

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
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Augusta, Maine
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CHAPTER 171

H.P. 324 - L.D. 445

An Act to Change Certain Provisions
of the Saco River Corridor Law

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §952, sub-§15, as enacted by PL 1979, c. 459, §1, is amended to read:

15. Public right-of-way. "Public ~~right-of-way~~ right-of-way" is an improved roadway maintained for passage by motor vehicles in which the owner of fee does not control the right of passage.

Sec. 2. 38 MRSA §952, sub-§§15-A and 17-A are enacted to read:

15-A. Service drop. "Service drop" means any utility line extension that does not cross or run beneath any portion of a water body as long as:

A. In the case of electric service:

(1) The placement of wires or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

(2) The total length of the extension is less than 1,000 feet; or

B. In the case of telephone service:

(1) The extension, regardless of length, is made by the installation of telephone wires to existing utility poles; or

(2) The extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

17-A. Tributary stream. "Tributary stream" means a channel between defined banks and associated flood plain wetlands. A channel is created by the action of surface water and has 2 or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 series topographic map or, if not available, a 15-minute series topographic map.

B. It contains or is known to contain water flowing continuously for a period of at least 3 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"Tributary stream" does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water, nor does it mean a grassy swale.

Sec. 3. 38 MRSA §953, as enacted by PL 1979, c. 459, §1, is amended to read:

§953. Saco River Corridor established

There is hereby created the Saco River Corridor, herein referred to as the "corridor," which ~~shall include~~ includes the Saco River from the landward side of the rock jetty in Saco Bay to the New Hampshire border; the Ossipee River from its confluence with the Saco River to the New Hampshire border; and the Little Ossipee River from its confluence with the Saco River to the New Hampshire border at Balch Pond.

The corridor ~~shall also include~~ includes the lands adjacent to these rivers to a distance of 500 feet as measured on a horizontal plane from the normal or mean high water line of these rivers or to the edge of the 100-year floodplain if that extends beyond 500 feet, up to a maximum of 1,000 feet.

Sec. 4. 38 MRSA §957-A, sub-§1, ¶E, as enacted by PL 1979, c. 459, §1, is amended to read:

E. Land subject to easements or other restrictions ~~which that~~ limit permissible uses to those allowed within this district; ~~and~~

Sec. 5. 38 MRSA §957-A, sub-§1, ¶F, as enacted by PL 1979, c. 459, §1, is amended by amending subparagraph (5), division (c) to read:

(c) More intensive development would result in the total or partial destruction of the educational or scientific value of the area; and

Sec. 6. 38 MRSA §957-A, sub-§1, ¶G is enacted to read:

G. Areas of 2 or more contiguous acres with sustained slopes of 20% or greater.

Sec. 7. 38 MRSA §957-B, sub-§3, ¶E, as enacted by PL 1979, c. 459, §1, is amended to read:

E. ~~Single-family~~ Single-family residences and accessory structures meeting all of the following performance standards:

(1) The minimum lot frontage on the river measured at the normal or mean high water line ~~shall be~~ is 100 feet;

(2) The minimum setback of any building ~~from the river shall be~~ is 100 feet from the normal or mean high water line of the river and is 75 feet from the normal or mean high water line of any tributary stream;

(3) The combined river frontage and setback of any building ~~shall be~~ is not less than 500 feet;

(4) The structures and fill ~~shall do~~ not encroach on the 100-year floodplain;

(5) Where there is an accepted road or public ~~right of way~~ right-of-way, as of March 19, 1974, within 500 feet of the normal or mean high water mark of the river with different land ownership on either side of the road or public ~~right of way~~ right-of-way, the landowner on the far side of the road or public ~~right of way~~ right-of-way from the river ~~shall have~~ has an aggregate of setback from the river and frontage on the far side of the road or public ~~right of way~~ right-of-way equal to 500 feet;

(6) Where there is a recorded subdivision, as of March 19, 1974, "frontage," for the purposes of determining compliance with this section, ~~shall mean~~ means lot frontage on the side of the lot nearest to and most nearly parallel to the river; and

