MATERIAL LIST FOR
NOVEMBER 3, 2014
COUNCIL AGENDA PACKETS

1. Copy of Agenda for the Special Council meeting of November 3, 2014.
2. Copy of Councilor Dennett's proposed amendment as an emergency and regular amendment to Chapter 4.2.3 Procedures for Council appointments.
3. Copy of Councilor Dennett's proposed amendment to Chapter 3.2.10 Disposal of Property.
4. Copy of DEP ISSUE PROFILE, Clearing Vegetation in the Shoreland Zone.

TOWN OF KITTERY, MAINE

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Telephone: (207) 475-1329 Fax: (207) 439-6806

November 3,, 2014 | Kittery Town Council | Council Chambers

Requested by Chairperson Jeffrey Thomson
Special Meeting Agenda
6:00 p.m.

1. Call to Order

2. Introductory

3. Pledge of Allegiance

4. Roll Call

5. EXECUTIVE SESSION

a. (080114-1) The Kittery Town Council moves to go into Executive Session with the Town Manager, in accordance with 1 M.R.S. §405 (6) (A), to discuss the Town Manager's one year review.

6. ADJOURNMENT

Workshop
6:30 p.m.

The Town Council will meet with the Town Manager and the Parks Commission to continue discussion on the Fort Foster Management Plan.

Posted: October 30, 2014

	Purchase Allowance
Department Heads	$5,000.00
Assessor	
Code Enforcement Officer	
Commissioner of Public Works	
Fire Chief	
Police Chief	
Recreation Director	
Superintendent of Sewer Services	
Town Clerk	
Town Manager	
Town Planner	

This allowance is intended to speed the purchase of incidental items and does not relieve the department head of encumbrance accountability.

3.2.7 Alternative Procurement Method—Authorization by Town Council Required.

A. These procurement procedures must be followed at all times unless prior approval is obtained from the Town Council.

B. When in the judgment of the Town Council it is in the best interest of the town to do so, it may authorize an alternative procurement method

3.2.8 Execution of Contracts.
Unless otherwise specifically stated by a resolution or ordinance of council, all purchasing contracts made by or on behalf of the town must be executed by the purchasing agent.

3.2.9 Exceptions.
In the event of disaster or other emergency, if purchases of supplies, materials, equipment, or contractual services must be made immediately without an opportunity for the procedures herein or council approval, the Town Manager is authorized to make necessary purchases to protect the public health and safety, and without complying with the procedures outlined in this chapter. In the event of such emergency purchases, the Town Manager shall report the details of the purchase to council as soon as possible thereafter.

3.2.10 Disposal of Property.

A. All municipally owned property, real or personal, must be disposed of either by:

1. Trade-in on purchase of new equipment. Any item that is offered as a trade-in must also be offered for sale by competitive bid. The higher amount of the two (trade-in allowance or bid) must be accepted;
2. Sealed bids;

3. Auction.

4. Unless otherwise requested by the Town Manager and so directed by the council, monies received pursuant to 2 and 3, above, must be credited to the vehicle or equipment reserve fund revenue account designated as the current vehicle or equipment fund used by the department for which it was purchased.

B. This chapter does not apply to disposal of:

1. Items commonly termed refuse, waste or trash;
2. Recycled material emanating from the solid waste facility;
3. Compost or sludge materials developed by treatment of sewage;
4. Interdepartmental transfers approved by the Town Manager;
5. Property whose estimated value is less than one hundred dollars ($100.00).

C. The above procedure must be followed at all times unless prior approval is obtained from the Town Council.

Chapter 3.3 APPLICANT SERVICE ACCOUNTS (ASA)

3.3.1 Accounts Authorized.

Applicants requesting appeals, approvals, licenses, or permits, which involve service(s) as listed below, are required to establish an ASA with the Town Treasurer to be used by the Town to pay other direct costs necessary to complete the application process, not including application fees as shown in Appendix A. Collected funds will be remitted to the Town Treasurer for accounting and control.

