

Town of Machiasport

ACTION PLAN

PART TWO

A HANDBOOK OF STATE LAWS AND TOWN ORDINANCES

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Town of Machiasport

ACTION PLAN

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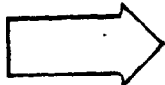
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PART TWO



A HANDBOOK OF STATE LAWS AND TOWN ORDINANCES

PART THREE

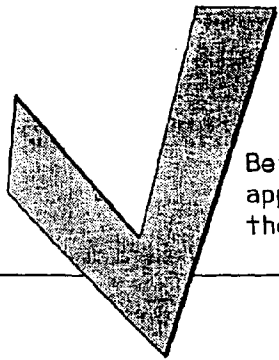
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**US Department of Commerce
NOAA Coastal Services Center Library
2234 South Hobson Avenue
Charleston, SC 29405-2413**

A Checklist of State Laws and Town Ordinances Affecting Your Land



Before you buy land or build, check out what regulations may apply to the land or your proposed project. Understanding the regulations now may save you time and expense later.

Type and/or Location of Project	STATE LAWS										TOWN ORDINANCES				
	Site Location Law	Minimum Lot Size Law	Wetlands	Great Ponds Law	Stream Alteration Law	Seasonal Dwellings Law	Shoreland Zoning Law	Plumbing Code Law	Subdivision Law	Tree Growth Law	Subdivision Regulations	Shoreland Zoning	Building Permit	Mobile Home and Trailer Park	Floodplain Management
Project larger than 20 acres	✓														
Structure larger than 60,000 square feet	✓														
Graded, non-vegetated area over 3 acres	✓														
Sand or gravel pit larger than 5 acres	✓														
Underground sewage on 1/2 acre lot or less		✓													
Shorefront lot with less than 100 feet of frontage		✓					✓				✓				
Project that alters coastal wetlands			✓				✓								
Permanent structure on pond larger than 10 acres				✓											
Project that alters rivers and streams					✓		✓								
Seasonal dwelling converted to year-round use						✓	✓								
Project within 250 feet of stream, lake or ocean							✓							✓	
Subdivision with more than 3 lots								✓		✓					
No project but a commitment to grow trees									✓						
Project involving waste water disposal							✓								
Locating mobile home							✓						✓		
Constructing trailer park							✓			✓			✓		
Constructing a building							✓					✓			

A HANDBOOK OF STATE LAWS AND TOWN ORDINANCES

A. State Laws.

There are a large number of state laws that apply to development proposals they include:

1. Site Location of Development
2. Shoreland Zoning
3. Subdivision Law
4. Land Use Regulation Law
5. Alteration of Coastal Wetlands
6. Alteration of Rivers, Streams & Brooks
7. Maine Rivers Act
8. Waterway Development & Conservation Act
9. Protection & Improvement of Air
10. Protection & Improvement of Waters
11. Hazardous Waste, Septage & Solid Waste Management Law
12. Oil Discharge Prevention & Pollution Control
13. Hazardous Matter Control
14. Marine Resources Law
15. The Great Ponds Law
16. The Maine State Plumbing Code
17. Conversion of Seasonal Dwellings Law
18. The Tree Growth Tax Law

B. Town Ordinances - Existing.

The Town has adopted ordinances to control its growth and to ensure that it remains the kind of town its people want. These include:

1. Subdivision
2. Shoreland Zoning Ordinance
3. Building Permit
4. Flood Plain Management Ordinance
5. Mobile Home Park Ordinance

A. State Laws

1. SITE LOCATION OF DEVELOPMENT LAW (38 MRSA §481-485, 488-490)

The Site Location of Development Law intends that development projects which may substantially affect the environment, either of the site itself or of the surroundings, are located and operated in a manner that will minimize any adverse impact on the natural environment.

"Development which may substantially affect the environment" means:

- any development which occupies a land or water area in excess of 20 acres;
- or which contemplates drilling for -or- excavating natural resources, on land or under water where the area affected is in excess of 60,000 square feet;
- or which is a mining activity;
- or which is an activity involving hazardous wastes, hazardous matter, oil, or road salt in excess of one ton per year.

The definition also includes:

- a structure which occupies in excess of 60,000 square feet of ground area;
- a project in which buildings and paved and other nonvegetated areas occupy over three acres of ground area;
- and subdivision of a parcel of land into five or more lots when such lots make up an aggregate land area of more than twenty acres.

Subdivisions within the jurisdiction of the Land Use Regulation Commission are excluded.

Authority for other subdivisions may be delegated by the Board of Environmental Protection to Towns meeting certain criteria.

Any development which may substantially affect the environment requires a permit from the Board of Environmental Protection. Preliminary notice of intent to file for a permit MUST be given to the Department and to the Town Officers of any municipality affected, in the case of construction or operation of a hazardous activity.

The Department's Bureau of Land Quality Control should be consulted for specific interpretations, procedures and permit application forms. A pre-application conference may be advisable in the case of a large or complex project.

Before issuing a permit, the Department obtains project review by other State agencies having jurisdiction or regulations which may pertain to the Site Law projects and which relate to one or more of the project review criteria, as well as by relevant bureaus within the Department.

DEP Bureau of Land Quality Control: (207) 289 - 2111.

2. MANDATORY SHORELAND ZONING LAW

(38 MRSA §435-446)

The Mandatory Shoreland Zoning Law regulates land development within 250 feet of lakes and ponds over 10 acres in size; salt water; and rivers and streams from that point at which they drain 25 square miles or more to their outlets. Regulation is accomplished by requiring adoption and enforcement of shoreland zoning ordinances by all towns. The DEP provides State oversight of municipal activity.

Individual towns should be consulted for information on zoning district boundaries, activities requiring permits, and procedures for permit applications and variances. (Local ordinances must contain development standards which are at least as restrictive as the Model Shoreland Zoning Ordinance adopted jointly by the Board of Environmental Protection and the Land Use Regulation Commission.)

