



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, ME 04333

DEPARTMENT ORDER
IN THE MATTER OF

TOWN OF MOUNT VERNON) MANDATORY SHORELAND ZONING ACT
KENNEBEC COUNTY) 38 M.R.S.A., SECTION 438-A (3)
SHORELAND ZONING) ORDINANCE APPROVAL WITH
FILE 47-09) CONDITIONS

Pursuant to the provisions of 38 M.R.S.A., Section 435-449, and 06-096 CMR, Chapter 1000, State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, effective March 24, 1990, and amended through May 1, 2006, the Department of Environmental Protection has considered the shoreland provisions of the *Land Use Ordinance of the Town of Mount Vernon, Maine*, as adopted by the municipal legislative body on June 6, 2009, and FINDS THE FOLLOWING FACTS:

1. The Mandatory Shoreland Zoning Act (Act) requires the Town of Mount Vernon to establish zoning controls in areas within 250 feet of the normal high water-line of great ponds and rivers; within 250 feet of the upland edge of freshwater wetlands; and within 75 feet of the normal high water-line of streams. Such zoning standards must be consistent with or no less restrictive than those in the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances, (Guidelines), as adopted by the Board of Environmental Protection (Board).
2. The Act specifies that before a locally adopted shoreland zoning ordinance, or amendments to that ordinance, is/are effective, it must be approved by the Commissioner of the Department of Environmental Protection (Department). The Department may approve, approve with conditions, or disapprove a locally adopted ordinance. If disapproved, or approved with conditions, such action must be preceded by notice to the municipality.
3. The Department's review of the Ordinance has revealed the following deficiencies, not identified by Department staff during its earlier review of the draft ordinance:
 - A. The Ordinance does not establish minimum lot size and shore frontage standards for "Public and private recreational facilities".
 - B. The definitions of "Accessory structure" and "Shore frontage" are not consistent with the Guidelines, and there is no definition for "Substantial start".

TOWN OF MOUNT VERNON
KENNEBEC COUNTY
SHORELAND ZONING
FILE 47-09

2.
) MANDATORY SHORELAND ZONING ACT
) 38 M.R.S.A., SECTION 438-A (3)
) ORDINANCE APPROVAL WITH
) CONDITIONS

4. In a letter dated July 7, 2009, the Town of Mount Vernon was notified by the Department of the above deficiencies, and the proposed conditional approval of the locally adopted ordinance.

BASED on the above Findings of Fact, the Department makes the following CONCLUSIONS:

1. The deficiencies noted in paragraphs 3(A) and 3(B) above can be addressed by the Department approving the Ordinance with attached conditions.

THEREFORE, the Department APPROVES the *Land Use Ordinance of the Town of Mount Vernon*, as adopted on June 6, 2009, SUBJECT TO THE ATTACHED CONDITIONS:

1. The minimum lot area for a public or private recreational facility shall be 40,000 square feet and the minimum shore frontage shall be 200 feet.
2. The definitions of “Accessory structure”, Shore frontage”, and “Substantial start” shall read as follows:
- A. Accessory structure – a use or structure (100 square feet or greater, **except in the shoreland zone, where there is no minimum size**), which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered an attachment to the principal structure. Attachments to the principal structure require separate permits unless included in the original building permit application.
 - B. Shore frontage – the length of a lot bordering on a water body **or wetland** measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation **or the upland edge of a wetland**.
 - C. Substantial start – completion of thirty (30) percent of a permitted structure or use measured as a percentage of the estimated total cost.

When the Town addresses the above issues through amendments to its locally adopted ordinance, the conditions of approval will be repealed by the Department.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES...