

From: Homeier, Dan [mailto:Dan.Homeier@state.vt.us]
Sent: Tuesday, June 03, 2014 10:37 AM
To: ANR - WSMD Shoreland

Subject: Vermont Shoreland Permit Program

To Whom It May Concern,

As you may already be aware, this May the Vermont General Assembly passed shoreland protection legislation that applies to activities within 250 feet of a lake's mean water level for all lakes greater than 10 acres in size. The Shoreland Protection Act (Chapter 49A of Title 10 §1441 et seq.), effective July 1st of this year, establishes a new state regulation for guiding shoreland development. The intent of the Act is to prevent degradation of water quality in lakes, preserve habitat and natural stability of shorelines, and maintain the economic benefits of lakes and their shorelands by defining standards for the creation of impervious surfaces (buildings, driveways, etc.) and cleared areas in shorelands.

We (the VT DEC Lakes and Ponds Program) will be administering the Shoreland Protection Act come July 1st and are currently working to implement the permit program. As part of our implementation plan we are preparing guidance materials, creating a [website](#), and reaching out to interested parties. We are reaching out to you, municipal officials, to provide you with our summary materials (see the attached PDF documents - a summary of the Shoreland Protect Act, a Frequently Asked Questions, a municipal delegation summary, a transition period summary [regarding projects already permitted by July 1, 2014], and a list of lakes greater than 10 acres) that help explain the Act, recognizing you are often an important point of contact for homeowners. We hope you find these documents helpful and ask that you distribute them to landowners and other officials who may also find them helpful.

In addition to guidance material and regular webpage updates, we've partnered with a few Regional Planning Commissions around the state to hold a series of meetings catered to regional and municipal officials. The schedule for these meetings is as follows (a final schedule with meeting places and times will be posted on our [website](#)):

June 10th, 6:30-8:30 pm, Chittenden County Regional Planning Commission - Winooski

June 17th, 2:00-4:00 pm, Northeastern Vermont Development Association - St. Johnsbury

June 17th, 6:00-8:00 pm, Northeastern Vermont Development Association - Newport

June 19th, 6:30-8:30 pm, Northwest Regional Planning Commission - Swanton Village Complex, 120 First Street

June 24th, 6:30-8:30 pm, Two Rivers-Ottauquechee Regional Commission – Lake Morey area

TBD, Rutland Regional Planning Commission – Rutland area

We are also holding a series of field workshops in state parks (entrance fee waived) throughout the state during the summer months. We will post the schedule for these workshops on our [website](#). Anyone who is interested should attend a field workshop to learn about the Shoreland Protection Act and the measuring techniques it utilizes (e.g., slope of a parcel).

Anyone is welcome to contact us by email: ANR.WSMDSshoreland@state.vt.us or phone: 802-490-6196. If you have questions regarding municipal delegation in particular, please contact Susan Warren by email: Susan.Warren@state.vt.us, or phone: 802-490-6134.

Sincerely,



Dan Homeier
Shoreland Permit Analyst



VERMONT DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
**WATERSHED
MANAGEMENT DIVISION**
LAKES & PONDS PROGRAM

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The Vermont Shoreland Protection Act

Transition Language

10 V.S.A. Chapter 49A, Section 9, Transition, states:

A permit or registration under 10 V.S.A. chapter 49A for the creation of impervious surface or cleared area within a protected shoreland area shall not be required on a parcel of land for a project for which:

(1) all necessary State, local, or federal permits have been obtained prior to the effective date of this act and the permit holder takes no subsequent act that would require a permit or registration under 10 V.S.A. chapter 49A; or

(2) a complete application for all applicable local, State, and federal permits has been submitted on or before the effective date of this act, provided that the applicant does not subsequently file an application for a permit amendment that would require a permit under 10 V.S.A. Chapter 49A and substantial construction of the impervious surface or cleared area commences within two years of the date on which all applicable local, State, and federal permits become final.