3. SUBDIVISION LAW

(30 MRSA §4956)

The purpose of the Subdivision Law is to require municipal review of any division of a tract or parcel of land (in organized territory) into three or more lots within any five-year period, whether accomplished by sale, lease, development, buildings or otherwise. Exemptions are: - lots of more than 40 acres; - lots created by inheritance; - lots created by condemnation or court order; - and gift lots from a relative. According to an advisory memo issued jointly by the State Attorney General's Office and the Maine Municipal Association, a subdivision also includes apartments, condominiums, shopping centers, hotels, campgrounds, industrial parks and planned unit developments.

The Subdivision Law authorizes towns to adopt additional subdivision regulations which may be more restrictive than these specified. Individual towns should be consulted for a complete picture of applicable rules, regulations, procedures and review criteria.

Available assistance to help towns carry out these duties:

- The Washington County Regional Planning Commission: 255 - 8686;
- The State Planning Office: 289 - 3154;
- DEP Bureau of Land Quality Control (shoreland zoning): 289 - 2111.

4. LAND USE REGULATION LAW

(12 MRSA §681-689)

The Land Use Regulation Law empowers the Land Use Regulation Commission (LURC) to regulate all land use in unorganized and deorganized areas of Maine. Such areas comprise about 5% of the coastal area, including 8 townships, 3 plantations, and over 200 named islands. The purpose of the law is to extend principles of sound planning, zoning and subdivision control to un/de-organized areas; to prevent land uses detrimental to the proper use or value of these areas; to prevent intermixing of incompatible activities; to provide for appropriate location of residential, recreational, commercial and industrial uses; to prevent the despoliation, pollution and inappropriate use of the water in these areas; and to preserve ecological and natural values.

(continued next page . . .)

(Land Use Regulation Law continued . . .)

The law establishes three major district classifications, each containing sub-district classifications:

- (1) Protection District: where development would jeopardize significant natural, recreational and historic resources, including flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State. There are 11 Protection Sub-districts.
- (2) Management District: areas appropriate for commercial forest product or agricultural uses. There are 3 Management Sub-districts.
- (3) Development District: areas appropriate for intensive residential, recreational, commercial or industrial use; or commercial removal of minerals or other natural resources. There are 4 Development Sub-districts.

A permit from LURC is required for most development uses. Permit applications MUST be accompanied by a plan that shows the intended use of the land, proposed changes, and other details as may be required to determine conformance with applicable land use standards.

The Land Use Regulation Commission (LURC) should be consulted for boundaries, standards and permitted uses in specific areas; for procedures and permit application forms; and for other rules and regulations.
[LURC: 289 - 2631 or in state toll free: 1-800-452-8711]

5. ALTERATION OF COASTAL WETLANDS LAW

(38 MRSA §471-478)

Definitions:

Coastal Wetlands: all areas below the landward limit of vegetation that are tolerant of salt water, including all tidal and subtidal lands; and all swamps, marshes, bogs, beaches, flats, or other contiguous lowlands which are subject to tidal action or normal storm flowage.

Coastal Sand Dunes: sand deposits within a marine beach system above high tide, including beach berms, frontal dune ridges, back dune areas and other sand areas deposited by wave or wind action.

Activities regulated by the Coastal Wetlands Law include: dredging, draining, filling, or construction of permanent structures on or over any tidal or subtidal lands; and moving of sand or building any permanent structure in, on, or over any coastal sand dune. Permits are required from the Board of Environmental Protection, or from a town which has been given permit granting authority by the Board. Certain activities deemed to have little or no environmental impact are exempt.

The DEP Bureau of Land Quality Control should be consulted for specific interpretations, procedures and permit applications forms, as well as administrative policies and standards contained in its Wetlands Regulations and Coastal Sand Dune Rules. Before issuing a permit, a completed application is review by appropriate agencies and the relevant bureaus within the DEP. The town in which the proposed activity is located is also notified and comments requested.

[DEP Bureau of Land Quality Control: 289-2111]

6. ALTERATION OF RIVERS, STREAMS & BROOKS LAW

(38 MRSA §425-431)

Under this law, DEP permits are required to dredge, fill, or erect any permanent structure above head of tide, in, on, over or adjacent to any river, stream, or brook in such a manner that any dredged soil, fill, or structure may fall or be washed into the water. Permanent structures requiring permits include: causeways, bridges, sewer lines, marinas, docks, wharves, dams. Streamside stabilization activities and stream diversions related to construction activities are also regulated.

The law also identifies and provides special protection to outstanding river segments with special values. A permit application for a crossing of an outstanding river segment is required to demonstrate that no reasonable alternative exists which would have less adverse effect upon natural and recreation features.

The law exempts river, stream or brook crossings connected with public works projects which do not alter more than 300 feet in any mile of shoreline, and private crossings or dam projects which do not alter more than 100 feet, counting both shores, unless such projects are located on an outstanding river segment. Railroad repair and maintenance also is exempted from the permit requirement.

Consult DEP Bureau of Land Quality Control (289 - 2111) for specific interpretations and permit application forms.

7. MAINE RIVERS ACT

(12 MRSA §403 part DEP & part LURC)

The Maine Rivers Act intends to protect the unparalleled natural and recreational values of certain designated rivers. Section 403 of the Act identifies river segments on which no new dams are to be constructed without the specific authorization of the Legislature, and directs that the significant resource values of these river segments shall not be diminished by additional development or redevelopment of existing dams. The Act further declares that the banned projects will alter the physical and chemical characteristics and designated uses of the waters of these rivers, constitute violations of the State's water quality standards, and are uncertifiable under the U.S. Clean Water Act.

Rivers within the Coastal Area which are given special protection include: Dennys, East Machias, Kennebec, Machias, Narraguagus, Penobscot, Pleasant, and Sheetscot.

The DEP Land Bureau (289-2111) or LURC (289-2631/1-800-452-8711 in state) should be consulted for pertinent rules, regulations, procedures and application forms.

8. WATERWAY DEVELOPMENT & CONSERVATION ACT

(38 MRSA §630-636)

The purpose of this Act is to support and encourage the development of hydropower projects by simplifying and clarifying requirements for permits, while assuring reasonable protection of natural resources and the public interest in use of waters of the State. The Act requires a single application and permit for the construction and reconstruction of all hydropower projects, or structural alteration of any hydropower project in ways which change water

A general prohibition is placed on the spill or unlicensed discharge of petroleum products, forest products refuse, potatoes, refuse, junk, garbage, septic tank sludge, waste from Log driving on inland waters is banned except, with a permit, for purposes of transport from islands to the mainland. Discharge of radiological, chemical or biological warfare agents, high level radioactive waste and other toxic or hazardous substances identified by the Board is entirely prohibited. Mercury discharges are banned except, under certain circumstances, those predating January 1, 1987.

