

Shorelines, Stream Corridors and Coastal Areas

Goals

Recreation. Provide opportunities for a variety of recreational activities within publicly owned stream and tideland corridors, including both wilderness and developed recreational activities.

Habitat. Protect fish and wildlife habitats along tidelands, lakeshores, stream corridors and wetlands.

Water Quality. Protect water quality to support domestic uses, fish and wildlife production, and recreational activities. Protect watersheds that supply community drinking water.

Provide for Water Dependent and Water Related Uses. Provide for needed water dependent and water related uses.

Coastal Use and Maintenance Area. Maintain areas within 500 feet of the coast for public use on lands to be retained by DNR during the planning period for the purposes of public access, recreation, maintenance of scenic viewsheds, and the conservation of fisheries and wildlife habitat.

Management Guidelines

A. Alaska Clean Water Actions (ACWA). In accordance with the ACWA program, DNR will work with the departments of Fish and Game and Environmental Conservation to protect and improve water quality, water quantity and fish habitat.

B. Priority of Public Uses in Stream Corridors. DNR will place a higher priority on protecting public use values in stream corridors than on providing opportunities for private ownership or development of land. However, the department recognizes the demand for property along streams and will provide land for private purchase in some stream corridors. Prior to the disposal of stream corridor lands, DNR, in consultation with other affected agencies and the public, will assess existing and projected public use needs associated with the stream corridor. State land sales programs near streams having important recreation value will be designed to protect access to and along the stream for fishing, hiking, camping, and other recreational activities. Similarly, disposals near streams that have important fish or wildlife habitat or wildlife value will be designed to ensure the protection of the habitat or wildlife.

C. Public Access Adjacent to Waterbodies. Pursuant to AS 38.05.127, legal public access will be reserved in order to protect the public's right to travel to and along the shore of a waterbody without encouraging trespass. Permits, leases, and plans of operation for commercial and industrial uses, transportation facilities, pipelines and other water dependent uses may be authorized on state uplands adjacent to waterbodies if their activities are consistent

with the management intent for the area and if they maintain tideland and stream bank access, and protect important fish and wildlife habitat, public water supplies, and public recreation. Trails and other forms of non-motorized public access are generally considered to be appropriate within these areas, if they meet the conditions listed in 11 AAC 96.025.

Where feasible and prudent, there should be setbacks between these activities and adjacent waterbodies. The width of this setback may vary depending upon the type and size of the use, but must be adequate to maintain public access to and along riparian areas.

D. Retention of State Owned Buffers Adjacent to Waterbodies

1. When the management intent for state land adjacent to waterbodies (including tidelands, streams, or lakes) is to permit recreation uses such as fishing, picnicking, hunting, camping, or other similar uses, the state should retain ownership of the adjacent uplands. This approach would also apply if the protection of important habitat or wildlife use areas is intended. For anadromous and high value resident fish streams, a minimum of 100 feet landward from ordinary high water on each side of the stream must be retained.
2. In state subdivisions, buffers for streams with anadromous or high value resident fish should either be retained in state ownership or dedicated to a local government and managed to maintain important fish and wildlife habitat, public access, and recreation values.
3. State owned buffers or units adjacent to waterbodies may be retained along the full length of the waterbody or on segments of the waterbody determined to have high current or future use, public use, or to require habitat protection. If the intent is to provide forested wildlife habitat, the width and configuration of this buffer shall be determined prior to or during preliminary subdivision design by DNR in consultation with ADF&G.

E. Retention of Access Easements Adjacent to Waterbodies. For non-fish bearing streams, an easement should be used if the primary management intent is to protect the public's right to travel or provide access for utilities. The public rights retained in an easement shall be identified and noted in the DNR decision document and on the subdivision plat. In areas that may be sensitive to vehicular travel, the easement should be reserved for pedestrian access only. Access easements may be used in combination with state land that is to be retained for public use or for the protection of environmental resources. In these situations, easements may be used to provide access to areas of state retained sensitive land, or provide access corridors between lots or units within the subdivision.

F. Protection Easements and Setbacks to Non-Fish Bearing Waterbodies. Easements or building setbacks may be used in those instances where public recreation use is moderate or where sensitive habitat or other environmental resources exist but are not of the same importance as described under Management Guideline C. The purpose of the easement should be noted in the Department decision document and on the subdivision plat. Where a protection easement is to be applied, vehicular use within the area of the easement is inappropriate and should not be authorized. Building setbacks may be used in lieu of a protection easement in

those instances where it is not appropriate or necessary for the state to retain any easement rights. Building setbacks may be used singly or in combination with buffers, access easements, and protection easements. Building setbacks used in this fashion provide an added level of protection, while allowing private ownership of the land within the area of the setback.