(7) Where a landowner, as of March 19, 1974, owns a lot abutting land owned by a public utility, and ~~such the~~ public utility land lies between the abutting ~~landowners~~ landowner's lot and the river, "frontage," for the purpose of determining compliance with this section, ~~shall mean~~ means the frontage on the side of the lot abutting ~~such~~ that public utility land ~~which that~~ is nearest to and most nearly parallel to the river;

Sec. 8. 38 MRSA §957-C, sub-§§2 and 3, as enacted by PL 1979, c. 459, §1, are amended to read:

2. Uses for which no permit from the commission is required. Uses and accessory structures within

the General Development District for which no permit from the commission is required ~~shall~~ include:

A. Uses for which no permit from the commission is required within the Resource Protection District; and

~~B. Roads;~~

~~C. Single-family residences;~~

~~D. Home occupations or enterprises;~~

~~E. Multi-unit residential dwellings;~~

~~F. Restaurants and cafeterias;~~

~~G. Retail commercial establishments, such as stores, supermarkets and pharmacies;~~

~~H. Municipal Buildings;~~

~~I. Schools;~~

~~J. Hospitals and clinics;~~

~~K. Funeral homes;~~

~~L. Warehouses;~~

~~M. Churches;~~

~~N. Libraries;~~

~~O. Public utility structures; and~~

~~P. Any fill or deposit of material accessory, necessary and related to permitted uses not exceeding 100 cubic yards of material.~~

3. Uses allowed by permit. Uses allowed within the General Development District by permit only ~~shall~~ include:

A. Manufacturing and industrial uses;

B. Sand, gravel and topsoil (loam) excavations;

C. Dredging, filling or other alteration of wetlands;

D. Any fill or deposit of material in excess of 100 cubic yards;

E. Oil or petroleum storage facilities;

F. Processing plants; ~~and~~

G. Airports;:

H. Roads;

I. Single-family residences;

J. Multi-unit residential dwellings;

K. Restaurants and cafeterias;

L. Retail commercial establishments, such as stores, supermarkets and pharmacies;

M. Municipal buildings;

N. Schools;

O. Hospitals and clinics;

P. Funeral homes;

Q. Warehouses;

R. Churches;

S. Libraries; and

T. Public utility structures except for service drops.

Sec. 9. 38 MRSA §958, first and last ¶¶, as enacted by PL 1979, c. 459, §1, are amended to read:

Any existing building or structure or use of a building or structure lawful March 19, 1974, or on the date of any subsequent amendment of this chapter or of any regulation adopted hereunder, may continue although such a use of a structure does not conform to this chapter or the regulations adopted hereunder. Any existing building or structure may be repaired, maintained and improved, but an existing building, structure or nonconforming use may be extended, expanded or enlarged only by permit from the commission. A nonconforming use, other than a single family residential use, ~~which that~~ is discontinued for any reason for a period of one year ~~shall be~~ is deemed abandoned and may not be resumed thereafter except in compliance with the requirements of this chapter.

To avoid undue hardship, nothing in this chapter ~~shall may~~ be deemed to require a change in the design, construction or intended use of any building or structure with respect to which substantial construction was legally carried out prior to March 19, 1974 or the effective date of any amendment to this chapter. An intended use within the meaning of this section ~~shall be~~ is any use for which such a building or structure is designed as evidenced by the construction or by plans or specifications in existence as of March 19, 1974 or, in the case of any intended use affected by any amendment to this chapter, construction, plans or specifications in existence on the effective date of that amendment.

Sec. 10. 38 MRSA §959, as enacted by PL 1979, c. 459, §1, is amended to read:

§959. Permits required

~~After~~ Except as otherwise provided in this chapter, after March 19, 1974, no a person shall may not engage in any use of land or water for which a permit is required under this chapter without first obtaining a permit from the commission and complying with all federal, state and municipal regulations.

