Shorelands and Stream Corridors

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.

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

Management Guidelines

A. Alaska Clean Water Act (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. Any development that impacts anadromous fish bearing waters or resident fish streams under AS 41.14.870 and .880 may require a permit from ADF&G.

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 and 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. Protection of Land Adjacent to High Value Waterbodies. When the management intent for state land adjacent to waterbodies (including tidelands, streams, or lakes) is to protect wildlife habitat, anadromous or high value resident fish streams, or provide for intensive recreation uses associated with fishing, picnicking, hunting, camping, or other similar uses, the state should retain ownership of the adjacent uplands. Alternatively, to minimize on-going management responsibilities or for some other public purpose, a riparian buffer should be imposed. See Table 2-1 for requirements related to 'riparian buffers'. In instances involving a land disposal, the area of a riparian buffer may be reserved as public open space to be maintained by a common interest association. Whichever method is chosen, they should be designed to minimize negative impacts on visual character, habitat value, water quality, and ensure public access.

State-owned buffers or riparian buffers 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 or in the Forest Land Use Plan by DNR in consultation with ADF&G.

E. Retention of Access Easements Adjacent to Waterbodies. For waterbodies that are not anadromous and where the primary management intent is to protect the public's right to travel or provide access for utilities, a public use easement under AS 38.05.127 ('to and along') should be imposed. 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 parcels within the subdivision.

F. Protection Easements and Setbacks to Non-Anadromous Waterbodies. Easements[3] or building setbacks[4] 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 D. See the requirements for 'Sensitive Environmental Areas' in Table 2-1 to determine when an easement is to be applied. The purpose of the easement or setback should be noted in the Department decision document, and on the subdivision plat. Where a protection easement or setback 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 *or* they may be used in combination with buffers, access easements, and protection easements. Building setbacks used in this fashion provide an added level of protection. See the requirements for 'Building Setbacks' in Table 2-1.

G. Lakeshore Public Access. A portion of the lakefront on lakes greater than 10 acres that have or may be expected to have public recreation and all inlets and outlets of lakes of this size and capable of sustaining year-round natural or stocked game fish species shall remain in public ownership for habitat protection and public recreation. Adequate public access to these lakes shall also remain in public ownership or is to be provided through section line or 'to and along' easements. The amount of public ownership may vary on a site specific basis, but, at a minimum, some portion of these lakes shall remain public. The size of the public reservation shall be appropriate to its expected long range recreational use and relative to the size of the lake. A width of 100' or more measured from OHW is to be retained or protected through an easement along inlet and outlet streams. Public use sites on lakes of 10-20 acres shall have at least 4 contiguous acres reserved for public access. For lakes larger than 20 acres a public use site of at least 6 acres shall be provided. Units affected by this requirement are identified in the Resource Allocation Tables of Chapter 3.

H. 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 parcel or imposed easement, and according to management intent and the specifics of the parcel 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, floodway and floodplain widths, habitat protection and management objectives, visual quality, use compatibility, prevention of erosion, or retention of a significant hydraulic resource (like a wetland).

[3] These areas are often referred to as 'protection areas' in the management units described in the Resource Allocation Tables on Chapter 3.

[4] The Borough applies a setback of 75' adjacent to waterbodies. Setbacks applied to state land shall at least be this width.

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).

If state land is to be retained, it may be preferable to retain a larger width, often 200 feet on each side. Widths greater than 200 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[5] public land along anadromous and high value resident fish streams and waters: 100-150 feet along each side of the anadromous stream or water, consistent with FRPA requirements under AS 41.17.118. (Widths greater than this amount, 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).

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[6] used in areas of important environmental features: 50 feet on each side of important environmental features, such as high value wetlands. Distances greater than 50 feet (up to 100 feet) may be appropriate if the feature being protected is considered to be especially sensitive to disturbance and is considered a particularly high value resource; such features might include lacustrine and riverine wetlands, springs, salt licks, or geologic hazards requiring additional distance separation for public safety. Consult ADF&G if there is a question as to whether a width greater than 50 feet should be considered.

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.[7]

e) Building setbacks: 100 feet adjacent to anadromous waterbodies and 75 feet adjacent to all other waterbodies. The use of a building setback is usually not required if a 'riparian buffer' is being imposed in an authorization. Riparian

[5] In those instances where state land adjacent to an anadromous waterbody is not to be retained by the state, a non-development easement or buffer should be applied. Uses within these easements shall be as noted in the following table or as specified in regulation.

[6] These areas are sometimes referred to as 'protection areas' in management unit descriptions in Chapter 3.

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

buffers preclude principal and most accessory structures within the riparian area; only water dependent uses are authorized in these areas. For more detail see 'riparian buffer' in Table 2-1.

I. 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.

J. 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.

K. 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.

L. Other Guidelines for Shorelines and Stream Corridors. Other guidelines will affect shorelines and stream corridors. See other sections of this chapter.

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[8]	**50 feet** * Landward from ordinary high water line (OHW) ** Landward and seaward from mean high water line	Along: * Lakes * Streams ** Tidelands	Provide public access along navigable and other waterbodies.	• 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 or more 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 (Sometimes referred to as 'protection areas' in Chapter 3 management unit requirements.)	**100-150 feet** * Landward from ordinary high water line ** Landward and seaward from mean high water line	Along: * Retained public land * Anadromous and high value resident fish streams and lakes.	Protect riparian areas adjacent to anadromous and high value resident fish streams and lakes.	• Prohibited: Residential structures, fences, and other non-water-dependent structures that will obstruct passage or those uses that may be prohibited by state regulations. • Widths are to be consistent with FRPA requirements under AS 41.17.118. Widths greater that this, 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.
3. Freshwater Waterbodies Buffer Adjacent to all 'public waters'	**50 feet** * Landward from OHW along streams and lakes that are not covered in item #2 but are considered to be 'public waters' or from the edge of the waterbodies, including wetlands, that are to be protected.	Along freshwater waterbodies that are determined to be 'public waters'.	Protect areas adjacent to freshwater waterbodies that are not important riparian areas but that may be important for other public purposes.	• 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 if necessary to meet the 'Primary Purpose'. • Areas greater than 50 feet may be imposed on a case-by-case basis.

[8] 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 Buffer	**50 feet** *** Measured from edge of sensitive environmental feature.	Areas of important environmental features. These may include hydrologic features (wetlands, marshes), sensitive habitat areas, or areas subject to geotechnical constraints.	Protect sensitive environmental features not otherwise protected under Public Access, Riparian Buffers, or Freshwater Waterbodies.	• Sensitive environmental features may include wetlands, important upland habitat, prominent scenic features, and the like. • The imposition of this requirement is discretionary. • 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 or those prohibitions that may be set by state regulation. • Where this easement is imposed as part of a municipal entitlement action, this width is also 50 feet. • Areas greater than 50 feet may be imposed on a case-by-case basis.
5. Building setback Adjacent to all waters except anadromous and high-value resident fish waters (see guideline 6 below)	**75 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.	• This requirement is imposed where feasible and prudent, and necessary to protect public values along the stream. • Does not apply to exceptions listed at bottom of table. • The imposition of this requirement is discretionary. • Areas greater than 75 feet may be imposed on a case-by-case basis.
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.	• This requirement is imposed where feasible and prudent and where necessary to achieve or protect the 'Primary Purpose'. The imposition of this requirement is discretionary. • 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. • Incorporate measures to prevent adverse changes including erosion, turbidity, sedimentation, and temperature differences within the waterbody or adjacent wetlands.

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.