

#### **Proposed Shoreland Zoning Ordinance**

http:// machias.maps.arcgis.com/ home/webmap/viewer.html? webmap=02239dadeadc4fab8d 7d23078832e89d&extent=-67.5 444,44.5723,-67.1654,44.7435



## Genesis

- Started with existing town Shoreland Zoning Ordinance approved in 1992
- Updated to comply with the Maine state Chapter 1000 Guidelines created from the State of Maine DEP Mandatory Shoreland Zoning Act (Title 38 M.R.S.A. Sections 435 through 449) revised in 2013.

## Why Approve a New Ordinance?

- We have the option to tailor a Shoreland Zoning Ordinance to Machiasport's specific needs/desires
- If we do not approve an updated Shoreland Zoning Ordinance which complies with the state statue, the state may/will eventually "impose" an updated Shoreland Zoning Ordinance on us.

## **State Imposed Ordinances**

According to DEP's Shoreland Zoning Unit, 25% of the municipalities with shoreland zoning ordinances in 1990 were operating under a state-imposed shoreland zoning ordinance.

## State Imposed Shoreland Zoning Ordinances as of 1994

ATHENS         (1207)         LININOTON         (1299)           ATHENS         (1245)         LOVELL         (1276)           AURORA         (1288)         LUDLOW         (1277)           BANCROFT         (1268)         MECHANIC FALLS         (1300)           BOWDOINHAM         (1246)         MEDFORD         (1279)           BOWERBANK         (1289)         MERILL         (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)           COLUMBIA         (1251)         PASSADUMKEAG         (1264)           COOPER         (1270)         PENOBSCOT         (1307)           CORINTH         (1271)         PLYMOUTH         (1308)           CRYSTAL         (1320)         ROCKLAND         (1325)           DURHAM         (1321)         SEDGWICK         (1241)	AMITY	(1267)	LIMINGTON	(1299)
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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 AUHAUT         (1323)         WALDO         (1312)           KNOX         (1255)         WHITEFIELD         (1244)           LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)	FRANKFORT	(1295)	STOCKTON SPRINGS	(1310)
GUILFORD         (1296)         TALMADGE         (1263)           HANOVER         (1254)         TROY         (1243)           HARRINGTON         (1327)         VANCEBORO         (1285)           HERSEY         (1272)         WADE         (1263)           HIRAM         (1273)         WAITE         (1286)           ISLE AUHAUT         (1323)         WALDO         (1312)           KNOX         (1255)         WHITEFIELD         (1244)           LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)	FREEDOM	(321.1)	STONINGTON	(1311)
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)	GREENE	(1237)	STOW	(1326)
HARRINGTON         (1327)         VANCEBORO         (1285)           HERSEY         (1272)         WADE         (1286)           HIRAM         (1273)         WAITE         (1265)           ISLE AUHAUT         (1323)         WALDO         (1312)           KNOX         (1255)         WHITEFIELD         (1244)           LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)	GUILFORD	(1296)	TALMADGE	(1263)
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HIRAM         (1273)         WAITE         (1265)           ISLE AUHAUT         (1323)         WALDO         (1312)           KNOX         (1255)         WHITEFIELD         (1244)           LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)	HARRINGTON	(1327)	VANCEBORO	(1285)
ISLE AU HAUT         (1323)         WALDO         (1312)           KNOX         (1255)         WHITEFIELD         (1244)           LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)	HERSEY	(1272)	WADE	(1286)
KNOX         (1255)         WHITEFIELD         (1244)           LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)	HIRAM	(1273)	WAITE	(1265)
LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)         (1266)         (1266)	ISLE AU HAUT	(1323)	WALDO	(1312)
LAGRANGE         (1275)         WOODVILLE         (1266)           LIMERICK         (1256)         (1266)         (1266)	KNOX	(1255)	WHITEFIELD	(1244)
	LAGRANGE	(1275)	WOODVILLE	
TOTAL:67	LIMERICK	(1256)		
			TOTAL:67	

## Why Approve a New Ordinance?

- Machiasport is currently in a difficult position
  - The planning board and Code Enforcement Officer must enforce <u>BOTH</u> the town approved 1992 Shoreland Zoning Ordinance and the 2013 Mandatory Shoreland Zoning Act with the more restrictive of the two applying to each issue/question.
  - I.E. currently we endure all the disadvantages of the 2013 Shoreland Zoning Act with none of the advantages.