3.3.2 Service Costs Included.

Service costs covered by the ASA are as follows, but may include other items required by the Town Council, Planning Board, or Board of Appeals, needed to make a decision on an application.

Services
Third Party Engineer Plan Review

E. Council may waive the interview requirement for reappointments; alternates applying for full membership; and full members applying for alternate status

F. With the exception of the Planning Board and Board of Appeals, eligible applicants are interviewed for a specific Board appointment prior to consideration by the full Council..

1. The interview is conducted by the Chairperson (or designated permanent member) of the applicable Board and by one Council member designated by the Council. Councilor interviewing assignments are rotated so that no one Councilor would be involved in successive interviews for the same Board.
In event neither the Board Chairperson nor designated permanent member is available, the sitting Council may determine an alternate interview protocol.
2. Interviews are considered private.
3. Only one interview is conducted with each applicant for each position.
4. Both interviewers must agree to the acceptability of the candidate in order for that candidate's name to be considered by the full Council.
5. Applicants not recommended to the Council may opt to remain on the list(s) if they so desire.

G. The following criteria are used in evaluating candidates:

1. Education
2. Training and experience
3. Related experiences
4. Any potential for conflict of interest
5. Preference or priority will be given to applicants who are not currently serving on any other Board (i.e., if there is more than one applicant and applicants are equally qualified, preference will be given to the person not currently serving on another Board.)
6. For reappointments or changes from Alternate to Full Member, attendance (rated as 'Excellent', 'Good', or 'Poor' is to be provided by the Chairperson of the Board on the interview form.

4.2.4 Planning Board or Board of Appeals Interviews and Appointments.

A. Applicants will be interviewed for the Planning Board or Board of Appeals with at least a quorum present at a regular or special Council meeting. If there are multiple applicants for a Board, they will be interviewed by Council as a group including applicant(s) already interviewed.

B. After the interviews are completed, Council, in open session, and by the following meeting, shall nominate, with a second, discussion and vote on the candidate(s) for the open vacancy.

C. A tie vote on an appointment shall be voted on by Council twice. Following the second tie vote the Council Chairperson shall determine the winner by lot by a coin toss.

D. Interviewed applicants not appointed may remain in the pool if they so desire.

4.2.5 Appointment Exceptions.

A. Building Committee – when Council-appointed membership is involved, appointment procedure is determined by the sitting Council.

Thomson

DEP ISSUE PROFILE

Clearing Vegetation in the Shoreland Zone

issued: October 18, 2007 contact: Augusta office (207) 287-3901
Portland office (207) 822-6300
Bangor office (207) 941-4570

The information presented in this Issue Profile is based on the standards in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* (Guidelines). If your community's locally adopted shoreland zoning ordinance has more restrictive standards those more restrictive provisions apply.

Background

The Mandatory Shoreland Zoning Act requires municipalities to adopt land use regulations for all areas within the shoreland zone. The shoreland zone consists of areas within 250 feet of the normal high-water line of great ponds, rivers, and tidal waters; within 250 feet of the upland edge of non-forested freshwater and coastal wetlands; and within 75 feet of certain streams. Distances are measured horizontally.

The land use controls adopted by the municipalities must be consistent with or no less restrictive than the Board of Environmental Protection's *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances.*

Do the Guidelines for Municipal Shoreland Zoning Ordinances include limitations on vegetative cutting for development activities in shoreland areas?

Yes. The Guidelines limit the amount of vegetation that can be cut in the shoreland zone. In order to maintain water quality, protect wildlife, and to preserve the natural beauty of shoreland areas, it is important to maintain naturally vegetated shoreland areas. Studies have shown that the removal of natural vegetation and the subsequent conversion of the land to unvegetated surfaces, lawns, or other uniform vegetative cover fails to adequately protect water quality, mostly due to phosphorus and nitrogen runoff (nutrient runoff). An increase in the concentration of phosphorus within a lake of just 1 part per billion can result in a noticeable decrease in water quality.