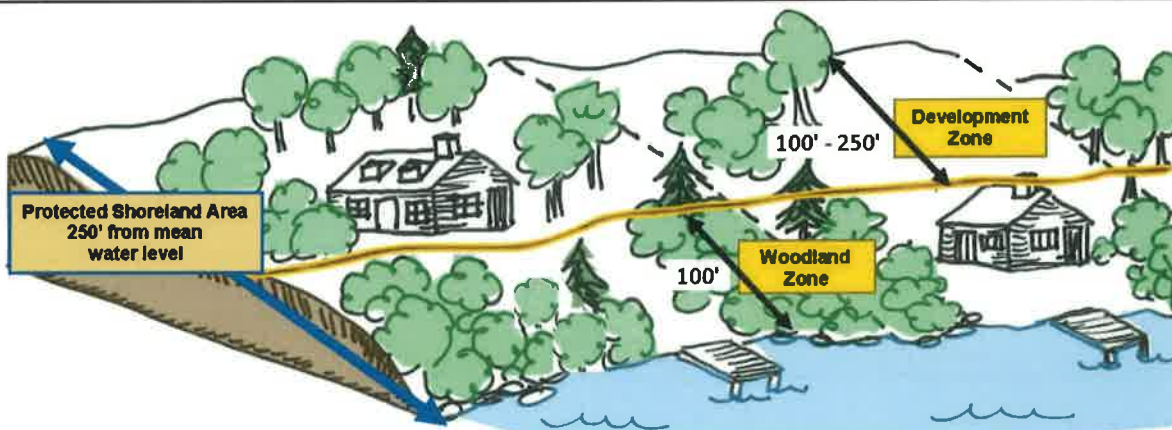
The Vermont Shoreland Protection Act

Intent

Effective July 1, 2014, the Vermont General Assembly has passed shoreland protection legislation that applies to activities within 250 feet of the mean water level of all lakes greater than 10 acres in size. The Shoreland Protection Act (Chapter 49A of Title 10 §1441 *et seq.*) establishes a new state regulation for guiding shoreland development. The intent of the Act is to prevent degradation of water quality in lakes, preserve habitat and natural stability of shorelines, and maintain the economic benefits of lakes and their shorelands by defining standards for the creation of buildings, driveways, and cleared areas in shorelands. The Act seeks to balance good shoreland management and shoreland development.

The Shoreland Protection Act recognizes that many shoreland properties in Vermont are already developed or are small lots that cannot meet the new standards. Developed properties are “grandfathered” until the owner proposes redevelopment. In the case of small lots, staff of the Agency of Natural Resources will work with homeowners so that standards are met to the extent possible. The table below summarizes the standards in the Act.

What the Act Regulates	Why
Naturally vegetated areas within 100 feet of the mean water level must be maintained according to the Vegetation Protection Standards in the act.	<ul style="list-style-type: none"> • A wooded shoreland is essential for a healthy lake ecosystem. Most animal and plant life in a lake spend all or some of their life cycle in the shallow water, along a lake’s shore. • A buffer of natural vegetation and duff absorbs and filters runoff from uphill land uses much more effectively than lawn. • Tree roots, trunks, and branches hold the bank together, protecting against erosion as well as shade the shallow waters.
The Act establishes a maximum of 20% impervious surface coverage unless best management practices are used to mitigate impact.	Hard surfaces (roofs, driveways, decks, etc.) result in increased runoff during rain storms. Increased runoff can result in erosion, and lessen absorption and filtration functions of the natural vegetation.
The Act establishes a maximum of 40% cleared area coverage unless best management practices are used to mitigate impact.	Clearing the shoreland of its natural vegetation increases stormwater runoff and reduces the lake’s natural defense in protecting itself from pollution, eroding banks, and creating degraded habitat.
Building on slopes greater than 20% requires demonstrating the development will not compromise stability.	Steeper slopes are more prone to erosion and instability, and therefore a wider Woodland Zone, and/or other Best Management Practices may be required to help reduce these impacts.



New Development is located 100 feet from the water’s edge in the Development Zone. In the Woodland Zone, a path and minimal clearing is allowed, as well as tree thinning in accordance with the Vegetation Management Practices.

Existing Development can be expanded using Best Management Practices. Best Management Practices, such as revegetating stretches of the Woodland Zone or infiltrating runoff, are techniques that help prevent or reduce degrading effects of increased impervious surface or cleared areas.