G. Buffer, Easement, and Building Setback Widths

1. The width of state retained land, access and protection easements, and building setbacks adjacent to waterbodies (tidelands, lakes, streams) will vary, depending on whether the area is a retained unit or imposed easement, and according to management intent and the specifics of the unit under consideration. In addition, this width may vary along the area of the tideland, stream, or lake that is to be protected. Establishing widths, especially for publicly retained lands, will be based on the following considerations: recreational activities to be accommodated, habitat protection and management objectives, visual quality, use compatibility, prevention of erosion, or retention of a significant hydraulic resource (like a wetland).
2. Although these widths may vary, the following criteria are provided to establish the minimum width that can be expected on various types of buffers, easements, and setbacks. They are specified here in order to establish some consistency in application and ensure a minimum level of resource and habitat protection or public access. Distances are measured landward from ordinary high water along streams and other inland waterbodies and from the line of mean high water adjacent to coastal waters. Because of the linear nature of streams and certain other habitat or hydraulic features, these minimum dimensions will apply to both sides of the feature that is to be protected. For example, the total protected area along a stream with a 100 foot setback would be 200 feet (100 feet each side).

In nearly all instances involving retained state land, it will be preferable to retain a larger width, usually 300 feet on each side. Widths greater than 300 feet may also be warranted, depending on the specific site characteristics and the importance of the habitat or resources to be protected.

- a. Riparian buffers on retained public land along anadromous and high value resident fish streams and waters: 100 feet along each side of the anadromous stream or water. (Widths greater than this amount, up to 300 feet, should be authorized if, after consultation with ADF&G, it is determined that larger widths are necessary to protect fisheries, wildlife, or habitat).
- b. Buffers on other freshwater waterbodies on retained public land: 50 feet along each side of the stream or 50 feet along the shoreline of lakes.
- c. Protection easements used in areas of important environmental features: 50 feet on each side of important environmental features, such as high value wetlands. In instances where a protection easement is included as part of a disposal to local unit of government under their Municipal Entitlement, this width is also 50 feet.

- d. Public access easements, including 'to and along' easements required under AS 38.05.127, or utility easements adjacent to tidelands, lakes, and streams: 50 feet.¹⁶
- e. Building setbacks: 100 feet adjacent to anadromous waterbodies and 50 feet adjacent to all other waterbodies.

H. Application Requirements for Easements and Buffers Along Waterbodies and Related Environmental Features. Table 2-1 specifies widths and other requirements for easements, buffers and public access in order to ensure consistency between authorizations along waterbodies and related environmental features. On a case-by-case basis, widths may be wider, in order to accommodate floodplain width, bank characteristics, size of the waterbody, extent of present or expected future public use, the need to protect important environmental features, or other relevant factors. Widths can be narrower on a case-by-case basis if it is determined that the harm intended to be avoided by the requirement is not likely to occur because of site-specific circumstances. However, the strip of land must be of sufficient width to allow for public access as well as to screen the waterbody from development, where possible, with an undisturbed strip of vegetation.¹⁷

I. Standards Adjacent to Anadromous Fish Streams and Waterbodies and Coastal Areas

1. **Riparian Protection Standard.** Only activities which are or can be made compatible with the objectives of protecting, maintaining, or enhancing anadromous or high value resident fish habitat will be authorized in the zone occurring between 100 and 300 feet away from ordinary high water. Riparian protection shall be provided in this 200-foot zone on each side of the anadromous stream or waterbody. The purpose of this zone is the maintenance of fish and wildlife habitat. Only activities that are consistent with this policy are to be authorized by DNR in its issuance of permits, leases, or other types of development authorizations.
2. **Standards for Coastal Use/Maintenance Area.** A coastal use/maintenance area shall be provided within 500 feet from the mean high water¹⁸ on state uplands to be retained by DNR during the planning period¹⁹. These areas shall be maintained in their existing natural condition for the purposes of providing public access, recreation, the protection of scenic viewsheds, and the conservation of fisheries and

¹⁶ Other types of utility easements may be less than this width, depending on the purposes of the easement.

