

Wetlands Watch Pilot Project: Legislatively Created Rolling Easements

Redevelopment Limitations

| Source | Specific Goal | Language | Citation |
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| Maine Coastal Sand Dune Rules | Generally prohibiting construction in the V-Zone | No new structure or addition to an existing structure, including but not limited to vertical additions may be constructed in a V-zone except for ramps and elevators providing handicap access as outlined in Section 6(B)(3), open fences and fire escapes constructed on existing buildings or similar structures as required by local fire codes. A building in a V-Zone may only be reconstructed under Section 6(D) if it was involuntarily severely damaged by fire or some other force majeure not to include wave action from an ocean storm. If only a portion of a building is located in a V-Zone, this section applies to the portion of the building that is in the V-Zone. | 06-096 CMR Ch. 355, § 6(C) |
| Maine Coastal Sand Dune Rules | Limitations on V-Zone Development | Reconstruction of a building not severely damaged by wave action from an ocean storm must meet the following standards. (1) The building must be moved back from the beach to the extent practicable, as determined by the department given setback requirements and site limitations. If it is not practicable to move the building farther back from the beach, then the building's footprint must be reconstructed in the same location or a location no farther seaward than the previously existing building. (2) The area and dimensions of the footprint of the building may not exceed the area and dimensions of the footprint of the previously existing building when the building is reconstructed in the same location. The area of the footprint of the building may not exceed the area of the footprint of the previously existing building if the building is moved farther back from the beach. (3) The height of the building may not exceed the height of the previously existing building unless the project proposes a vertical addition that meets all the requirements of Section 6(B)(4) or to elevate the building to meet the requirements of Section 6(G). | 06-096 CMR Ch. 355, § 6(D) |
| Maine Coastal Sand Dune Rules | Mitigation efforts required on projects damaged by storm, outside of V-Zone | Buildings in the frontal dune, but outside of the V-Zone that are severely damaged by wave action from an ocean storm must meet the following minimization and mitigation standards. (1) The building must be moved back from the beach to the extent practicable, as determined by the department given setback requirements and site limitations. To determine whether the building is moved back to the extent practicable, the department may consider, but is not limited to: (a) Whether the applicant has applied for a variance to reduce the setback required by the municipality; and (b) Whether the applicant has attempted to buy additional land from abutters that would allow the building to be moved farther back. (2) The total area to be covered by the footprint of the reconstructed building or buildings may not exceed 20% of the total area of the lot. Land area within the V-Zone may not be included as part of a lot for the purposes of this subsection. No more than 500 square feet of additional development may occur on the lot. (3) The applicant must mitigate, to the extent practicable, for impacts to the coastal sand dune system caused by structures on the applicant's lot, as determined by the department. To determine whether the applicant has mitigated to the extent practicable, the department may consider, but is not limited to: (a) Whether areas of the lot not covered by development are being restored to the lot's natural dune topography and planted with native vegetation. (b) Whether an existing vertical seawall on the lot is being removed and replaced with a structure that would be less damaging to the coastal sand dune system, wildlife habitat and adjacent properties. | 06-096 CMR Ch. 355, § 6(F) |

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| Maine Coastal Sand Dune Rules | Requiring pilings for ALL redevelopment | To allow for the movement of sand and water and future shoreline changes, all buildings modified or reconstructed pursuant to Sections 6(B)(4), 6(D), 6(E) or 6(F) and all new buildings constructed pursuant to Sections 6(B)(5), 7(C) or 9(A), except for detached buildings that are used as storage sheds, public bathhouses and garages, must have the lowest portion of the structural members of the lowest floor constructed on a post or piling foundation, and be elevated either 1) on undeveloped lots, three feet above the highest existing elevation, within the building's footprint; or, on developed lots, the highest natural elevation measured 5 feet from the corners of the existing building foundation; or 2) the elevation required in the local municipal floodplain ordinance, whichever elevation is higher when choosing between 1 or 2 above. The post or piling foundation may be enclosed with latticework or other similar material through which water, wind and sand can easily move. | 06-096 CMR Ch. 355, § 6(G) |
| Maine Coastal Sand Dune Rules | One-time rebuilding of structures damaged by waves | Buildings that are severely damaged by wave action from an ocean storm and that are being reconstructed must meet the standards outlined in subsections 1-5 below. A building may not be reconstructed more than once in accordance with this section if the building is located in a V-Zone. A building located outside a V-Zone may not be reconstructed more than once without complying with the standards outlined in Section 6(F). (1) The building must be moved back from the beach to the extent practicable, as determined by the department given setback requirements and site limitations. If it is not practicable to move the building farther back from the beach, then the building's footprint must be reconstructed in the same location or a location no farther seaward than the previously existing building. (2) The area and dimensions of the footprint of the building may not exceed the area and dimensions of the footprint of the previously existing building when the building is reconstructed in the same location. The area of the footprint of the building may not exceed the area of the footprint of the previously existing building if the building is moved farther back from the beach. (3) The height of the building may not exceed the height of the previously existing building except as necessary to elevate the building to meet the requirements of Section 6(G). (4) If any part of the previously existing building was located in a V-Zone, then the building must be designed and configured to minimize or eliminate the building footprint's intrusion into the V-Zone to the extent practicable, as determined by the department given setbacks and site limitations. (5) A severely damaged building located within the V-Zone that is reconstructed completely outside of the V-Zone pursuant to this section is eligible for further reconstructions pursuant to Section 6(F) after subsequent severe damage by wave action from an ocean storm, should it occur. | 06-096 CMR Ch. 355, § 6(E) |
| Brevard County, FL | Setback restrictions generally | (a) No new major habitable or major accessory structures shall be constructed seaward of the coastal setback line. (b) No minor structures which are not pile-supported and elevated to a height sufficient to permit maintenance of dune stabilizing vegetation growing beneath the minor structure shall be constructed seaward of the coastal setback line. | Brevard County Ord. No. 85-17 |
| Structural Removal | | | |
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| Maine Coastal Sand Dune Rules | Mandating removal when a wetland encumbers a property | If the shoreline recedes such that a coastal wetland, as defined under 38 M.R.S.A. §480-B(2), extends to any part of the structure, including support posts, but excluding seawalls, for a period of six months or more, then the approved structure along with appurtenant facilities must be removed and the site must be restored to natural conditions within one year. | 06-096 CMR Ch. 355, § 10(A) |
| Texas Open Beaches Act | Prohibition of blocking access to the public beach | It is an offense against the public policy of this state for any person to create, erect, or construct any obstruction, barrier, or restraint that will interfere with the free and unrestricted right of the public, individually and collectively, lawfully and legally to enter or to leave any public beach or to use any public beach or any larger area abutting on or contiguous to a public beach if the public has acquired a right of use or easement to or over the area by prescription, dedication, or has retained a right by virtue of continuous right in the public. | V.T.C.A., Natural Resources Code § 61.013(a) |