For a project occurring in the Protected Shoreland Area, with some exemptions, the Shoreland Protection Act requires all shoreland owners to either register or apply for a permit. Generally explained below are what activities will be exempt, can be registered, or will need a permit. Full information is available from the Shoreland Permit Program.

Permit Exemptions (These projects do not need to be registered or permitted through the Shoreland Permit Program.)

- Maintenance of existing buildings, gardens, and lawns, without enlarging them.
- Creation of a six foot wide footpath to access the lake through the Woodland Zone.
- Re-construction of existing impervious areas without increasing or changing the current footprint, such as rebuilding a house, deck or driveway in the exact same spot.
- Removal of 250 sq feet of vegetation under three feet in height, 25 feet from the mean water level, is allowed as long as the Vegetation Management Practices are met and the duff layer is not removed.
- Tree removal and pruning within 100 feet of the mean water level using to the Vegetation Management Practices.

Registrations (Projects that require the landowner to submit a registration form.) The limits described below are the total allowed for the lifetime of the property, regardless of ownership.

- Creation of less than or equal to 100 sq feet impervious surface, such as a gazebo or shed, located 25 feet back from mean water level.
- Less than or equal to 500 sq feet of new clearing or impervious surface at least 100 feet from the mean water level.

Permits (Projects that require a landowner to fill out a permit application and obtain a permit before proceeding.)

Re-development of existing developed shorelands

If a property does not already meet the new standards, re-development proposals will be reviewed to ensure:

- Any existing wooded areas within 100 feet of mean water level are maintained under the Vegetation Management Practices;
- New buildings, decks, or driveways are not closer to the mean water level than currently located;
- Total coverage of all buildings, decks, and/or driveways (impervious surface area) does not exceed 20% of property area or Best Management Practices (BMPs) are used to offset the effects of the new surfaces;
- Any proposed new clearing does not exceed 40% of the property area or BMPs are used to offset the impact of the new cleared areas;
- Development takes place on slopes of less than 20% unless it is demonstrated BMPs maintain slope stability and prevent erosion; and
- Standards are scaled down to fit a small lot that was already in existence as of July 1, 2014.

Development of undeveloped shorelands

Undeveloped properties, both existing small lots and lots that can meet all the standards, will be reviewed to ensure:

- The 100 foot wide Woodland Zone is maintained using the Vegetation Management Practices. For existing small lots, the width will be scaled to allow development on the property;
- New buildings, driveways, and other surfaces will be created above the 100 foot wide Woodland Zone. For small lots in existence by July 1, 2014 the width of the Woodland Zone will be scaled to allow for development; and
- Development avoids areas of the property with slopes over 20% whenever possible.

Vegetation Management Practices

The Vegetation Management Practices outline maintenance of plants in the Woodland Zone using a point and grid system. For each 25 foot by 25 foot plot, the diameter of each tree is measured along with the number of saplings to calculate the number of points. Trees can be thinned as long as the minimum number of points is met for each 25 x 25 foot plot. The lower 1/3 of a tree's branches can be pruned, and hazardous trees can be cut.

Contact Information for Guidance Materials and Questions

Vermont Agency of Natural Resources, Department of Environmental Conservation, Watershed Management Div., Lakes and Ponds Shoreland Permit Program, 1 National Life Dr., Main 2, Montpelier, VT 05620

Web Page: www.watershedmanagement.vt.gov/lakes.htm

Email: ANR.WSMDShoreland@state.vt.us

Phone: 802-490-6196

Guidance Materials Available - now or soon

- Frequently Asked Questions
- The Guide to the Vermont Shoreland Protection Act
A Handbook for Shoreland Development
- List of Vermont Lakes Greater than 10 Acres
- Permit Application Instructions and Worksheets

The Vermont Shoreland Protection Act

Frequently Asked Questions

The Shoreland Protection Act (Chapter 49A of Title 10, §1441 *et seq.*), passed by the Vermont General Assembly in May of 2014, establishes new state regulations that guide shoreland development. The law is intended to protect water quality, preserve habitat and natural shoreline stability, and protect the economic and recreation benefits of lakes and their shorelines.



Why is this needed?