¹⁷ Note: The conservation zoning district of the Kodiak Island Borough has specific setback requirements from marine waters and anadromous waterbodies. This zoning district applies to most of the state land on Kodiak and Raspberry Islands designated Settlement. Adjudicators should consult with the Borough prior to issuing easements or authorizations.

¹⁸ Or 1000 feet from mean high water for intertidal estuaries. The USFWS National Wetland Inventory 1:63,360 maps shall be used to define the spatial boundaries of intertidal estuarine wetlands. Intertidal estuarine wetlands shall be defined to (only) include the following NWI classifications: E2EM1N, E2US4N, and E2AB1N.

¹⁹ In those instances when a state land disposal occurs within an area affected by this district, the effect of this action is to void this standard since the affected land will no longer be retained in state ownership.

wildlife/habitat. This area applies to areas designated Public Recreation - Dispersed (Rd), Habitat (Ha), or General Use (Gu). Limited, site specific development may be authorized in these areas by DNR but only if the objectives of this area, identified above, are maintained and after consulting ADF&G on fisheries and wildlife habitat issues.²⁰

I. Filling or Leasing of Tidelands for Residential Uses or Structures. No filling or leasing for residential uses or structures shall be allowed. Access improvements on state tidelands and submerged lands for residential uses and structures, such as docks and boat haul outs, shall also not involve the use of fill.

J. Filling or Leasing of Tidelands for Non-Residential Uses and Structures. If consistent with the requirements of the Alaska Coastal Management Program or a Coastal District Plan, authorizations may be granted for the filling of state tidelands and submerged lands for those non-residential uses or structures that are water-related or water-dependent.

K. Other Guidelines for Shorelines and Stream Corridors. For details of these guidelines, see the following sections of this chapter:

- Coordination and Public Notice
- Fish and Wildlife Habitat and Harvest Areas
- Forestry
- Cultural Resources
- Material Sites
- Recreation, Tourism, and Scenic Resources
- Subsurface Resources
- Public Access Easements, Neighborhood Trails, and Public Access

²⁰ Some uses shall be authorized by DNR in these areas and, if authorized, are to occupy a small site area with minimal site disturbance during construction or operations. DNR shall consult with ADF&G before authorizing uses/facilities within this 500 foot area. Examples of possible uses include commercial lodges, public facilities needed for recreation support or to ensure public safety, facilities that require in-water access (e.g. boat ramps, docks, or floats), and log transfer/storage facilities. Beach log and damaged tree salvage, subsistence activities, and reasonable access to mining claims in accordance with the provisions of an approved plan of operations (state or federal) will be allowed. Other permitted activities including power lines, roads necessary to access upland timber harvests, fish camps, guide camps, and the like, may be allowed where feasible alternative locations are not available. This zone does not affect the "Generally Allowed Uses" authorized in state regulation and statute. All authorizations granted by DNR shall ensure that the objectives of the Coastal Maintenance Area are maintained.

Table 2-1: Application Requirements for Easements and Buffers Along Waterbodies and Related Environmental Features

Guideline/ Description	Minimum Width/Measured from	Where it Applies	Primary Purpose	Guidelines
1. Public Access (To and Along Easement) Adjacent to all navigable waters ²¹	50 feet * Landward from ordinary high water line ** Landward and seaward from mean high water line	Along: * Lakes * Streams ** Tidelands	Provide public access along navigable and other waterbodies.	<ul style="list-style-type: none"> Prohibited: Residential structures, fences, and other non-water-dependent structures that will obstruct passage. 'Along' portion of 'To and Along' easement is to be continuous unless topography or land status prevents a continuous easement. The 'To' portion of the 'To and Along' easement has a minimum width of 50 feet but may be increased to 60 feet if DNR determines that the need for increased public access to navigable and public waters may justify construction of a road along an easement. A section line easement under AS 19.10.010 can function as a 'To' easement to the extent that the section line easement runs on state land and if the section line easement provides a practical route to the shore or river.
2. Riparian Buffers	100 feet * Landward from ordinary high water line ** Landward and seaward from mean high water line	Along: * Retained public land * Public use easements * Municipal Entitlements * Anadromous and high value resident fish streams and lakes.	Protect riparian areas adjacent to anadromous and high value resident fish streams and lakes.	<ul style="list-style-type: none"> Prohibited: Residential structures, fences, and other non-water-dependent structures that will obstruct passage. Widths up to 300 feet may be authorized if, after consultation with ADF&G, it is determined that larger widths are necessary to protect fisheries, wildlife, or habitat. See also 'Riparian Protection Standard'. The 'Riparian Protection Standard' applies in instances where necessary to control the types of uses and structures adjacent to anadromous and high value resident fish streams in order to achieve the objectives of protecting, maintaining, or enhancing anadromous fish streams or lakes. Consult with ADF&G prior to imposing the requirements of the 'Riparian Protection Standard'.
3. Freshwater Waterbodies	50 feet * Landward from ordinary high water line along streams and lakes that are not covered in item #2 or from the edge of the waterbodies, including wetlands, that are to be protected.	Freshwater waterbodies.	Protect areas adjacent to freshwater waterbodies that are not important riparian areas but that may be important for other public purposes.	<ul style="list-style-type: none"> Prohibited: Residential structures, fences and other non-water dependent structures. Imposed as a public easement with the previous prohibitions. Can be imposed in instances where the To and Along Easement is not applicable.

