

The Town of Woodstock Shoreland Protection Ordinance was repealed at Town Meeting held March 11, 2014. The requirements of the State of New Hampshire Minimum Shoreland Protection Standards under RSA 483-B:9 apply.

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 483-B

SHORELAND WATER QUALITY PROTECTION ACT

Section 483-B:9

483-B:9 Minimum Shoreland Protection Standards. –

I. The standards in this section are designed to minimize shoreland disturbance so as to protect the public waters, while still accommodating reasonable levels of development in the protected shoreland. Development outside the protected shoreland shall conform to local zoning and local ordinances and shall not be subject to standards established in this chapter.

II. Within the protected shoreland the following restrictions shall apply:

(a) The establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous waste facilities shall be prohibited.

(b) Primary structures shall be set back behind the primary building line which is 50 feet from the reference line.

(c) A water dependent structure, meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, shall be constructed only as approved by the department, pursuant to RSA 482-A.

(d) No fertilizer shall be applied to vegetation or soils located within 25 feet of the reference line of any public water. Beyond 25 feet, slow or controlled release fertilizer, as defined by rules adopted by department, may be used.

III. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations, and disinfection stations shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law. Private water supply facilities shall not require a permit.

IV. The placement and expansion of public water and sewage treatment facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

IV-a. Hydro electric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.

IV-b. Public utility lines and associated structures and facilities, public roads, and public water access facilities including boat ramps shall be permitted by the commissioner as necessary and consistent with the purposes of this chapter and other state law.

IV-c. An existing solid waste facility which is located within 250 feet of the reference line of public waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under permit.

IV-d. No solid waste facility shall place solid waste within 250 feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed, subject to permitting conditions under RSA 149-M:9, to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the reference line of public waters under this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the department of environmental services. Under no circumstances shall the toe of any slope encroach within 150 feet of the reference line.

V. The following minimum standards shall apply to areas and activities within the protected shoreland with the exception of forest management that is not associated with shoreland development or land conversion, and is conducted in compliance with RSA 227-J:9, forestry conducted by or under the direction of a water supplier for the purpose of managing a water supply watershed; and agriculture conducted in accordance with best management practices as required by RSA 483-B:3, III:

(a) Maintenance of a Waterfront Buffer.

(1) The waterfront buffer shall be those protected shorelands within 50 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters while allowing homeowner discretion with regard to water access, safety, viewscapes maintenance, and lot design.

(2) Within the waterfront buffer all of the following prohibitions and limitations shall apply:

(A) No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf, or established vegetation except if applied by horticultural professionals who have a pesticide application license issued by the department of agriculture or as allowed under special permit issued by the division of pesticide control under rules adopted by the pesticide control board under RSA 541-A, or fertilizers of any kind except those specified in RSA 483-B:9, II(d).

(B) Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the department, pursuant to RSA 482-A or RSA 483-B:11, II or unless rocks are removed to improve runoff control or the planting in the waterfront buffer, and stumps that are removed are replaced with pervious surfaces, new trees, or other woody vegetation.

(C) No natural ground cover shall be removed except as necessary for a foot path to water and access ways as provided under RSA 483-B:9, V(a)(2)(D), (viii) and (ix), for normal maintenance, to protect the waterfront buffer, cutting those portions that have grown over 3 feet in height for the purpose of providing a view, to provide access to natural areas or shoreline, or as specifically approved by the department, pursuant to RSA 482-A or RSA 483-B.

(D) Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Owners of land within the waterfront buffer shall measure, calculate, and maintain the tree, sapling, shrub, and groundcover point score in each of these segments in accordance with the methods and standards described in subparagraphs (i) through (ix).

(i) Tree and sapling diameters shall be measured at 4 1/2 feet above the ground for existing trees and saplings, or by caliper at a height consistent with established nursery industry

standards when nursery stock is to be used, and are scored as follows:

Diameter or Caliper--Score

1 to 3 inches--1

Greater than 3 to and including 6 inches--5

Greater than 6 to and including 12 inches--10

Greater than 12 inches-- 15

(ii) For the purpose of planting under RSA 483-B:9, V(g)(3), shrubs and groundcover plants shall be scored as follows:

Four square feet of shrub area--1 point.

Ground cover, not including mowed lawn--one point for every 50 square feet.

Shrub and groundcover shall count for at least 15 points and not more than 25 points in each full segment.

(iii) Dead, diseased, or unsafe trees or saplings shall not be included in scoring.

(iv) If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees, saplings, and shrubs over 3 feet in height may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than 50 points. If for any reason there is insufficient area for a full segment, or the segment contains areas incapable of supporting trees and saplings, such as areas of rock, ledge, or beaches, the point score requirement for the remaining vegetation in that partial segment shall be reduced proportionally to that required of a full segment. Vegetation shall not be removed from any segment which fails to meet the minimum point score for that segment. Owners are encouraged to take efforts to plan the maintenance of their waterfront buffer areas including the planting of additional non-invasive vegetation to increase point scores within segments, thus providing sufficient points to allow the future removal of vegetation as may become necessary while still meeting the requirements of this paragraph.

(v) The department shall approve applications pursuant to RSA 482-A or RSA 483-B that include the planting of trees, saplings, shrubs, and groundcover as necessary to at least maintain either the existing point score or the minimum score required. The department shall not approve any application that would result in a combined vegetation score of less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the point score where the segment does not initially meet the minimum score.