The intent of the Vermont Shoreland Protection Act is to:

- Protect water quality, aquatic and wildlife habitat, and bank stability.
- Protect the uses and values of lakes such as recreation, angling, tourism, and the property tax base.
- Respond to development along lakeshores in a responsible manner.

Good shoreland management does not mean people can't live along the lakes and enjoy them. The management standards in the Shoreland Protection Act allow lake-friendly development and redevelopment proposals to ensure the lake is protected.

Local involvement is essential to good lake management. Lake associations, together with towns, carry out important education and outreach, undertake projects such as milfoil control and aquatic nuisance species spread prevention, and manage shoreland and watershed improvement projects. These efforts will continue to be vitally important, in conjunction with the Shoreland Protection Act, to protect Vermont's lakes.

What activities trigger the need for a permit?

Clearing of vegetation and development within 250 feet from the mean water level (MWL) of a lake (also known as the Protected Shoreland Area), such as any new clearing, development or redevelopment of a property, may require a permit. The Act contains provisions for mitigation measures, and it allows development and redevelopment on small lots that predate the Act and or lots that cannot meet the Act's 100 foot vegetated buffer requirements due to pre-existing site and development conditions.



What activities trigger the need for registration?

The following projects require registration (a notification to the Shoreland Permit Program of intent to undertake a project):

- Each parcel is allowed one cleared or impervious area of $\leq 100 \text{ ft}^2$ located between 25 to 100 feet of MWL.
- Each parcel is allowed one new cleared or impervious area of $\leq 500 \text{ ft}^2$ located at least 100 feet from the MWL.

What activities do not require registration or a permit?

Activities which do not require registration or a permit (i.e., are exempt), include:

- Management of vegetative cover in compliance with the Vegetation Management Practices.
- $\leq 250 \text{ ft}^2$ of cleared underbrush (vegetation ≤ 3 feet in height) from 25 to 100 feet of MWL for recreational purposes (e.g., picnic table, canoe storage, beach chairs, etc.). The clearing of underbrush does not include the duff layer, which must remain intact.
- Maintenance of existing landscaped areas (lawns, gardens, and beaches) and maintenance of buildings that does not change their footprint or location.
- Creation of one footpath or stairs, no greater than 6 feet in width, through the 100 foot wide vegetated area.
- Construction within existing impervious surface footprint.

My lot is only 100 feet deep, will I be able to rebuild or repair my camp if needed?

Yes, rebuilding a structure on the same footprint and location would be allowed. The Act requires that the building not be re-built closer to the lake than it was before.

My lot is only 100 feet deep, would the “buffer” cover the entire lot?

Existing small legal lots (created prior to July 1, 2014) are “grandfathered” and the Act requires that the rules be met to the extent possible if development or re-development is proposed. In these instances the Shoreland Permit Program will look to protect natural vegetation on the lot to the extent possible. Lots created after July 1, 2014 will have to meet the 100 foot required vegetated area, and therefore development would have to take place behind the 100 foot wide strip of protected vegetation.



Will landowners have to change how they are managing the shore?

Existing lawns, camps and other built features in the Protected Shoreland Area are “grandfathered” until the homeowner proposes a change in size and/or location. For instance, if an owner wanted to add an addition to a house already located within 100 feet of the MWL, the Act permits this activity as long as the expansion occurs on the side of the camp furthest from the lake, the area of impervious area does not exceed 20%, and the cleared area does not exceed 40%. If the proposal does exceed these limits, the landowner may consider best management practices to offset any impact of the new impervious or cleared area.



Will I be able to install a new dock?

Yes. The Act does not change the way docks are regulated under the Lake Encroachment Permit Program. Under that program, an individual landowner can install a dock less than 500 ft² in size, as long as it’s not made out of concrete, masonry, earth or rock fill, sheet piling, bulkheading, cribwork or similar construction. In addition, work lakeward of the MWL, including but not limited to shoreline stabilization projects or the addition of any fill, or alterations to the lake bottom, may still require a Lake Encroachment Permit from the Department of Environmental Conservation’s Lakes and Ponds Program.

I have a lawn between my camp and the lake, will I have to stop mowing it and plant trees?