²¹ See 11 AAC 51.035 for determination of Navigable and Public Water. See also 11 AAC 51.045 for easements 'To and Along Navigable and Public Water'. Other waters may be considered on a case-by-case basis.

Guideline/ Description	Minimum Width/Measured from	Where it Applies	Primary Purpose	Guidelines
4. Sensitive Environmental Features	50 feet *** Measured from edge of sensitive environmental feature.	Areas of important environmental features	Protect sensitive environmental features not otherwise protected under Public Access, Riparian Buffers, or Freshwater Waterbodies.	<ul style="list-style-type: none"> • Sensitive environmental features may include wetlands, important upland habitat, prominent scenic features, and the like. • Prohibited: Residential (or other) structures and associated out buildings but not including utilities or minor accessory structures. • Imposed as a public easement with the previous prohibitions. • Where this easement is imposed as part of a municipal entitlement action, this width is also 50 feet.
5. Building setback Adjacent to all waters <u>except</u> anadromous and high-value resident fish waters (see guideline 6 below)	50 feet * Landward from ordinary high water ** Landward from mean high water	Non-anadromous and non-high-value resident fish: * Lakes * Streams ** Tidelands	Protect public values, including access, recreation, and water quality along all waterbodies.	<ul style="list-style-type: none"> • Where feasible and prudent, and necessary to protect public values along the stream. • Does not apply to exceptions listed at bottom of table.
6. Building setback Adjacent to anadromous and high-value resident fish waters	100 feet * Landward from ordinary high water ** Landward from mean high water	Anadromous and high-value resident fish: * Lakes * Streams ** Tidelands	Protect riparian fish habitat, water quality, and recreation values along anadromous and high-value resident fish waters.	<ul style="list-style-type: none"> • Where feasible and prudent. • Applies only to non-water-dependent uses. Does not apply to exceptions listed at bottom of table. • The setback shall remain vegetated to maintain habitat values and stream stability. <p>Incorporate measures to prevent adverse changes including erosion, turbidity, sedimentation, and temperature differences within the waterbody or adjacent wetlands.</p>
7. Coastal Use/Maintenance Area	500 feet ** Landward from mean high water.	Areas of state land to be retained during the planning period.	Maintain the existing conditions of retained state lands for the purpose of providing public access, recreation, scenic resources, and the conservation of fisheries and wildlife habitat.	<ul style="list-style-type: none"> • This standard only applies to areas of retained state land during the planning period of the KAP. • This standard, in addition, only applies to uplands and only those uplands designated General Use, Habitat, or Public Recreation – Dispersed. • Certain types of uses may be authorized within the 500-foot area. See ‘Standards for Coastal Use/Maintenance Area’ in the ‘Shorelines, Stream Corridors, and Coastal Areas’ section of Chapter 2 for a listing of these uses.

Where widths apply: * Freshwater areas ** Tidally-influenced areas *** Sensitive Environmental Features

For the definition of *anadromous waters* and *high-value resident fish waters* (derived from AS 41.17.950) see the *Glossary* in Appendix A. Exceptions that apply to items 5 and 6 above: a) Structures such as docks, bridges, and culverts whose purpose is access to or across the stream or lake; b) Uses that must be in or adjacent to the waterbody in order to function, such as placer mining activities, fish culturing, water supply intakes, and similar uses.