

**AN ORDINANCE PERTAINING TO THE SHORELAND ZONING BOUNDARY OF
GARCELON BOG**

THE CITY OF LEWISTON HEREBY ORDAINS:

Appendix A of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

APPENDIX A

ZONING AND LAND USE CODE

ARTICLE II. DEFINITIONS

Sec. 2. Definitions.

Upland edge of a wetland means the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20)foot) tall or taller.

ARTICLE XII. PERFORMANCE STANDARDS

Sec. 2. Shoreland area standards.

(b) *Applicability.* Unless otherwise specified, the standards of this section shall apply to:

- (1) All land areas within 250 feet, horizontal distance, of the normal high watermark of the Androscoggin River, No Name Pond, and to all areas included within the Resource Conservation District, as shown on the "Official Zoning Map of the City of Lewiston, Maine"; all land areas within 75 feet, horizontal distance, of the normal high-water line of No Name Brook, No Name Brook Tributary B, Stetson Brook and Salmon Brook (beginning at the confluence of Moody and Salmon Brook to the Androscoggin River).
- (2) All land areas within 250 feet, horizontal distance, of the defined upland edge of all ten acre or greater wetlands, located in the City of Lewiston, including Garcelon Bog, and those as shown on the City of Lewiston Fresh-Water Wetland Maps prepared by the Maine Department of Environmental Protection, dated 1989, and identified by the following wetland identification numbers: 567 through 62.
- (3) Any structure, existing or proposed, built on, over, or abutting a dock, wharf, or pier, or other structures extending beyond the normal high-water line of a water body or within a wetland.
- (4) All land areas within 25 feet, horizontal distance, of the normal high-water line of Salmon Brook, Moody Brook, No Name Brook Tributary A, Hart Brook and Jepson Brook.
- (5) The perimeters of the above referenced shoreland areas shall be superimposed over the underlying zoning districts. The provisions of the underlying zoning district shall be adhered to subject to compliance with the provisions of the shoreland area. Where

uncertainty exists as to the exact location of shoreland area boundary lines, the Board of Appeals shall be the final authority as to location.

REASONS FOR PROPOSED AMENDMENT

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 wetlands of 10 or more acres, and within 75 feet of the normal high water line of streams. City of Lewiston has regulated said wetlands by referencing those areas as identified on the Fresh-Water Wetland Maps prepared by the Maine Department of Environmental Protection, dated 1989.

Garcelon Bog is a wetland of at least 10 acres. Over the years, the accuracy of the map has been questioned by staff and property owners with obvious discrepancies between open emergent wetland areas, scrub-shrub wetland vegetation, forested wetland and the location of the “upland edge of a wetland”. Specifically, areas that are forested wetland are not subject to shoreland zoning regulations (however, they may be subject to other DEP natural resource protections regulations).

The City has been provided updated wetland delineation from Jones Associates with respect to the specific shoreland boundary of Garcelon Bog. This delineation was arrived at by walking the boundary of the resource, resulting in more accurate data for purposes of mapping. The City has taken that data and has drafted an updated the shoreland zoning map for Garcelon Bog. The more accurate data has resulted in over 70 properties being removed from areas previously subject to shoreland zoning requirements and no new properties have been added to the shoreland zoning area.

Amending the shoreland zoning district will not result in changes to underlying zoning districts. The underlying districts, Resource Conservations, Neighborhood Conservation “A”, and Suburban Residential will remain in place. However, those properties that were inaccurately mapped in the shoreland zone would now have greater ability to make improvements to their lots.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

1. Continue to protect the City’s natural resources from inappropriate land use activities (Long Range Planning, Policy 6, p. 135).
2. Continue strict administration of shoreland area performance standards through strict administration of existing City ordinances... (Long Range Planning, Policy 6, Strategies A, p. 135).
3. Continue to protect the City’s wetlands (Natural Resources, Policy 4, p. 78).