

§ 145-33. Shoreland Overlay District.

The provisions of this section shall apply to all uses, lots and structures within the Shoreland Overlay District.

- A. Purpose. The purpose of this district is to prevent and control water pollution; to protect fish spawning grounds, aquatic life and bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to conserve shore cover; and to preserve access to inland and coastal waters.
- B. Setbacks from water bodies and wetlands. All roads, driveways and structures, except those required to control drainage or water movement and those needed for water-dependent uses, shall comply with the following setback requirements or those of the underlying district, whichever is greater:
 - (1) The minimum setback from the upland edge of a wetland shall be 75 feet, which may be reduced to the average of the setbacks of structures within 200 feet of the proposed structure on lots abutting the wetlands but shall not be less than 25 feet. **[Amended 4-16-1999]**
 - (2) The minimum setback from the high-water line of Ell Pond shall be 100 feet.
 - (3) The minimum setback on the ocean side of Wells Beach, Drakes Island and Moody Beach shall be 20 feet from the sea wall. Where there is no sea wall, the setback shall be from a theoretical sea wall line extrapolated from the existing sea walls.
 - (4) The minimum setback from all other water bodies shall be 75 feet from their high-water line.
- C. Shore frontage.
 - (1) A lot within the Shoreland Overlay District with frontage on a freshwater water body or freshwater wetland, including all streams, shall have a minimum shore frontage of 200 feet. **[Amended 4-19-1997]**
 - (2) A lot within the Shoreland Overlay District with frontage on a tidal water body shall have a minimum shore frontage of 150 feet.

D. Performance standards for agriculture and animal husbandry uses.

- (1) All spreading or disposal of manure shall be done according to the Maine Guidelines for Manure and Manure Sludge Disposal on Land, published by the University of Maine and the Maine Soil and Water Conservation Commission in July 1972.
- (2) Manure shall not be stored or stockpiled within 100 feet horizontal distance of Ell Pond or within 75 feet horizontal distance of other water bodies, tributary streams or wetlands. Manure storage areas which existed before December 14, 1991, and which do not meet the setback requirement may remain after December 14, 1996, only if the storage area produces no discharge of effluent or contaminated stormwater runoff.
- (3) There shall be no new tilling of soil or clearing of trees or other vegetation for agricultural use within 100 feet of Ell Pond, within 25 feet of tributary streams and wetlands or within 75 feet of other water bodies.
- (4) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area or the spreading, disposal or storage of manure shall require a conservation plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the York County Soil and Water Conservation District. Noncompliance with the provisions of such conservation plan shall be considered to be a violation of this chapter.
- (5) Livestock grazing areas are prohibited within 100 feet of the high-water line of Ell Pond, within 25 feet of tributary streams and wetlands and within 75 feet of other waterbeds. Livestock grazing associated with ongoing farm activities and which is not in conformance with the above setback provisions may continue, provided that such grazing is conducted according to a plan approved by the York County Soil and Water Conservation District.

E. Clearing of vegetation for development.

- (1) In the development of a permitted use, a buffer strip of vegetation shall be preserved within the strip of land extending 100 feet inland from the high-water line of Ell Pond

and 75 feet from any other water body, tributary stream or the upland edge of a wetland, as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10 feet in width as measured between tree trunks is permitted, provided that a cleared line of sight to the water through the buffer strip is not created. Within 100 feet of the high-water line of Ell Pond the width of the footpath shall be limited to six feet.
- (b) Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to Ell Pond shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot by twenty-five-foot square area (625 square feet) as determined by the following rating system:

**Diameter of Tree at 4 1/2 Feet Above
Ground Level**

(inches)	Points
2 to 4	1
Over 4 to 12	2
Over 12	4

- [1] Next to other water bodies, tributary streams and wetlands a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight per twenty-five-foot square area.
- [2] Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter measured 4.5 feet above ground level may be removed in any ten-year period.
- (c) To protect water quality and wildlife habitat adjacent to Ell Pond, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in Subsections E(1)(a) and (b) above.