It is unlawful to discharge waste which, following reasonable opportunity for diffusion, will lower the quality of any State waters below minimum classification requirements. The law prohibits discharge of any pollutant from a private or public source, or installation, operation or maintenance of a surface or subsurface waste water disposal system (including but not limited to: holding ponds, surface application and injection systems, except those designed and installed in accordance with the State Plumbing Code), without a waste discharge license from the Board.

Standards of classification are established and the State's fresh surface waters, great ponds, ground water, and tidal or marine waters classified accordingly. The location of solid waste disposal areas adjacent to any classified body of surface water is regulated. Any waste discharge license is issued only upon the condition that the discharge, alone or in combination with other discharges, after best practicable treatment, will not lower actual water quality below its classification. Waste discharges may not lower waters of higher quality than their assigned classification, except on a finding by the Board that such lowering is a result of necessary economic and social development. The Board may revoke, modify or suspend waste discharge licenses in response to changed circumstances or license violations.

Finally, this law requires authorization by the Legislature for construction of any dam on that portion of the Penobscot River downstream from the Bangor Hydroelectric Co. Dam at Veazie to the southernmost point of Verona Island for any purpose not previously authorized by act, resolve, or operation of law.

The DEP Water Quality Bureau (289-3355) should be consulted for specific water quality standards, administrative policies, regulations, procedures and permit application forms.

11. HAZARDOUS WASTE, SEPTAGE & SOLID WASTE MANAGEMENT LAW (38 MRSA §1301-1310B)

This law is designed to encourage programs that will reduce the volume of hazardous waste, septage and solid waste production; promote the re-use and recovery of valuable resources; and assure environmentally sound handling and disposal of hazardous waste, waste oil, septage and solid waste.

Under the law, it is unlawful to establish, construct, alter or operate any waste facility without a permit issued by the BEP. A license is to be granted for a waste facility whenever the Board finds it will not pollute any water of the State, contaminate the ambient air, constitute a hazard to health or welfare, or create a nuisance.

Applicants for a license to construct, operate or substantially expand a commercial hazardous waste facility are required to give written notice to the town in which the proposed facility will be located. Towns are given intervenor status in any proceeding for site review.

levels or flows above or below the dam. Normal maintenance and repair of an existing and operating hydropower project is exempted as long as there is no dredging or filling of any great pond, coastal wetland, river, stream or brook, or any dredging or filling of adjacent land such that any dredged spoil, fill, or structure may fall or be washed into those waters.

The permit application process is administered by the DEP in organized areas and by LURC within its jurisdiction. The appropriate agency should be consulted for pertinent rules, regulations, procedures and application forms.

DEP Land Bureau: 289-2111 LURC: 289-2631 or 1-800-452-8711 (in state)

9. PROTECTION & IMPROVEMENT OF AIR (38 MRSA 5581-611)

This law intends to control present and future sources of emission of air contaminants to insure the continued health, safety and general welfare, and to protect property values and plant and animal life. Six ambient air quality regions are adopted, emission and ambient air quality standards are established, and licenses required from the Board of Environmental Protection for all emission sources. Discharging air contaminants in violation of standards or operating a pollution source without a license is prohibited. (The six ambient air quality regions are: Metropolitan Portland, Portland Peninsula, Central Maine, Downeast, Aroostook and Northwest Maine.)

Each region is required to adhere to statewide ambient air quality standards, and to maximum allowable regional increases in concentrations of particulate matter and sulfur dioxide. Ambient air quality standards are established for particulate matter, sulfur dioxide, carbon monoxide, photochemical oxidant, hydrocarbon, nitrogen dioxide, lead and chromium.

Emission standards are established for particulate emissions from general process sources, fuel and solid waste burning sources and incinerators; for sulfur dioxide emissions from sulfite pulping processes; and for hexavalent chromium. Standards are set for sulfur content of liquid and solid fossil fuel, and for vapor control in the case of storage and transfer of petroleum. Emission of visible contaminants is prohibited from specified types of sources, and open burning is prohibited, except for specified types permissible with a permit from the fire warden, forest ranger or local fire prevention official.

The DEP Bureau of Air Quality Control (289-2437) should be consulted for specific air quality standards, administrative policies, regulations, procedures and permit application forms.

10. PROTECTION & IMPROVEMENT OF WATERS LAW (38 MRSA 9361-367; 372-455)

The purpose of this law is to control, abate and prevent pollution of all State waters. Administered by the Board of Environmental Protection, the law provides mechanisms to control public and private waste discharge into rivers, streams, brooks, lakes, ponds, marine and tidal waters, and ground water.

Municipalities also are authorized to enact police power ordinances dealing with commercial hazardous waste facilities; and to control the handling of solid waste within their boundaries, including collection, transportation, or delivery to a specific facility, in order to help make resource recovery facilities, including energy production, financially feasible. Each municipality is required to provide a solid waste disposal facility for domestic and commercial solid waste generated within the town, and to provide for the disposal of all refuse, effluent, sludge and any other materials from all septic tanks and cesspools located within the town.

Contact the DEP Bureau of Land Quality Control (289-2111) for specific interpretations, procedures and permit application forms, as well as administrative policies and standards contained in its Solid Waste Management Rules and Hazardous Waste Management Rules.

12. OIL DISCHARGE PREVENTION & POLLUTION CONTROL (38 MRSA §541-560, 345-349)
(Coastal Conveyance of Petroleum Act)

The purpose of this law is to protect the coast and all other waters and lands of the State from damage caused by spillage of oil, petroleum products or by-products. Emphasis is on prevention, immediate clean-up of any spills, and provision of compensation for damages to property owners.

