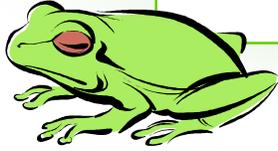


June 2012

Shoreland Zoning Newsletter

Maine Department of Environmental Protection



Volume 25, Issue 1

Recent rulemaking, legislative updates

These rulemaking and legislative updates may affect your municipality.

Resource Protection District (RP) no longer has to apply to wetlands rated as moderate or high value waterfowl and wading bird habitat. This rule change became effective on May 5, 2012.

Municipalities now have more flexibility. These wetland areas can remain in RP, or the ordinance can be amended so that these areas are otherwise designated in accordance with the rest of the ordinance.

This is a good opportunity to look at your municipality's resources and areas of development and decide what strikes the best balance between protection and development. DEP is available as a resource to walk you through the various options.

The stakeholder process and recommendations were reported to the legislative committee. To view the report go to <http://tinyurl.com/DEPshorelandstakeholder>. If you have any questions or comments about the

report feel free to share those with Deirdre Schneider at deirdre.schneider@maine.gov.

Statewide timber harvesting standards will become effective soon, due to the passage of LD 1739.

For those municipalities that chose to either repeal timber harvesting from their ordinances or adopt the statewide standards, these changes will become effective on January 1, 2013.

Also, municipalities that have maintained the original DEP timber harvesting standards now have a choice.

Municipalities may request to enter into an agreement with the Bureau of Forestry (BoF) for administration and enforcement assistance. Because ordinances vary, the BoF will review a municipality's request individually.

It is worthwhile to explore all the alternatives available in regards to the regulation of timber harvesting . Having the BoF assume responsibility, or engage in joint administration and enforcement can help municipalities save on time and resources. 



Updated Chapter 1000 Guidelines are online now: www.maine.gov/dep/land/slz/#rule



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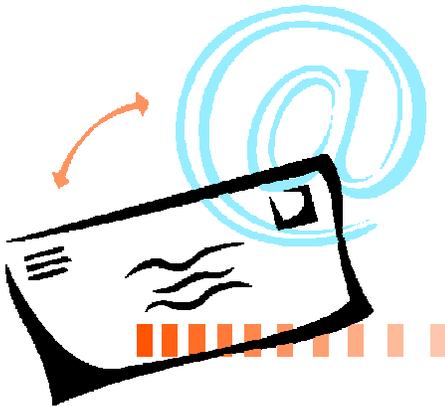
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Plans change, rollout of electronic newsletter

Please provide us your email addresses– soon!

As noted in previous newsletters, the Shoreland Zoning Program has determined that the cost incurred for mailing paper copies of the Shoreland Zoning Newsletter is unnecessary in this electronic age, and there are other benefits of electronic distribution, too.

We are compiling an address list



Electronic newsletter in the works

for distribution electronically.

Currently, we are working with our webmaster to determine which email listserv provider we will use. As always, there are many points to consider in making a decision. At the very least, the cost for this service must be less than the current printing and mailing expense.

At some point in the near future, we anticipate that the newsletter will become primarily available by email and on our DEP webpage.

In addition to costing less, electronic distribution allows us to get this information to you more quickly and efficiently. Sending the newsletter via email also ensures that everyone who needs and wants the newsletter is receiving it.

Best of all, the electronic version is in color! Each issue follows the seasons, and we'll be aiming to use more photographs instead of clipart.

We don't want you to miss out, so send email addresses for the officials and board members in your municipality. While we have already received numerous email addresses, we still have not heard from many of you. Your help with this is greatly appreciated.

Please note that we intend to use this distribution list for DEP business only. We will not sell or otherwise share the addresses with others outside of the DEP.

You may send your email addresses to Stephenie at stephenie.maclagan@maine.gov.

Cupolas, icing on the cake

Exempting cupolas from structure height limitations requires ordinance amendment.

Last year, the Shoreland Zoning Act was amended, to exclude some features when measuring the height of a structure in the shoreland zone.

The excluded features are cupolas, domes, widow's walks and similar features that are not

inhabited, and are mounted on a building roof for observation purposes.