## Why Approve a New Ordinance?

 There are definite benefits in the 2013 Shoreland Zoning Act which residents cannot take advantage of unless/until the town approves an updated Ordinance which replaces the 1992 Shoreland Zoning Ordinance.

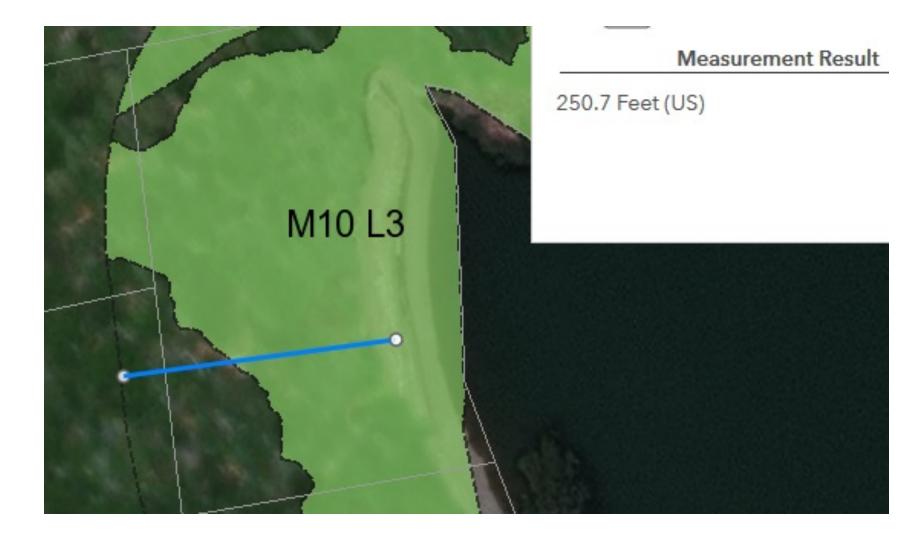
## Definitions

 Shoreland zone: The land area located within 250 feet horizontal distance, of the normal high-water line of any great pond or river or of the upland edge of a coastal wetland, including all areas affected by tidal action or of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance, of the normal high-water line of a stream.

#### Indian Cove Factory Lot



#### Indian Cove Factory Lot



# Definitions

- Freshwater wetland: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands which are:
  - Of 10 or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
  - Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

#### Larrabee Heath



## Definitions

- Normal high-water line (non-tidal waters): 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 predominately aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.
- NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the "coastal wetland."

## Definitions

 Coastal wetland: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

#### Jasper Beach



## Definitions

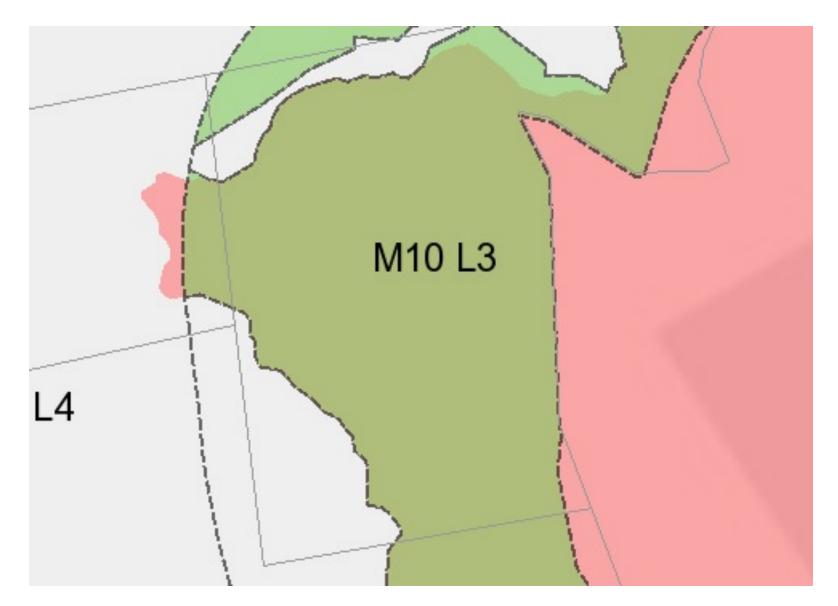
## **Resource Protection District:**

- Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. <u>This district shall include 100 year floodplains</u> <u>adjacent to tidal waters as shown on FEMA's Flood Insurance Rate</u> <u>Maps or Flood Hazard Boundary Maps.</u>
- Areas of two (2) or more contiguous acres with <u>sustained slopes of</u> <u>20% or greater</u>.
- Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