The law prohibits the unlicensed discharge of oil into or upon any coastal waters; estuaries, tidal flats, beaches, and lands adjoining the seacoast; or into any lake, pond, river, stream, sewer, surface water drainage, ground water, or other waters of the State -or- any public or private water supply. Discharge of waste, refuse or effluent, including natural drainage contaminated by oil, petroleum products or their by-products, may be licensed by the BEP if it finds that such discharge will be receiving the best available treatment and that existing water quality will not be degraded or any visible sheen created.

The law also requires a permit for installation of any new or replacement underground oil storage facility with a capacity greater than 500 gallons. Licenses are required to transfer oil between vessels and between vessels and terminal facilities, and for anchorage for more than seven days in Maine waters of vessels designed or used to carry oil as cargo. Operation of vessels carrying oil to or from terminals is subject to terminal license conditions while within 12 miles from the coastline. The operation of oil carrying vessels, barges, tugs, motor vehicles and other equipment used by terminals and refineries is also subject to regulation. In addition, safety operating conditions are attached to licenses required of operators of all oil terminal facilities with storage capacity of 500 barrels or more.

The law provides for immediate response to reports of prohibited or unexplained discharges of oil, for removal of prohibited discharges, and for injunction proceedings. It further provides for restoration of any area affected by violation of any provision of the law or any license or permit, by court order.

Contact the DEP Bureau of Oil and Hazardous Materials Control (289-2651) regarding administrative Regulations, procedures and permit application forms.

13. HAZARDOUS MATTER CONTROL

(38 MRSA §1317-1319-A)

This law authorizes the Board of Environmental Protection to identify by rule - any substances that present a current or potential danger to the people of the State -or- to its natural environment when deposited on land or discharged on/into waters or ambient air; and prohibits the discharge of any such hazardous matter into or upon any waters, land or ambient air of the State unless licensed or authorized under State or federal law.

The law provides for procedures for removal of discharges of hazardous matter, establishes that the responsible party or person causing the discharge is liable for all acts and omissions of its employees and agents, and provides for recovery by the State for expenditures for removal of discharges. A responsible party is not subject to criminal or civil penalties if he immediately reports and removes the discharge in accordance with the rules and orders of the Board of Environmental Protection.

DEP Bureau of Oil and Hazardous Materials Control: 289-2651.

14. MARINE RESOURCES LAW

(12 MRSA §6171-6192)

The purpose of the marine resources law is to protect all renewable marine resources, such as fish, shellfish, marine worms, marine plants, and their habitat and supporting ecology.

The Commissioner of the Department of Marine Resources is authorized to investigate conditions affecting marine resources and to adopt regulations to promote their conservation and propagation. Such regulations may limit the taking of marine organisms by time, method, number, weight, length or location. Regulations may concern prevention of gear conflicts, closure of contaminated or polluted areas, and collection of fisheries data. The adoption of regulations may be initiated by declaration of emergency by the Commissioner, by petition, or by the initiative of the Commissioner with the advice and consent of his advisory council.

Regulations adopted pursuant to this authorization cover such things as: aquaculture leases; shellfish; lobsters; crabs; menhaden; shrimp; marine mammals; alewives; eels; groundfish; herring; salmon; smelt; gear restrictions; and conservation areas.

Some of these topics are also included in specific fisheries conservation laws, as follows:

- (a) Aquaculture leases (12 MRSA §6072-6074), authorizing of areas in, on or under the coastal waters for scientific research or for aquaculture of marine organisms;
- (b) Fishways (12 MRSA §6121-6122), authorizing the Commissioner to require fishways in existing and new dams;
- (c) Gear limitation in the coastal waters of WASHINGTON COUNTY (12 MRSA §6571);
- (d) Municipal conservation programs (12 MRSA §6671 & 6673);
- (e) Methods of fishing (12 MRSA §6951-6952); and
- (f) Taking of lobsters (12 MRSA 6431-6440); salmon (12 MRSA 6553-6554), herring (12 MRSA 6542 & 32 MRSA 4159), shellfish (12 MRSA 6621), and scallops (12 MRSA 6721-6725).

Marine resources laws and regulations are enforced by wardens of the Department of Marine Resources (289-2291).

15. THE GREAT PONDS LAW

(38 MRSA § 386)

Projects in the water or on the shore's edge of great ponds may need state approval. A great pond is a natural lake of 10 acres or more, or a dammed lake of 30 acres or more. All proposals to build, dredge or fill, in or next to great ponds require a permit from the Department of Environmental Protection.

Examples of projects subject to this law include: permanent docks, launching ramps, rip-rap beaches, waterside retaining walls, shorefront alterations, causeways, bridges, marinas, wharves, dredging, filling, and breakwaters.

Examples of construction standards for great pond projects:

- Controlling erosion
 - Keep the natural vegetation whenever possible.
 - Revegetate areas that have been cut or filled.
 - Use large rocks or rip-rap at the water line.
- Locating floats
 - Use floats which remain in the water no more than 7 months per year when possible. Permanent docks require a permit.
- Building boat ramps
 - Use concrete plank ramps no more than 12 feet wide where possible.
 - Construct ramps to follow the slope of the lake bottom. (Generally, no underwater fill is allowed).
 - Plan for a ramp that can be used by groups of boat owners rather than for just one or two boats.
- Creating beaches
 - Don't build a beach by dumping sand in the water.
 - Don't take rocks from the water or the bank.
 - Plan for a beach that can be used by more than one owner, or the public; it is more likely to be approved than one-owner beaches.

The Board of Environmental Protection has simplified the permit process for certain projects in great ponds area. These projects must have no significant impact on the great pond and must meet certain standards. For information write to the Department of Environmental Protection, State House, Augusta, Maine 04333. Tel. (207) 289-2311.

16. THE MAINE STATE PLUMBING CODE

The "Plumbing Code" regulates subsurface disposal of waste water. If you wish to dispose of any wastewater (from kitchens, bathrooms, laundries, etc,) on your property, the system or method you use must meet the standards of the State Plumbing Code, Part II (Part I sets standards for indoor plumbing).

The "Code" (also know as the "Subsurface Wastewater Disposal Regulations,") specifies what systems or methods are allowed in different situations to dispose of wastewater. It also has information on permit fees, how soils test pits are to be made, building sewers, experimental systems, and more.

To find out about different wastewater disposal systems suitable for your land, check the Plumbing Code and consult a "licensed soils evaluator," your Local Plumbing Inspector, or the Department of Human Services Engineering Division.

