Private sewage disposal systems for ~~no~~ LPI

allowed uses

Add footnote 9: Single family residential structures may be allowed by Special Exception only according to the provisions of Section 16.E, Special Exceptions. Two-family residential structures are not permitted.

3. Amend Section 16. Administration, subsection B., to read:

B. Permits Required

After the effective date of this ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use.

A permit is not required for the replacement of an existing road culvert as long as:

~~1. The replacement culvert is not more than one standard culvert size wider in diameter than the culvert being replaced;~~

~~2.~~1. The replacement culvert is not more than 25% longer than the culvert being replaced

~~3~~ 2. The replacement culvert is not longer than 75 feet; and

~~4~~ 3. Adequate erosion Control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.

4. Add new Section 16, E., Special Exceptions, as follows:

In addition to the criteria specified in Section 16.D. above, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

3. The proposed location of all buildings, sewage disposal systems and other improvements are:

a. Located on natural ground slopes of less than 20%; and

b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.

4. The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-valued and high-value wetlands.

And change existing Sections 16 E., 16 F., and 16 G. to Sections 16 F., 16 G., and 16 H. respectively.

5. Add the following definitions to Section 17:

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Velocity Zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources.

**BASIS STATEMENT**

The Mandatory Shoreland Zoning Act, Title 38 section 438-A, requires all municipalities to adopt shoreland zoning provisions for shoreland areas. Shoreland areas include areas within 250 feet of the normal high-water line of tidal waters, great ponds, and rivers; within 250 feet of the upland edge of freshwater and coastal wetlands; and within 75 feet of streams. Section 438-A also requires the Board of Environmental Protection to adopt minimum guidelines for shoreland zoning ordinances. Municipal ordinances must be consistent with or no less restrictive that the Board’s guidelines.

When a municipality fails to adopt a shoreland zoning ordinance consistent with, or more restrictive that the Guidelines the Board of Environmental Protection may adopt a suitable ordinance for the municipality. This rule amends the previously adopted state-imposed ordinances by the Board of Environmental Protection.

The amendments, however, do not incorporate the provision to regulate structures located over a water body or wetland, that provision would result in an unfunded mandate.

No comment were received during the written comment period which ended December 1, 1994.

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 16, 2025