The exemption is allowed only under certain conditions. These include:

1. The feature is on a legally existing conforming structure.
2. The structure is not located in Resource Protection or Stream Protection Districts.
3. The feature does not extend beyond the exterior walls of the existing structure.
4. The feature has a floor area

of 53 square feet or less.

5. The feature does not increase the height of the existing structure by more than seven feet.

In order to apply the exemption, the municipal ordinance must be amended. Adopted amendments that affect the shoreland zone must be submitted to DEP before they become effective.

Contact regional shoreland zoning staff for assistance in drafting amendments. Contact information is on page 4.

One CEO to Another: Effective enforcement

Code Enforcement Officer Rick Leavitt uses his camera more than a notice of violation.

Get as much information about the property location and owner as possible before going on site. Knocking on all the doors makes your presence known, and it

“Take as many pictures as possible. Let your photos and site sketch tell the story.”

gives you the opportunity to see the other side of the house or another angle of the property.

The owner may become defensive at hearing you’re a CEO, but try to break the ice by asking questions. I start by asking about the aims of their project. There’s always a story to be heard. Listen without judgment.

Regardless of the enforcement path anticipated, ask yourself on site, ‘What’s needed to prove this case in court?’ Take as many pictures as possible.

When the owner is cooperative in correcting the violation, I don’t use a notice of violation. I issue one when attorneys become involved or when the owner becomes unresponsive.

Because all of your evidence and notes can be discovered if the case goes to court, try to stick to the facts. Let your photos and site sketch tell the story.

Whenever you find yourself questioning something, go get the information immediately; if you wait, you’ll forget. 🐟

Story Series: What you CAN do under shoreland zoning

This Story Series highlights the many activities that shoreland zoning allows, even encourages.

Often we hear comments like: “you can’t cut any vegetation in the shoreland zone buffer.” The purpose of this brief article is to debunk this myth.

True: The shoreland zone buffer standards that apply to areas within 100 feet of a lake or pond and within 75 feet of other water bodies and wetlands are somewhat restrictive.

True: A landowner may not cut or remove all the vegetation from an undisturbed buffer and create a new lawn extending down to the shoreline.

However, the vegetation removal standards do allow a fair amount of vegetation to be

removed from within the buffer in many cases. Often, a landowner building a new home in the shoreland zone who follows the vegetation removal standards closely can end up with a great view to the water.

The “point system”, so called, allows the removal of trees that are larger than 2 inches in diameter, provided a minimum number of points of trees are retained– the larger the tree the greater the point value.

The standards also allow for the pruning of all live tree branches from the bottom third of the tree. The taller the tree, the higher a landowner may prune.

For example, the lower 20 feet of a tree may be pruned completely of branches on a 60-foot tall tree, resulting in only a



Thinning trees in the buffer is allowed.

comparatively small tree trunk impeding a view to the water.

Between thinning the tree stand and pruning branches many properties can create an impressive view to the water. Certainly, a sparsely vegetated property already will be very restricted in vegetation removal, but many of those properties already have a decent view. 🐟



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 Program 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

Biennial reports are no longer required. Code officers no longer need to send us biennial reports. The requirement that the Shoreland Zoning Program report municipal activities to the legislature was repealed. These reports were also used to submit comments about the program. You're more than welcome to submit comments anytime to your regional shoreland zoning staff member.

Highest Annual Tide is often used for determining the upland edge of a coastal wetland, and can be done by using elevation. Elevations can be obtained from the Highest Annual Tide Table that we provide annually: <http://www.maine.gov/dep/land/slz/predictions.pdf>. The 2012 Tide Table is now available.

Septic systems generate a lot of our incoming calls.

—If the owner of a property with a system in the shoreland zone is transferring that property, the transferor must provide the transferee with a written statement as to whether the system has malfunctioned during the 180 days prior to the transfer. Additional provisions apply within the shoreland zone of coastal wetlands. See 30-A M.R.S.A. §4216.

—Information about grants to replace failing systems can be found at: <http://www.maine.gov/dep/water/grants/scgpara2.html>, or by calling 207-287-7765.

—Complaints should be filed with the local plumbing inspector first, and could also be filed with DHHS at 207-592-7376. 🐟



2012 Highest Annual Tide Table online