To get a permit follow these steps:

1. Contact a "licensed soils evaluator", a person registered with the Department of Human Services to perform this service.
2. Have the "evaluator" conduct a soils test, recommend a system if the soils are suitable, and complete a Soils Report. The evaluator will provide the report form.
3. Contact your local Plumbing Inspector for a permit to construct the system and show the inspector two copies of the Soils Report. If you live in an unorganized area or plantation, the Soils Report must be sent to the Land Use Regulation Commission with your Building Permit Application.

For more information contact: The Division of Health Engineering
Department of Human Services
State House Station 11
Augusta, ME 04333
Tel: (207) 289-3826

17. CONVERSION OF SEASONAL DWELLINGS LAW (30 MRSA 3223)

Seasonal dwellings in shoreland areas require a permit if converted to year-round use. Before you can use a seasonal camp or cottage within a Shoreland Zoning area as a permanent, year-round dwelling, you must get a conversion permit from the local plumbing inspector. Shoreland Zoning areas are areas within 250 feet of most large streams, ponds over 10 acres, or the ocean.

Conversion to a year-round dwelling means adding insulation, heating systems or a year-round water supply to a camp or cottage to make it suitable for year-round living.

The purpose of this law is to make sure that old sewage disposal systems, built for seasonal use, can handle the added waste caused by year-round living without causing a health hazard or polluting nearby waters.

The local plumbing inspector will issue a conversion permit IF:

- records show the existing sewage system meets the standards of the State Plumbing Code, OR
- the applicant can show that site conditions will permit the installation of a sewage system that meets State Plumbing Code standards. (This requires the services of a licensed soils evaluator,) OR
- the dwelling is connected to a community sewer system.

NOTE: An exception to the above conditions can be made under special circumstances. Check with your local plumbing inspector.

For more information see the State of Maine Plumbing Code, Part II, Subsurface Wastewater Disposal Regulations. They are available from: The Department of Human Services, Health Engineering, State House, Augusta, Maine 04333; or call (207) 289-3826.

18. THE TREE GROWTH TAX LAW

If you own between 10 and 500 acres of land used primarily to grow trees, you may be eligible for tax savings under the Maine Tree Growth Tax Law. Under this law, your woodlands will not be evaluated at their highest potential value, but at a special lower tax rate for land used to grow trees.

If you own more than 500 acres of woodlands, they are automatically taxed at the special Tree Growth Tax rate.

Because the law was passed to encourage people to grow trees, you will pay a penalty if you use the land, or any portion(s) of it, for something else. Directions for registering your woodlands for tax savings are given below.

To be classified under the Tree Growth Tax Law follow these steps:

1. Get Property Tax Bulletin 19 and the Maine Tree Growth Tax Law Schedule from the Bureau of Taxation, State House, Augusta, Maine 04333; or phone (207) 289-2011.
2. Fill out the one-page Schedule and make a Forest Type Map of your woodlands.
3. Send the Schedule and Forest Type Map to your tax assessor before April 15. If your land is in an unorganized township, send these papers to the Property Tax Division of the Bureau of Taxation, State Office Building, Augusta, Maine 04333. If your land is in an organized town or plantation send them to your Municipal Assessor.

B. TOWN ORDINANCES - EXISTING.

1. Subdivision Regulations

Subdividing is the practice of dividing one fairly large parcel of land into smaller lots to be offered for sale. Land that was formerly farmed and shore frontage property are two common types of subdivisions in Maine today. The subdivider (or developer) may simply offer the unimproved lots for sale, or he may improve the lots by installing roads, water and sewer lines, or he may build houses on the lots.

During the past ten years, many towns in Maine have experienced a rapid growth in population and new housing construction. For the most part, this growth has been welcome. However it has been generally recognized that an increase in population means an increase in town services---road construction and maintenance, more school age children, fire and police protection, etc. Furthermore, the density of development may adversely influence the environment. Natural drainage areas or water quality may be affected.

For these reasons the State has adopted a subdivision law requiring that the Town's Planning Board review and approve almost all divisions of land. The Town's subdivision regulations spell out how the Planning Board will do this.

The control of subdivisions serves two general purposes. The first is the immediate protection of the homeowner and of the municipality. The municipality is better assured that a proposed development will be built according to accepted standards and that the public health and safety will be protected. The homeowner is better assured that the home he buys in a development will be properly provided with municipal services, that he will not be confronted with additional assessments for street improvements; or that his individual sewage disposal facilities, which are usually underground by the time he sees the house, are adequate and meet the requirements of all existing codes and regulations.

The second purpose of subdivision control is to guide the municipality's development: to further the efficient and economical operation of important public services and to provide for controlled and orderly growth of the community. Although subdivision regulations cannot necessarily control where development will take place, they go a long way in determining the quality of that development. This vital function of subdivision control gives a community a head start in its attempt to preserve or change its character, as it sees fit.

The tables of the following two pages show when town review is required and when (for larger subdivisions) Maine Department of Environmental Protection Review and approval is required. (If D.E.P. Review is required, Town Review is also required).

*This section contains brief descriptions of existing town ordinances. A separate section containing the complete ordinances has been prepared. Copies are available from the Planning Board Chairman and the Town Clerk.

SUBDIVISIONS:

PROCEDURE FOR DETERMINING
WHEN LOCAL (TOWN PLANNING BOARD) REVIEW IS REQUIRED

Planning Board review is required whenever a tract or parcel of land is divided into 3 or more lots within any 5 year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise.