(vi) Owners of lots and holders of easements on lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns, gardens, landscaped areas, beaches, and rights-of-way for public utilities, public transportation, and public access, and may repair existing utility structures within the waterfront buffer. Conversion to or planting of cleared areas with non-invasive species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements of subparagraph (g)(2) or (g)(3), or RSA 483-B:11, II. In addition, the commissioner of the department of resources and economic development may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of resources and economic development within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is allowed under subparagraph (iv), the commissioner of the department of resources and economic development shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.

- (vii) Normal trimming, pruning, and thinning of branches to the extent necessary to maintain the health of the planted area as well to protect structures, maintain clearances, and provide views is permitted provided such activity does not endanger the health of the plant.
- (viii) When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12-foot wide access path shall be allowed. On those properties accessible only by water, this access path may be maintained provided it is stabilized with a surface that will infiltrate stormwater. On other properties the access path shall be completely restored and replanted with vegetation upon completion of construction except as allowed under subparagraph (ix).
- (ix) A permanent 6-foot wide foot path as well as access to any docks, beaches, structures, existing open areas, and the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, are allowed.
- (b) Maintenance of a Natural Woodland Buffer.
- (1) A natural woodland buffer shall be maintained within 150 feet of the reference line. The first 50 feet of this buffer is designated the waterfront buffer and is subject to the additional requirements of subparagraph (a). The purpose of the natural woodland buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.
- (2)(A) Within the natural woodland buffer of a given lot the vegetation, except lawn, within at least 25 percent of the area outside the waterfront buffer shall be maintained in an unaltered state or improved with additional vegetation. Owners of lots legally developed or landscaped prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area to be maintained in an unaltered state. The percentage of area maintained in an unaltered state on nonconforming lots shall not be decreased. In addition, the commissioner of the department of resources and economic development may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of resources and economic development within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is allowed under this subparagraph, the commissioner of the department of resources and economic development shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.
- (B) Any person applying to the department for a septic system construction approval or alteration of terrain pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of any areas of the natural woodland buffer in which impacts would occur.
- (C) Dead, diseased, or unsafe, trees, limbs, saplings, or shrubs that pose a hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to the natural woodland buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.
- (D) Maintenance and preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.
- (E) Planting efforts that do not introduce exotic or invasive species and are beneficial to wildlife are encouraged.

(c) Septic Systems.

(1) [Repealed.]

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries, and the open ocean.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph (c)(2), to the maximum extent feasible.

(d) Erosion and Siltation.

(1) All new structures, modifications to existing structures, and excavation or earth moving within protected shoreland shall be designed and constructed in a manner that incorporates appropriate protective practices which are substantially equivalent to those required under rules adopted by the department under RSA 541-A for terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

(2) New structures and all modifications to existing structures within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit under RSA 485-A:17, I shall be required for improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

(e) Minimum Lots and Residential Development. In the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services under RSA 485-A and rules adopted to implement it.

(2) [Repealed.]

(3) No lot having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

(4) Lots and residential units outside of the protected shoreland shall not be subject to this chapter.

(f) Minimum Lots and Non-Residential Development. In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted under RSA 541-A.

(2) No lot having frontage on public water shall be created with less than 150 feet of shoreland frontage.

(3) Non-residential lots outside of the protected shoreland shall not be subject to this

chapter.

(g) Impervious Surfaces.

(1) No more than 30 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces, unless a stormwater management system designed and certified by a professional engineer is implemented. Such system design shall demonstrate that the post-development volume and peak flow rate based on the 10-year, 24-hour storm event, shall not exceed the pre-development volume and peak flow rate for flow off the property within the protected shoreland.

(2) If the impervious surface area will exceed 20 percent, but is less than 30 percent, a stormwater management system shall be implemented and maintained which is designed to infiltrate increased stormwater from development occurring after the effective date of this paragraph in accordance with rules established by the department under RSA 485-A:17.

(3) If the impervious surface area will exceed 30 percent and the tree, sapling, shrub, and groundcover in the waterfront buffer does not meet the point score requirement of RSA 483-B:9, V(a)(2)(D) in any segment, then such segment shall be planted, as determined by rule of the department, with trees, saplings, shrubs, or groundcover in sufficient quantity, type, and location either to meet the minimum score or to provide at least an equivalent level of protection as provided by the minimum score and shall be maintained in accordance with RSA 483-B:9, V(a).

(h) Common Owners and Residential or Non-Residential Development. In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed, but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provision of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

(i) The commissioner shall have the authority to grant waivers from the minimum standards of this section. Such authority shall be exercised if the commissioner deems that strict compliance with the minimum standards of this section will provide no material benefit to the public and have no material adverse effect on the environment or the natural resources of the state. Waivers shall also be granted to accommodate the reasonable needs of persons with disabilities.

Source. 1991, 303:1. 1992, 235:12-18, 28, I. 1994, 383:7-14. 1995, 32:1; 206:2; 299:16. 1996, 17:4, 5; 100:1; 228:66, 108; 251:22; 296:52, 53. 2002, 114:1; 263:9. 2007, 267:8, 9. 2008, 5:9, 10, 20, 21; 171:9-12. 2009, 218:12-19, 23, II. 2011, 224:398-401, 412. 2012, 137:1, 2, eff. Aug. 4, 2012. 2013, 153:4-7, eff. Aug. 27, 2013.

Adopted: Town Meeting March 11, 2014