

Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 3: PROTECTION AND IMPROVEMENT OF WATERS

§436-A. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 815, §§3, 11 (NEW).]

1. Coastal wetlands. "Coastal wetlands" means 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 that 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.

[2005, c. 330, §10 (AMD) .]

1-A. Basement. "Basement" means any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

[1997, c. 748, §2 (NEW) .]

1-B. Agriculture. "Agriculture" means the production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental and greenhouse products. "Agriculture" does not include forest management and timber harvesting activities.

[2013, c. 242, §1 (NEW); 2013, c. 320, §1 (NEW) .]

2. Commercial fishing activities. "Commercial fishing activities" means activities directly related to commercial fishing and those commercial activities commonly associated with or supportive of commercial fishing, such as the manufacture or sale of ice, bait and nets, and the sale, manufacture, installation or repair of boats, engines and other equipment commonly used on boats.

[1987, c. 815, §§3, 11 (NEW) .]

3. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with a density of at least one principal structure per 2 acres.

[1987, c. 815, §§3, 11 (NEW) .]

4. Floodway. "Floodway" means the channel of a river or other water course and the adjacent land areas that must be reserved to allow for the discharge of a 100-year flood without cumulatively increasing the water surface elevation of the 100-year flood by more than one foot.

[1987, c. 815, §§3, 11 (NEW) .]

4-A. Footprint. "Footprint" means the entire area of ground covered by the structures on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

[2013, c. 320, §2 (NEW) .]

5. Freshwater wetlands. "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

A. 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 [1989, c. 403, §4 (AMD).]

B. 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. [1989, c. 403, §4 (AMD).]

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

[1991, c. 346, §2 (AMD) .]

5-A. Forested wetland. "Forested wetland" means a freshwater wetland dominated by woody vegetation that is 6 meters tall or taller.

[1989, c. 838, §1 (NEW) .]

6. Functionally water-dependent uses. "Functionally water-dependent uses" means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

[2013, c. 320, §3 (AMD) .]

7. Great pond. "Great pond" means any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except for the purposes of this article, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

[1989, c. 403, §4 (AMD) .]

7-A. Height of a structure. "Height of a structure" means the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances that have no floor area.

[2011, c. 231, §1 (NEW) .]

8. Maritime activities. "Maritime activities" means the construction, repair, storage, loading and unloading of boats, chandlery and other commercial activities designed and intended to facilitate maritime trade.

[1987, c. 815, §§3, 11 (NEW) .]

9. Normal high-water line. "Normal high-water line" means that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

[1987, c. 815, §§3, 11 (NEW) .]

9-A. Outlet stream. "Outlet stream" means any perennial or intermittent stream, as shown on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

[2013, c. 320, §4 (AMD) .]

10. Principal structure. "Principal structure" means a building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises.

[1987, c. 815, §§3, 11 (NEW) .]

11. River. "River" means a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

[1989, c. 403, §4 (AMD) .]

11-A. Stream. "Stream" means a free-flowing body of water from the outlet of a great pond or the confluence of 2 perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

[2013, c. 320, §5 (AMD) .]

12. Structure. "Structure" means anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind and anything constructed or erected on or in the ground. "Structure" does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8. As used in this subsection, "service drop" has the same meaning as in section 952.

[2013, c. 489, §1 (AMD) .]

13. Timber harvesting. "Timber harvesting" means the cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities.

[2013, c. 320, §6 (AMD) .]

SECTION HISTORY

1987, c. 815, §§3,11 (NEW). 1989, c. 403, §§4,5 (AMD). 1989, c. 838, §1 (AMD). 1991, c. 346, §§2,3 (AMD). 1993, c. 196, §2 (AMD). 1995, c. 92, §1 (AMD). 1997, c. 726, §1 (AMD). 1997, c. 748, §2 (AMD). 2005, c. 330, §10 (AMD). 2011, c. 231, §1 (AMD). 2013, c. 242, §1 (AMD). 2013, c. 320, §§1-6 (AMD). 2013, c. 489, §1 (AMD).

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