	REVIEW NOT REQ'D	REVIEW REQUIRED														
1. Inheritance.	X															
2. Condemnation.	X															
3. Order of court.	X															
4. Gift to a person related to the donor by blood, marriage, or adoption. Gift to a municipality.	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> </tr> <tr> <td></td> <td></td> <td>Gift to relative. or Gift to town.</td> </tr> </table>	1	2	3			Gift to relative. or Gift to town.	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> </tr> <tr> <td></td> <td></td> <td></td> <td>Gift to relative or Gift to town.</td> </tr> </table>	1	2	3	4				Gift to relative or Gift to town.
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		Gift to relative. or Gift to town.														
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			Gift to relative or Gift to town.													
5. Land transfered to an abutting land owner does not count as lot.	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> </tr> <tr> <td></td> <td></td> <td>To ↗ abutting owner</td> </tr> </table>	1	2	3			To ↗ abutting owner	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> </tr> <tr> <td></td> <td></td> <td></td> <td>To ↗ abutting owner</td> </tr> </table>	1	2	3	4				To ↗ abutting owner
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			To ↗ abutting owner													
6. Land retained by subdivider for his own use as a single family residence -or- as "open space" (5 years prior to sale of other lots) does not count as a lot.	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> </tr> <tr> <td></td> <td></td> <td>Home or open space</td> </tr> </table>	1	2	3			Home or open space	<table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> </tr> <tr> <td></td> <td></td> <td></td> <td>Home or open space</td> </tr> </table>	1	2	3	4				Home or open space
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7. Parcels of 40 acres or more do not count as lots <u>UNLESS</u> :																
A. "the parcel being divided is located wholly or partly in the shoreland area";		B. there is a townwide ordinance in effect mandating review of "lots of 40 acres or more".														
8. NOTE: Subdivisions that create lots within the 250 foot shoreland zone require DEP review as well as town review.																

The Town's subdivision regulations require the subdivider to submit basic information about the size and shape of the lots, soil conditions, etc. so that the Planning Board can judge whether building on the lots will create unusual problems...either for the landowner or the Town.

The Department of Environmental Protection (DEP) also has review authority over subdivisions of land under M.R.S.A. Title 38, Section 482. DEP's definition is somewhat different, and generally involves a greater number of lots.

The steps in reviewing a subdivision are:

1. Subdivider contacts Planning Board indicating his intent to subdivide within the community.
2. Board informs subdivider of local regulations and of the existence of state statutes. (A pre-application conference to discuss the subdivider's ideas, location, etc., is helpful at this point).
3. Subdivider prepares preliminary plans and submits them to the Planning Board for review.
4. Planning Board reviews subdivision plans and compares the proposal with its subdivision regulations (a meeting between subdivider and Planning Board to answer questions and discuss problems takes place at this time).
5. Planning Board may hold a public meeting if it feels the complexity or magnitude of the proposal warrants it.
6. Planning Board indicates its tentative approval (or disapproval) in writing to the subdivider with recommendations or conditions to be complied with in the final plan.
7. If Planning Board has indicated tentative approval, subdivider submits his final plan (with recommended changes, etc.) for approval (a meeting takes place).
8. Planning Board approves (disapproves) final plan in writing.
9. Subdivider proceeds with development.
10. If approved, subdivider registers plan at Registry of Deeds.

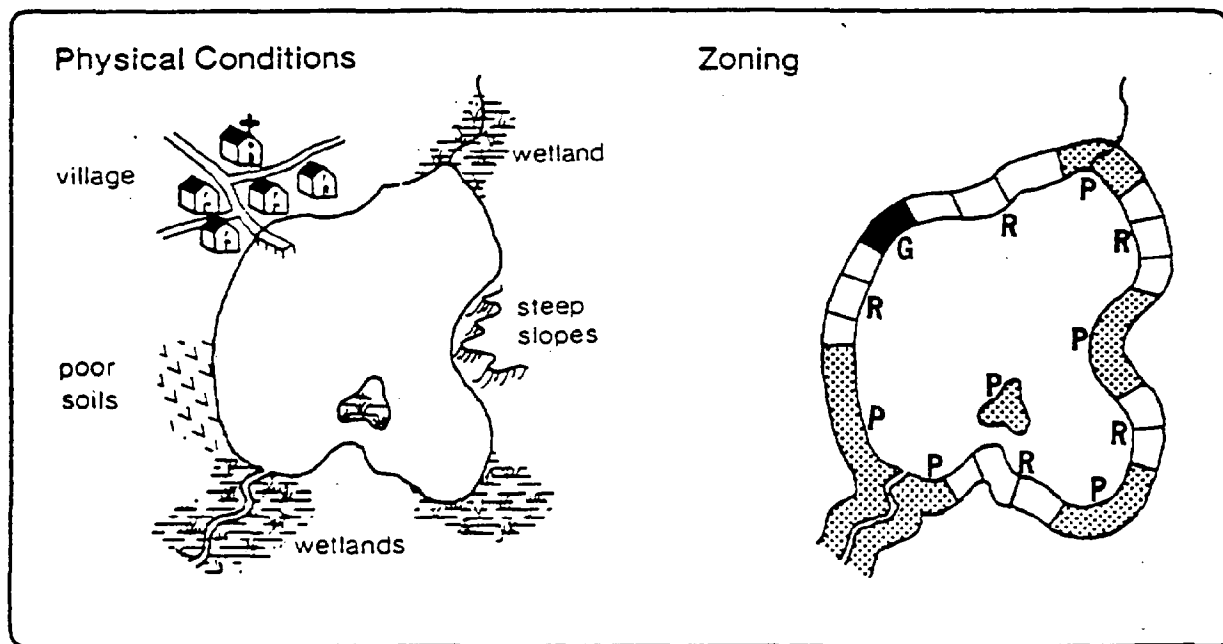
2. Shoreland Zoning Ordinance

The State requires each town to zone the land within 250' of most bodies of water. However it is up to each town to determine which of three zoning districts is to apply to particular parcels of land. Building set-backs from the water vary with each district:


- a. Resource Protection District. A no-development district to be applied to wetlands, steep slopes, floodplains.
- b. Limited Residential District. For land suitable for residential development, 75 setback. Commercial and industrial uses prohibited.
- c. General Development. For developed, urban areas, mixture of residential, commercial, industrial uses allowed with no setback requirement.

A diagram illustrating how these districts are applied is below. A map of Machiasport's districts is on the next page.

Applications for permits to build in the Shoreland Zone must be made in writing to the Planning Board.