No. Maintaining existing land uses, such as lawns, present as of July 1st, 2014, is allowed. If a redevelopment or expansion is proposed, mitigating measures such as runoff infiltration or replanting along some of the shore could be required as part of the design to add lake protection measures to the proposal.

Do the Vegetation Management Practices allow thinning and pruning of trees along the shoreline?

The Vegetation Management Practices allow some tree thinning and pruning to create views through the vegetation and for creation of a six foot wide path to the water’s edge. The Practices are based on maintaining a certain density of trees, including allowing young saplings to grow as “replacement” trees as the older ones die off over time. Landowners are allowed to clear up to 250 square feet of vegetation less than 3 feet in height from 25 to 100 feet of MWL, while maintaining the duff layer. The purpose of the natural vegetation is to protect water quality, habitat, and recreational values. This can be accomplished and still allow homeowners to access, view, and use the lake.



I have a garden along the shore, will I have to remove it?

No. Maintaining existing land uses, such as gardens, present as of July 1st, 2014, does not require a permit.

There is a hazardous tree on my shore, can I cut it down?

Yes. The Vegetation Management Practices allow the removal of dangerous trees.

Why doesn't lawn count as a vegetated shoreline?

Lawns allow runoff from driveways and other developed areas to reach the lake with little absorption or filtration. Lawns themselves add phosphorus to runoff, even if they are not fertilized. Grass provides poor shoreline stability and places with lawn adjacent to the lakeshore experience more shoreline erosion. Lastly, naturally wooded vegetation provides critical benefits to the shallow water and near-shore wildlife habitat.



I was planning on retiring to my lakeside home/camp, will I still be able to do this?

Yes. The Act does not address how a building is used within the Protected Shoreland Area, just its size and location. If you renovate or rebuild on the same footprint you may not need a Shoreland permit. You may, however, need other state permits, such as a Wastewater and Potable Water permit.

I don't think I need a permit, but how can I learn about reducing my impact on the lake?

The Lake Wise Program, offered through the Lakes and Ponds Program, provides trainings in lake friendly shoreland management to Lake Associations and shoreland property owners. Through Lake Wise, participants receive technical assistance for fixing erosion and runoff problems, which protect lake quality and wildlife habitat. Properties meeting all the Lake Wise characteristics are awarded a beautiful sign for their property. The Lake Wise Award certifies a property is well managed, using shoreland Best Management Practices, and is maintained to care for the lake. Lake Wise properties are exemplary lake-friendly shorelands.

Visit http://www.watershedmanagement.vt.gov/lakes/htm/lp_lakewise_what_is_it.htm or use the contact information below to find out more.



Guidance materials to explain the shoreland standards and permit forms will be available as the July 1, 2014 effective date of the regulations approaches. Visit the Vermont Department of Environmental Conservation's Watershed Management Division's Lakes and Ponds web site for information: www.watershedmanagement.vt.gov/lakes.htm or contact via email: ANR.WSMDShoreland@state.vt.us; or phone: 802-490-6196.

The Vermont Shoreland Protection Act

Municipal Delegation

The Lakes and Ponds Shoreland Permit Program will delegate shoreland permit authority to municipalities as long as the municipality seeking delegation has fulfilled the following requirements:

- Has adopted a bylaw or ordinance functionally equivalent to the shoreland standards.
- Has adequate resources for administration and enforcement of the bylaw or ordinance.

The delegation agreement between the Shoreland Permit Program and the municipality seeking delegation:

- Must establish the terms for revocation of delegation.
- May allow the Shoreland Permit Program to implement enforcement proceedings under 10 V.S.A. Chapter 201 if the delegated municipality cannot address noncompliance.

Once the municipality is delegated, it must:

- Have a process for accepting, reviewing, and processing applications and issuing permits for construction of impervious surface or cleared area in the Protected Shoreland Area.
- Take timely and appropriate enforcement actions.
- Commit to reporting annually to the Shoreland Permit Program.
- Address issues with the bylaw/ordinance when notified to do so by the Shoreland Permit Program.
- Designate a municipal zoning administrator/employee.

Contact Susan Warren for more information regarding municipal delegation via email: Susan.Warren@state.vt.us; or phone: 802-490-6134. Additional guidance materials are available on the Program's [webpage](#).