#### Indian Cove Factory Lot



#### Indian Cove Factory Lot



- Principal structures (single family residence) now allowed in Resource Protection District (RPD) with Planning Board review subject to Special Exception section 16.E.
  - There must be no other location on the property outside of the RPD where the structure can be built
  - Total footprint is limited to maximum of 1,500 sqft

 Conversion of seasonal residences to year round residences – allowed in Resource Protection District with review by Local Plumbing Inspector

 Private sewage disposal systems for allowed uses now allowed in Resource Protection District with review by Local Plumbing Inspector

 Alternative to 30% expansion rule for nonconforming structures provides municipalities:

 New method bases allowable expansions on the floor area and the height of a structure, rather than the floor area and volume.

- Contiguous lots in the same ownership would NOT be combined as long as a sewage system could be installed.
  - This allows individuals who have owned small lots for decades to retain them as separate lots in order to pass them along to their children

- Added the "shed" clause allowing a storage shed (no larger than 80 sqft nor higher than 8 ft) within the setback area no closer than the principal structure and as far back as practical.
- New roads and driveways can be permitted in an Resource Protection District if there is no reasonable alternative and to gain access to a permitted structure.

# Frequently Asked Questions from Waldoboro, ME web site

# How do I know where the edge of the wetland is?

 There are two factors that determine the edge of the wetland: soil type and vegetation type. If you seek a shoreland permit, the CEO will make a preliminary determination of the edge of the wetland. A field determination always takes precedence over the shoreland zoning map.

### Frequently Asked Questions from Waldoboro, ME web site

#### I've heard that the DEP Chapter 1000 regulations are only 'guidelines'. Does this mean they are optional standards?

 The Mandatory Shoreland Zoning Act – MRSA 38 §438 requires that every municipality adopt standards that are no less restrictive than the guidelines, as set forth in DEP 'Chapter 1000'. There are provisions in the statute that would allow the municipality to adopt a different set of standards, provided the municipality can justify that these standards would protect the resource <u>at least as well</u> as the adopted guidelines.

### Frequently Asked Questions from Waldoboro, ME web site

#### If the state imposes the changes on the town, do we have to enforce them?

 The town has sole authority to enforce its land use ordinances. However, if the town refuses to enforce the shoreland zoning provisions, the Attorney General can name the town as a defendant in a legal action. This happened in Damariscotta a few years ago.

# Once Again -Why Approve a New Ordinance?

- Machiasport is currently in a difficult position
  - The planning board and Code Enforcement Officer must enforce <u>BOTH</u> the town approved 1992 Shoreland Zoning Ordinance and the 2013 Mandatory Shoreland Zoning Act with the more restrictive of the two applying to each issue/question.
  - I.E. currently we endure all the disadvantages of the 2013 Shoreland Zoning Act with none of the advantages.

## machiasport.org



#### machiasport.org

- Addressing Ordinance
- Board of Appeals Ordinance
- Bucks Harbor Public Pier Rules and Regulation Ordinance June 26, 2006
- Building Permit Ordinance Amended June 27, 2016
- Communication Facility Ordinance July 15, 2016
- Dog Control Ordinance 6/25/2012
- Excise Tax Exemption Ordinance 06/25/2012
- Floodplain Management Ordinance July 18, 2017
- General Assistance Ordinance September 26, 2016
- Harbor Management Ordinance
- Holding Tank Ordinance
- Junkyard Ordinance
- Machiasport Maritime Ordinance 05/27/2008
- Mobile Home and Trailer Park Ordinance
- Ord. Prohibiting Retail Marijuana Establishments August 21, 2017
- PACE Ordinance 06/25/2012
- Planning Board Ordinance
- Shellfish Conservation Ordinance 02 23 15
- Shellfish Conservation Ordinance June 27, 2016
- Shoreland Zoning Ordinance April 28, 1992
- Shoreland Zoning Map 1992 Please contact the Town Office for a copy of the Ordinance
- Proposed Shoreland Zoning Ordinance 2018
- Machiasport Planning & SLZ Map 2018
- Subdivision Regulations
- Volunteer-Fire Department Regulations
- Wind Energy Ordinance July 15, 2016