- (d) Pruning of tree branches on the bottom 1/3 of the tree is permitted.
 - (e) To maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
 - (f) This Subsection E(1) shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.
- (2) At distances greater than 100 feet from Ell Pond and 75 feet from the high-water line of any other water body, tributary stream or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter measured 4.5 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty-percent calculation. Cleared openings for development, including but not limited to principal and accessory structures, driveways and sewage disposal systems, shall not exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed. This provision shall not apply within those portions of the Shoreland Overlay District in which the underlying district is the Harbor District, the Beach Business District or the General Business District.
 - (3) Cleared openings legally in existence on the effective date of this chapter may be maintained but shall not be enlarged, except as permitted by this chapter.
 - (4) Fields which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.
- F. Roads and driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.
- (1) Roads and driveways shall comply with the setback requirements of Subsection B unless no reasonable alternative exists as determined by the Zoning Board of

Appeals. If no other reasonable alternative exists, the Zoning Board of Appeals may reduce the road and/or driveway setback requirement upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the wetland, tributary stream or water body. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland.

- (a) On slopes of greater than 20% the road and/or driveway setback shall be increased by 10 feet for each five-percent increase in slope above 20%.
 - (b) This section shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures or facilities located near the shoreline due to operational necessity.
- (2) An existing public street may be expanded within the street right-of-way, whatever its setback from a water body, tributary stream or wetland.
 - (3) Road banks shall not be steeper than a slope of one vertical to two horizontal and shall be graded and stabilized to prevent erosion and stream sedimentation.
 - (4) Road grades shall not be greater than 10% except for segments of less than 200 feet in length.
 - (5) To prevent road surface drainage from directly entering water bodies, tributary streams or wetlands, roads shall be designed, constructed and maintained to empty onto an undisturbed buffer strip at least 50 feet, plus two feet times the average percent slope, in width between the outflow point of the ditch or culvert and the high-water line of a water body, tributary stream or upland edge of a wetland. Road surface drainage which is directed to an undisturbed buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
 - (6) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed to effectively direct drainage onto undisturbed buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade	Spacing
(percent)	(feet)
0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21+	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.
- (c) On road sections having slopes greater than 10%, ditch relief culverts shall be placed across the road at approximately a sixty-degree angle downslope from the center line of the road.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed to effectively function, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (7) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained regularly to ensure effective functioning.
- G. Piers, docks, wharves, breakwaters, causeways, marinas, bridges and other structures and uses extending over or beyond the high-water line of a water body, stream or within a wetland. In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:
- (1) Shore access shall be developed on soils appropriate for such use and constructed to control erosion.
 - (2) The location shall not interfere with developed or natural beach areas.
 - (3) The facility shall be located to minimize adverse effects on fisheries.

- (4) The facility shall not be larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- (6) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (7) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

H. Timber harvesting.

- (1) No accumulation of slash shall be left within 50 feet of the high-water line of a water body. In all other areas all slash shall either be removed or disposed of in such a manner that it lies on the ground and no part of it extends more than four feet above the ground. Any debris that falls below the high-water line of a water body shall be removed from the water body.
- (2) Except for water crossings, all skid trails, log yards and other sites where the operation of logging machinery results in the exposure of mineral soil shall be located such that an undisturbed filter strip of vegetation of at least 75 feet in width for slopes of up to 10% shall be retained between the exposed mineral soil and the high-water line of a water body or upland edge of a wetland. For each ten-percent increase in slope, the undisturbed strip shall be increased by 20 feet. The provisions of this Subsection H(2) apply only to a face sloping toward the water body or wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet to the high-water line of a water body or upland edge of a wetland.
- (3) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provisions shall be made to prevent soil erosion

and sedimentation of surface waters. Timber harvesting equipment shall not use stream channels as travel routes except when surface waters are frozen and the activity will not result in any ground disturbance.

- (4) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (5) Skid trail approaches to water crossings shall be located and designed to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (6) Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter, measured 4.5 feet above ground level, on any lot in any ten-year period is permitted. These standards shall not apply to activities necessary and resulting from wind damage, fire and removal of dead trees. Trees and other vegetation killed by natural causes (e.g., beaver or insects) shall not be counted in determining either the original volume or the volume removed. In addition:
 - (a) Within 100 feet of the high-water line of Ell Pond and within 75 feet of the high-water line of other water bodies, tributary streams or the upland edge of a wetland, a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (b) At distances greater than 100 feet from Ell Pond and greater than 75 feet from the high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such openings shall be included in the calculation of total volume removal.
- (7) Timber harvesting operations exceeding the forty-percent limitation of Subsection H(6) may be allowed by the Planning Board if the applicant submits a forest management plan prepared by a Maine licensed professional forester showing that such exception is good forest management and the harvest will be carried out according to the purposes of this

chapter. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed within 14 days of the Board's decision.
[Amended 4-19-1997]