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| Texas Open Beaches Act | Authorizing removal of structures that block access | The commissioner may order the removal of a structure, improvement, obstruction, barrier, or hazard from a public beach if the commissioner finds the structure, improvement, obstruction, barrier, or hazard to be on the public beach as defined by Section 61.013(c) and: (1) the structure, improvement, obstruction, barrier, or hazard was constructed or placed on the beach in a manner that is inconsistent with the local government's beach access and use plan; or (2) the structure, improvement, obstruction, or barrier constitutes an imminent hazard to safety, health, or public welfare. | V.T.C.A., Natural Resources Code § 61.0183 |
| Texas Open Beaches Act | Authorizing commissioner to order removal | The commissioner may order the removal of a structure, improvement, obstruction, barrier, or hazard from a public beach if the commissioner finds the structure, improvement, obstruction, barrier, or hazard to be on the public beach as defined by Section 61.013(c) and: (1) the structure, improvement, obstruction, barrier, or hazard was constructed or placed on the beach in a manner that is inconsistent with the local government's beach access and use plan; or (2) the structure, improvement, obstruction, or barrier constitutes an imminent hazard to safety, health, or public welfare. | V.T.C.A., Natural Resources Code § 61.0183 |
| Marina County, CA | Triggers of removal (NOT legislatively enacted) | Frequency of overtopping onto parking lot, erosion of dune crest to within 5 feet of the parking lot. The distance between the dune crest and the parking lot was identified as a low cost monitoring approach that could be integrated into existing staff assignments. Monitoring would occur periodically and particularly following any major erosion event. Erosion of dune crest to within a certain distance of the buildings. The distance between the dune crest and the parking lot was identified as a low cost monitoring approach that could be integrated into existing staff assignments. Monitoring would occur periodically and particularly following any major erosion event. | |

Restrictions on Hardened Shoreline/Other Protections

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| Maine Coastal Sand Dune Rules | Prohibiting seawalls except through permit to replace existing seawall | No new seawall or similar structure may be constructed. No existing seawall or similar structure may be altered or replaced except as provided below, and as allowed under Chapter 305, Permit By Rule and 38 M.R.S.A. §480-W. Permanent alteration of different dimensions or location. With a permit from the department, a seawall or similar structure may be replaced with a structure of different dimensions or in a different location that is farther landward if the department determines that the replacement structure would be less damaging to the coastal sand dune system, existing wildlife habitat and adjacent properties than replacing the existing structure with a structure of the same dimensions and in the same location | 06-096 CMR Ch. 355, § 5(E) |
| Maine Coastal Sand Dune Rules | Prohibiting any project if the property will be inundated in 100 years | Shoreline changes within 100 years. A project may not be permitted if, within 100 years, the property may reasonably be expected to be eroded as a result of changes in the shoreline such that the project is likely to be severely damaged after allowing for a two foot rise in sea level over 100 years. Beach nourishment and dune restoration projects are excluded from this requirement | 06-096 CMR Ch. 355, § 5(C) |
| Maui County, HI | Prohibiting protection structures | The construction of all erosion-control or shoreline hardening structures or activities, with the exception of beach or dune nourishment activities, and landscape planting and irrigation, shall be prohibited throughout the life of the structure or activity. | |