

Maine's Working Waterfront Tax Law

Purpose:

To encourage the preservation of working waterfront land and to prevent the conversion of working waterfront land to other uses as the result of economic pressures caused by the assessment of that land for purposes of property taxation. To allow the property to be valued for property tax purposes based on what the value of the property would be in the marketplace if its future use were required to remain the same as the way it is currently being used as working waterfront. This law requires the assessor to place a value on the property which recognizes what the property is worth as working waterfront land and not what its market value would be if the property could be converted to other uses.

What is working waterfront land?

"Working waterfront land" means a parcel or portion of a parcel of land abutting tidal waters or is located in the intertidal zone (located between the high and low water mark) the use of which is more than 50% related to providing access to or in support of the conduct of commercial fishing activities.

What commercial fishing activities are to be considered when classifying waterfront land?

Commercial fishing activities includes commercial aquaculture production (the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption), and commercial fishing (the harvesting or processing, or both, of wild marine organisms with the intent of disposing of them for profit or trade). Commercial fishing activities does not include retail sales to the general public of marine organisms or their byproducts

What is meant by providing access?

To allow persons directly engaged in commercial fishing activities access to the water or the intertidal zone over waterfront land.

How does a landowner take advantage of this program?

The landowner may *elect* to apply for taxation under this law by filing an application with the local assessor. Applications must be filed on or before April 1st of the year in which the owner or owners wish to first subject such land to taxation under this subchapter. The application must contain a description of the parcel, together with a map identifying the location and boundaries of the working waterfront land, a description of the manner in which the land is used for commercial fishing activities and other information the assessor may require to aid in the determination of what portion of the land qualifies for classification as working waterfront land. The schedule must be signed and consented to by each person with an ownership interest in the land.

Must the entire waterfront parcel be used as working waterfront land?

No, only the portion of a parcel which is used primarily for commercial fishing activities may be classified, together with any remaining portion of the parcel that is not used for purposes inconsistent with commercial fishing activities and so long as the remaining portion is not sufficient in size to meet the requirements for a minimum lot as provided under state law or local zoning requirements. Any portion of a parcel which is not used primarily for commercial fishing activities may not be classified and will be assessed at just value.

Who determines whether the parcel qualifies for the program or not?

The local assessor is responsible for reviewing the applications and determining whether the land meets the requirements for classification as working waterfront. The assessor is also required to notify the owner in writing by June 1st as to whether the application for classification has been accepted or denied. If denied, the assessor must state the reasons for the denial and provide the owner or owners an opportunity to amend the schedule to conform to the requirements for classification. The assessor is required to keep the application on file in the municipal office of the town in which the working waterfront land is located.

If the assessor denies my application or if I do not agree with the value the assessor has placed on the property, do I have any appeal?

Yes. The appeal for denial of an application or a tax assessment of the parcel for which classification has been applied for is the same appeal process available for Tree Growth, Farmland and Open Space. Appeal of the assessor's determination is to the State Board of Property Tax Review.

How will the assessor determine what the value of my property is?

There are several tools available to the assessor, but the ultimate goal remains the same; to value the property in a manner which recognizes the sale price that the parcel would command in the marketplace if it were required to remain in the use to which the parcel is currently being made as working waterfront land. The first method is to consider the sales prices of properties which have sold and whose purpose is required to be for that of being working waterfront. Such sales would be those which have deeded restrictions requiring a continued use as working waterfront or sales where the property is located in an area zoned for commercial or working waterfront purposes. Another method is to use a value comparative to the value of non-waterfront land which is currently being used for similar commercial purposes. A third method is to recognize that there are certain factors which may serve to enhance the valuation of most waterfront properties which are not pertinent when considering the valuation of the land as working waterfront. Such factors include but are not limited to aesthetic factors such as views, possible use as residential housing or non-waterfront related commercial uses. Under this methodology, the assessor would exclude from valuation consideration an estimate of value associated with these non-working waterfront related factors to arrive at a proper value as working waterfront.

When the assessor has insufficient knowledge or information to be able to employ one or more of the above methods, the legislature has provided for an alternative valuation process; one which recognizes a percentage reduction from the highest and best use value of the land which is not required to be used for working waterfront purposes.

A. Working waterfront land used predominantly (more than 90%) as working waterfront land is eligible for a reduction of 20% from estimated market value;

B. Working waterfront land used primarily (more than 50%) as working waterfront land is eligible for a reduction of 10% from estimated market value;

C. Working waterfront land that is permanently protected from a change in use through deeded restrictions is eligible for the reduction described in paragraph A or B and an additional reduction of 30%.

Whichever method is used, the local assessor is ultimately required to determine what the current use value will be, and must also adjust those values to reflect the same relative ratio to what all other property in the municipality is being assessed at.

How long must I keep my land in Working Waterfront classification? What happens if I decide to use my property for purposes other than Working Waterfront?

Working Waterfront current use classification is a voluntary program whereby a landowner may elect to enroll and qualify their property for the benefit of reducing their property taxes. Once enrolled, the property remains classified as working waterfront in perpetuity unless the property owner applies and is accepted into classification under the Open Space Tax Law. The parcel may also be removed, with the appropriate penalty assessed, by the assessor upon request by the property owner or if the parcel no longer qualifies for classification as working waterfront.

Once classified, the property owner must notify the tax assessor of any change in use. Failure to report a change in use will result in the assessment of an additional penalty of 25% of the required penalty.

How much is the penalty for withdrawal or disqualification?

The penalty for removal from Working Waterfront classification for land enrolled for 10 years or less is 30% of the difference between the 100% Working Waterfront valuation and the fair market value of the property on the date of withdrawal. The

percentage drops 1% per year for land classified for 11 to 20 years to a floor of 20% for land classified for 20 years or more. The penalty is assessed and collected as a supplemental assessment.

What do I do if I buy a parcel that is classified as Working Waterfront?

If land taxed as Working Waterfront is transferred to a new owner or owners, in order to maintain the classification, the new owner or owners, within 1 year of the date of transfer, must file a new application and a sworn statement that the transferred parcel continues to meet the requirements of Working Waterfront.

How do I know if Working Waterfront is for me?

Prior to enrollment in any current use classification, property owners should both educate themselves about the program and talk to their local assessor to determine what tax benefits he may expect under the program. The owner should also consider whether their personal goals for the parcel are compatible with the terms of Working Waterfront.