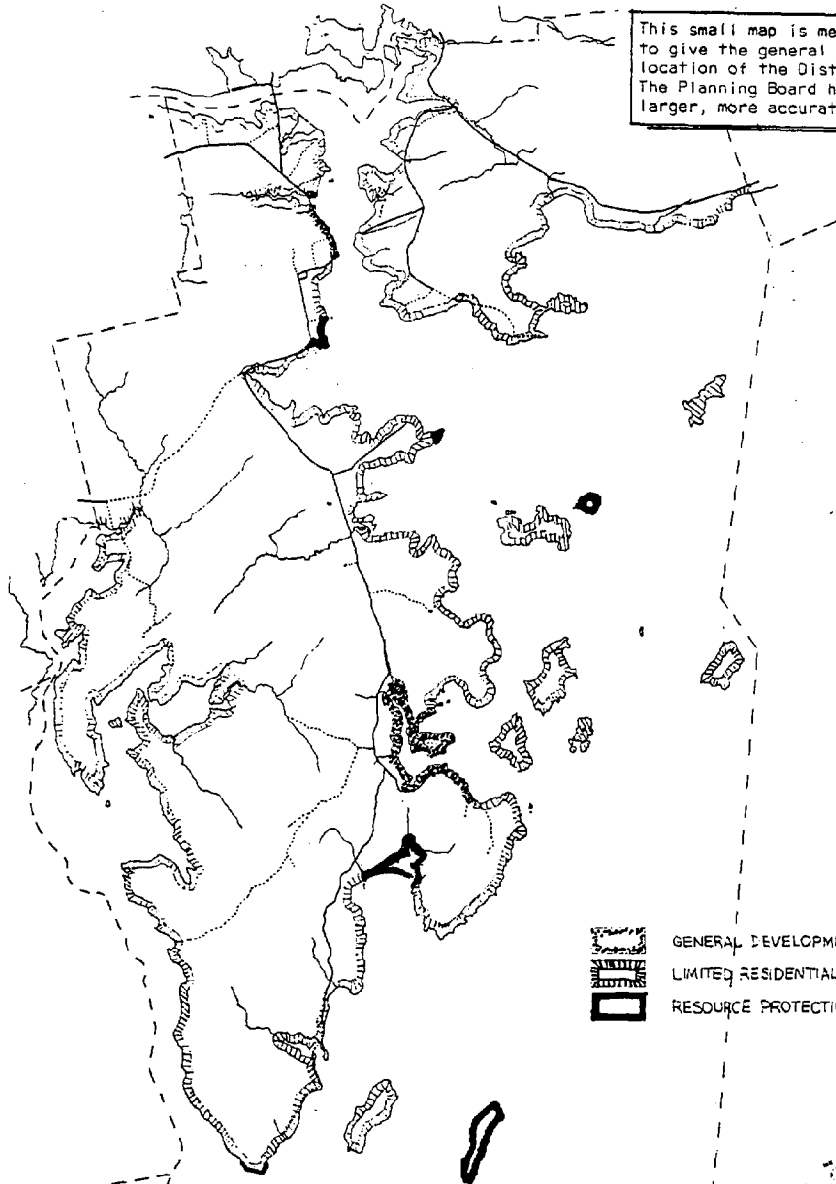


Resource Protection 




Limited Residential-Recreational 

General Development 

MACHIASPORT SHORELAND ZONING MAP



This small map is meant to give the general location of the Districts. The Planning Board has a larger, more accurate map.

-  GENERAL DEVELOPMENT
-  LIMITED RESIDENTIAL - RECREATION
-  RESOURCE PROTECTION

All zones extend inland 250 feet from the normal high water mark.

All of the shoreland is zoned "Limited Residential-Recreational" except:

General Development Zone

1. From the small brook on Pettogrow Beach, located on the Northern side of Pettogrow Point at Bucks Harbor, around the shoreline northerly to the sand bar leading from Small's Point to Bar Island.
2. From southerly side of (the former) Ingalls Boatyard northerly along the shore of the Machias River to and including the Ramsdell property on the north side of Foster's Bridge.

Protected Zone

1. Stone Island
2. Round Island
3. Jasper Beach at the head of Howard's Cove.
4. The ledges with "Picture Rocks" on Clark's Point.
5. Sanborn's Point from the small brook entering the North shore of Sanborn Cove, easterly around Sanborn Point then northerly to the North side of Ft. O'Brien State Park.

3. Building Permit Ordinance

The Town's ordinance requires that a permit be obtained from the Planning Board for any new construction, alteration, relocation or replacement of any building. The Subdivision Ordinance tells how land can be divided. The Building Permit Ordinance tells how it can be built upon.

There are several reasons for this ordinance: it allows the Assessors to keep current on building activity, it provides for opportunities to make the builder aware of State and local requirements before beginning construction. Thus avoiding costly fines and even action to require that a building be moved! The ordinance also protects adjoining property owners from being harmed by new construction. For example, run-off can not be diverted onto a neighbors property.

4. Mobile Home and Trailer Park Ordinance

The purpose of this Ordinance is not to prevent mobile homes from being located in Machiasport, but to define and regulate mobile home and trailer parks, to establish minimum standards governing the construction and maintenance of mobile homes and trailer parks; to establish minimum standards governing utilities and facilities and duties of owners and operators of mobile home and trailer parks; to authorize the inspection of mobile home and trailer parks and fix penalties for violations. The Ordinance covers all property within the boundaries of the Town. It regulates the development and operations of mobile home parks and trailer parks and requires everyone who operates or intends to develop or operate a mobile home park or trailer park to obtain approval from the Board of Selectmen or authorized representatives.

5. Flood Plain Management Ordinance

The National Flood Insurance Act of 1968 requires all municipalities to participate in the National Flood Insurance Program (NFIP) in order to provide flood damage insurance for structures located in a mapped flood hazard area. Only through participation in the NFIP can residents obtain flood damage insurance.

The intent of this Act and Program is to reduce expenditures of all parties involved to an acceptable level by prohibiting development or construction that would or could easily be demolished during a flood.

Town officials are responsible to administer and enforce this Ordinance.

Participation begins when a flood plain management ordinance is adopted by a town and filed with the state and federal governments. This ordinance must comply with national standards.

Permits are required for any change that takes place to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvement (50% of market value before improvement or repair) to buildings or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations;

and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities and placement of mobile homes or other manufactured homes/structures.