Sec. 11. 38 MRSA §962, sub-§1, ¶¶A and D, as enacted by PL 1979, c. 459, §1, are amended to read:

A. No building ~~shall may~~ be located closer to the Ossipee, Little Ossipee or Saco rivers than 100 feet from the normal or mean high water line, ~~not shall nor may~~ any building in the Limited Residential or Resource Protection Districts be located less than 30 feet from any accepted road. Within the Resource Protection and Limited Residential Districts there ~~shall may~~ be no construction or placement of residential structures within the 100-year floodplain.

D. Agriculture.

(1) All agriculture practices ~~shall must~~ be in conformance with existing state and federal laws and regulations relating to the use of insecticides, herbicides, fertilizers and cleaning agents, and with state and federal laws and regulations to the placement of disposal of wastes in waterways or on the banks thereof.

(2) Where soil is tilled, an untilled buffer strip of natural vegetation ~~shall must~~ be retained between the tilled ground and the normal or mean high water line of the river. The width of this strip ~~shall must~~ be a minimum of 25 feet, measured directly from the normal or mean high water line of the river.

(3) Newly created fields and tillage and grazing operations must be set back from the normal or mean high water line at least 75 feet.

Sec. 12. 38 MRSA §962, sub-§1, ¶E, as enacted by PL 1979, c. 459, §1, is repealed.

Sec. 13. 38 MRSA §962, sub-§1, ¶E-1 is enacted to read:

E-1. Within a strip extending 100 feet inland from the normal or mean high water line, there may be no cleared opening or openings, except for approved construction, and a well-distributed stand of vegetation must be retained. Selective cutting of no more than 40% of the trees 4 inches

or more in diameter, measured at 4 1/2 feet above ground level, is allowed in any 10-year period, provided that a well-distributed stand of trees and other natural vegetation remains.

Sec. 14. 38 MRSA §962, sub-§1, ¶F, as enacted by PL 1979, c. 459, §1, is amended to read:

F. The following standards ~~shall~~ govern timber harvesting within 250 feet of the normal or mean high water line of any water body within the corridor.

(1) Harvesting operations ~~shall~~ must be conducted in such a manner that a well-distributed stand of trees is retained.

(2) In any stand, harvesting ~~shall~~ may remove not more than 40% of the volume of trees 6 inches in diameter and larger, measured at 4 1/2 feet above ground level in any 10-year period.

(3) No significant accumulation of slash ~~shall~~ may be left within 50 feet of the normal or mean high water line of any water body within the corridor. At distances greater than 50 feet from the normal or mean high water line of such water bodies extending to the limits of the corridor, all slash ~~shall~~ must be disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground.

(4) Harvesting operations ~~shall~~ must be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision ~~shall~~ must be made to prevent soil erosion and sedimentation of surface waters.

Sec. 15. 38 MRSA §962, sub-§1, ¶¶G and H are enacted to read:

G. The minimum lot size for each residential dwelling unit is 40,000 square feet and the minimum lot size for any principal commercial structure is 60,000 square feet.

H. Principal or accessory structures and expansions of existing structures that are permitted in the Resource Protection and Limited Residential Districts may not exceed 35 feet in height. This paragraph does not apply to structures such as transmission towers, windmills, antennas and similar structures having no floor area.

See title page for effective date.

CHAPTER 172

H.P. 341 - L.D. 461

An Act to Ensure Children's Rights Concerning Visitation and Access

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 19 MRSA §214, sub-§6, as amended by PL 1989, c. 272, §1, is further amended to read:

6. Order. The order of the court ~~shall~~ must award allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child. ~~Where~~ When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

The court may award reasonable rights of contact with a minor child to any 3rd persons.

The court may award parental rights and responsibilities to a 3rd person, a society or institution for the care and protection of children, or to the Department of Human Services upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

Every final order issued under this section ~~shall~~ must contain:

A. A provision for child support or a statement of the reasons for not ordering child support; ~~and~~

B. A statement that each parent ~~shall~~ must have access to records and information pertaining to a minor child, including but not limited to, medical, dental and school records, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access; ~~and~~

C. A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 6-A.

Sec. 2. 19 MRSA §214, sub-§6-A is enacted to read: