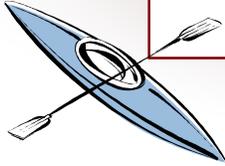


Shoreland Zoning Newsletter

Maine Department of Environmental Protection

Volume 25, Issue 2



Assistance with vegetation standards

Vegetation clearing was the hot topic this summer, and as always DEP Shoreland Zoning staff is available to provide assistance with permit review and enforcement.

While shoreland zoning standards have restricted vegetation clearing since 1973, violations continue to occur. An adequate buffer between development and the shoreline protects water quality, habitats and the character of Maine. Good vegetated buffers also protect, and can increase, property values.

A few things municipal officials can do:

1. Ensure permit applications show that the site will be in compliance with the vegetation standards.
2. Contact Shoreland Zoning staff with any questions during permitting review or during investigation of alleged violations.
3. Review requirements in State Statute 30-A M.R.S.A. §4452 3.C-2, and the local ordinance, for correcting violations found.
4. In an effort to prevent unintentional violations, provide the Handbook for Shoreland



Removing Trees

Owners, which is available at: www.maine.gov/dep/land/slz/citizenguide.pdf, and share the vegetation standards when landowners come in for other permitting. Vegetation clearing by itself doesn't always require permitting, but landowners still have to comply with the standards.

How we at DEP can assist you:

1. We can review site plans to ensure vegetation standards would be met, especially when the site or proposal is complex.
2. We can assist with the evaluation of alleged violations of vegetation clearing standards, especially on sites with unique conditions.
3. We have worksheets for calculating the tree points and volume from the stumps remaining.
4. We can provide guidance on reforestation plans when violations are found to ensure standards will be met. The information sheet "Guidelines for Restoration" can be downloaded from: www.maine.gov/dep/land/slz/is-restoration.pdf. 

DEP Buffer Handbook:
www.maine.gov/dep/land/watershed/bufa.html



Inside this issue:

Assistance with vegetation standards	1
Ensure contractors are certified	2
Past and future training workshops	2
Enforcement case: Fryeburg	3
Story Series: What you CAN do	3
Notes from Shoreland Zoning Program	4

Ensure contractors are certified in the shoreland zone

Starting January 1, 2013, any excavation contractor that engages in an activity that adds or displaces more than one cubic yard of soil within the shoreland zone must ensure that a person certified in erosion and sedimentation control practices by the DEP is on-site.

The certified contractor must be on-site each day earthmoving activities occur and for a sufficient duration to ensure the proper implementation of erosion and sedimentation control practices. This is



required until the site is permanently stabilized.

So what is an excavation contractor? 38 M.R.S.A. § 439-B, defines an excavation contractor as either

- an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or
- in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

This neither applies to municipal employees working on municipal projects nor to homeowners doing the work themselves.

Since this requirement is not likely to be found in local ordinances, we suggest adding

this requirement to the permit application itself. A simple box in which the applicant can state the contractor's certification number would be sufficient.

The DEP also has a certified contractor searchable database on its website at www.maine.gov/dep/land/training/cccec.html.

Enforcement of this provision will be at the municipal level, but simply updating your application is the best approach for dealing with this. As always, we are available to assist you.

The fall schedule for the necessary course work can be found at www.maine.gov/dep/training/npstrc-schedule.html. If you'd like to host a winter or spring training for area contractors, contact Bill Laflamme at 207-215-9237. 🐟

Past and future training workshops

This past spring, the Shoreland Zoning Program completed its annual code enforcement officer training workshops, organized by Brianne Hasty at DECD. We're hoping to offer more trainings in the future.

This year's workshop field session focused on the differences between shoreland zoning regulations and the Natural Resources Protection Act, and defined the roles of DEP and municipalities in the review of projects adjacent to natural resources.

In the future, a more comprehensive shoreland zoning training program may develop. We're excited about the prospect of offering both basic and advanced trainings, for all municipal officials. Imagine a whole workshop devoted to nonconformance standards and scenarios.

In the meantime, we'll accommodate requests, when possible, to conduct topic-specific workshops in your region. We understand not all municipal officials can attend the

"We'll accommodate requests, when possible, to conduct topic-specific workshops in your region."

current annual trainings, which are tailored for code officers.

We're here to provide assistance with the sometimes complex regulations of shoreland zoning. The better we serve you, the better you can serve the landowners in your municipality. 🐟

Enforcement case: Fryeburg in the spotlight

The Town of Fryeburg, a western Maine town that doesn't see a lot of "action" in the shoreland zone, notified us of a violation on one of its lakes.