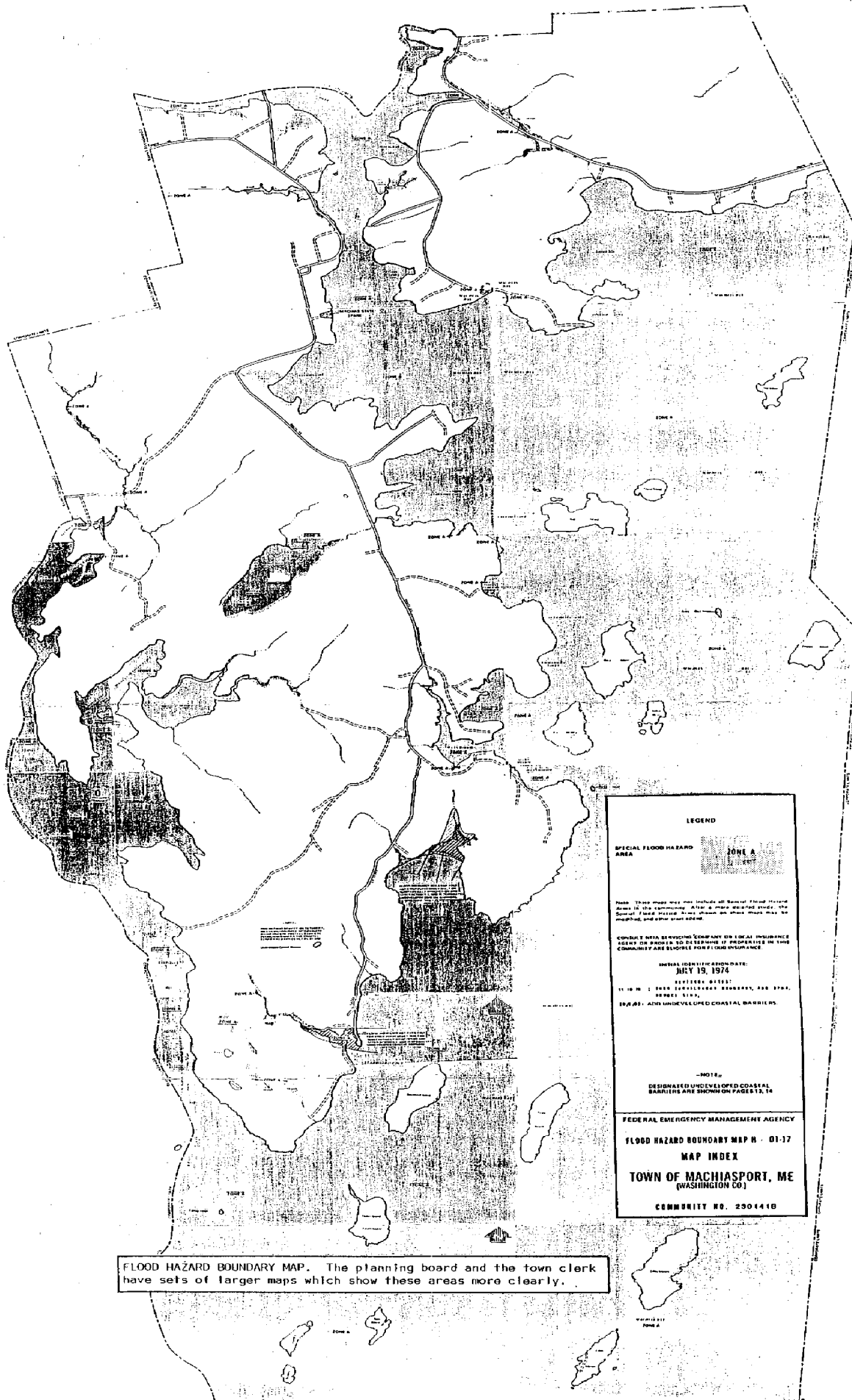
The flood plain permit is required in addition to all other local, state, and federal permits that may be required for the same project.

Ordinances are very specific in the information needed in an application. Services will be required from a registered Maine surveyor, licensed engineer or architect depending on the type of construction or information needed. The applicant is required to obtain and bear the cost of these services.

When violations occur, town officials submit a statement to the Federal Insurance Administration (FIA) requesting denial of flood insurance. The ordinance spells out the information needed in the statement. This action eliminates the possibility of the town being sued by the applicant for high insurance premiums, or loss of property value when resale becomes an issue. General abatement procedures still apply (Title 30 MRSA §4966).

Variances are issued under standards similar to other land use ordinances. The applicant agrees in writing to be fully aware of and assumes the responsibility of all risks inherent in the use of land subject to flooding; releases the town from any liability; acknowledges that insurance premiums will be high and the construction below base-flood level increases the risk to life and limb.

Once a structure is complete and certified by one of the appropriate professionals (as above), the owner may apply to the Federal Emergency Management Agency (FEMA) or the FIA to have the structure removed from the flood plain which eliminates the need or the mandate to purchase flood protection insurance.



LEGEND

SPECIAL FLOOD HAZARD AREA **ZONE A**

Note: These maps may not include all Special Flood Hazard Areas of the community. After a more detailed study, the Special Flood Hazard Areas shown on these maps may be modified and other areas added.

CONDUCT A FLOOD DAMAGE SURVEY OR LOCAL INSURANCE LOSSER OR PROXIES TO DETERMINE IF PROPERTIES IN THIS COMMUNITY ARE SUITABLE FOR FLOOD INSURANCE.

INTERNAL DESIGNATION DATE:
JULY 19, 1974

DESIGNED BY:
11 18 88 : 2008 DEVELOPMENT DEPARTMENT, 200 SPAN,
200001 11/18/88

DRAWN BY:
D.A.M. AND UNDEVELOPED COASTAL BARRIERS

NOTE:
DESIGNATED UNDEVELOPED COASTAL BARRIERS ARE SHOWN ON PAGES 12, 14

FEDERAL EMERGENCY MANAGEMENT AGENCY
FLOOD HAZARD BOUNDARY MAP N - 01-17
MAP INDEX
TOWN OF MACHIASPORT, ME
(WASHINGTON CO)
COMMUNITY NO. 2304410

FLOOD HAZARD BOUNDARY MAP. The planning board and the town clerk have sets of larger maps which show these areas more clearly.

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