An owner of a non-conforming camp sought the CEO's regulatory advice several times,

An owner sought the CEO's regulatory advice several times, but ignored that advice.

but ignored that advice. This resulted in an expansion of the non-conforming structure above the 30 percent limitation.

The CEO and selectmen sought guidance from DEP for the terms of a consent agreement. In accordance with the local ordinance, we recommended that Fryeburg require the portion of the structure that exceeded the 30 percent limitation be removed.

Because we are involved with a number of shoreland zoning

cases, we have the benefit of knowing what fines other municipalities have issued for similar cases.

In this case, we suggested that a fine of \$5,000 wouldn't be unreasonable (as blatant as the violation was), rather than applying the per-day method.

Fryeburg pursued the landowner with these suggestions and the owner fully complied. Case closed! Great job, Fryeburg!

We're here to help you, too!



Story Series: What you CAN do under shoreland zoning

This is the last in a Story Series highlighting the many activities that shoreland zoning allows.

What improves the environment and your economic wealth? Enhancing the vegetative buffer! A variety of techniques exist based on goals and buffer needs.

Planting native vegetation requires little or no permitting under "filling or earth moving." Landowners choose plants based on site conditions, aiming for a variety of foliage and flowers that they find attractive. Buffers provide a natural corridor for animals traveling from one habitat to another, and can also increase property values.

Erosion is also a common issue.

Learn more about the vegetative buffer from the "Story Series" in the June 2012 Shoreland Zoning Newsletter.

Can you do something to stop it? Absolutely! Ordinances allow owners to stabilize shorelines. Remember, a Natural Resources Protection Act permit may be required.

Riprap projects and retaining walls for erosion control aren't subject to structure setbacks; however permitting is required, under "structures below the shoreline" and/or under "filling or earth moving."

Rain runoff plagues some landowners. In these cases, additional vegetative features—like rain gardens—or even structural features—like retaining walls—enhance the ability of the buffer to slow and absorb much of the runoff.

Soil and Water Conservation Districts provide resources,



evaluate sites and recommend solutions. In all districts, soil and water conservation practices typically don't require permits. Local contact information is at: www.maine swcds.org/locations.htm.

An ordinance section, which is optional for municipalities to adopt, allows permitting of retaining walls as structures within buffers, where vegetation is inadequate. Feel free to contact us for assistance with adopting such amendments.





Maine Department of Environmental Protection



Newsletters are Online:
[www.maine.gov/dep/land/
 newsletter/index.html](http://www.maine.gov/dep/land/newsletter/index.html)

Since 1987, the Shoreland Zoning Newsletter has been helping municipal officials better administer and enforce shoreland zoning ordinances.

Your feedback is always welcome. Feel free to submit comments, and topics for articles, to Stephenie MacLagan at stephenie.maclagan@maine.gov.

Shoreland Zoning staff contact information:

Deirdre Schneider, Coordinator 207-557-0353
 Eric Hitchcock, Presque Isle 207-764-0477
 Stephenie MacLagan, Bangor 207-356-1643
 Mike Morse, Portland 207-822-6328

Notes from the Shoreland Zoning Program

Building Demolition Notice:

Many old industrial buildings on our waterfronts are being renovated or demolished.

Did you know prior to beginning demolition, a "Building Demolition Notification Form" must be sent to DEP whether asbestos is present or not?

Asbestos is known to cause cancer. By completing an asbestos inspection before demolition, exposure and costly professional cleanups can be avoided.

The form can be accessed here:

[www.maine.gov/dep/waste/
 asbestos/documents/
 asbbuilddemnotif.pdf](http://www.maine.gov/dep/waste/asbestos/documents/asbbuilddemnotif.pdf)

Questions? 207-287-7751.

State Planning Office Eliminated:

Some programs moved, and contacts are listed below:

Code Enforcement Officer Training and Certification Program—Dept. of Economic and Community Development (DECD), 207-624-7507.

Floodplain Management—Dept. of Conservation, 207-287-8063.

Land Use Planning—Dept. of Conservation, 207-287-2211.

Waste Management and Recycling—Dept. Environmental Protection, Bureau of Remediation and Waste Management, 207-287-2651.

Reference: www.maine.gov/spo



Asbestos in Old Buildings