Nutrient runoff into surface waters can be reduced or prevented by maintaining an uneven-aged stand of trees and other vegetation, including natural ground cover. Furthermore, by leaving the ground surface undisturbed, and by retaining natural depressions for water to collect, nutrients will be removed as water percolates through the upper layers of organic duff.

Water quality is not the only environmental issue affected by the loss of shorefront vegetation. Valuable habitat is lost, and disturbance of wildlife is greatly increased by the loss of a vegetative "screen". As a result, waterfowl, songbirds, shorebirds, and mammal populations are negatively affected.

Although natural beauty is a rather subjective term, most will agree that a Maine coast or inland waterbody with excessive removal of trees and other natural vegetation is not in the best interest of the people of Maine.

What are the restrictions on clearing of vegetation in the shoreland zone?

Generally, in the first 75 feet from the normal high-water line or the upland edge of a wetland, 40% percent of the volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level can be removed in any ten year period, although no "clear-cut openings" (openings in the forest canopy greater than 250 square feet) are permitted. The cutting must be done such that a well-distributed stand of trees and other vegetation remains. This area is commonly referred to as the buffer strip. Adjacent to great ponds and rivers flowing to great ponds, the buffer strip extends for a distance of 100 feet from the normal high-water line.

Beyond the buffer strip, vegetative cutting limitations are less restrictive. In this area cleared openings are permitted provided that such clearings do not exceed 25% of the lot area, or ten thousand square feet, whichever is greater. In total, however, no more than 40% of the volume of trees can be removed in any 10-year period from the shoreland zone.

Do the Department's Guidelines define a "well-distributed stand of trees and other vegetation"?

The Department's Guidelines define a well-distributed stand of trees and other vegetation by a "point system". This system, which assigns values to trees down to two (2) inches in diameter, requires a certain total value of trees be maintained in each 25-foot by 50-foot square rectangular (1250 square feet) area within the buffer strip.

The tree values are based on tree diameters and are as follows:

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2-<4 inches	1
4-<8 inches	2
8-<12 inches	4
12 inches or greater	8

Adjacent to great ponds, and rivers and streams flowing to great ponds, a rating score of 24 or more points must be maintained. Adjacent 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 16 per 25-foot by 50-foot rectangular area. The point system was created to provide a more enforceable standard for tree cutting activities within the buffer strip.

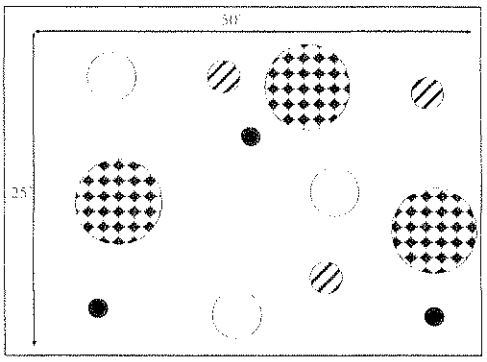
As an example of the above rating system, adjacent to a great pond, if a 25-foot x 50-foot plot contains three (3) trees between 2 and 4 inches in diameter, three (3) trees between 4 and 8

inches in diameter, three (3) trees between 8 and 12 inches in diameter, and here (3) trees over 12 inches in diameter, the rating score is:

(3x1) + (3x2) +(3x4)+ (3x8) = 45 points

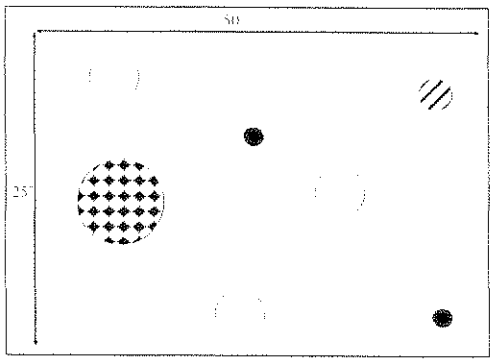
Thus, the 25-foot by 50-foot plot contains trees totaling 45 points. Trees totaling 21 points (45 – 21 = 24) may be removed from the plot provided that no cleared opening is created. The figure below is just one example of allowable cutting under the point system.

Before (45 points)

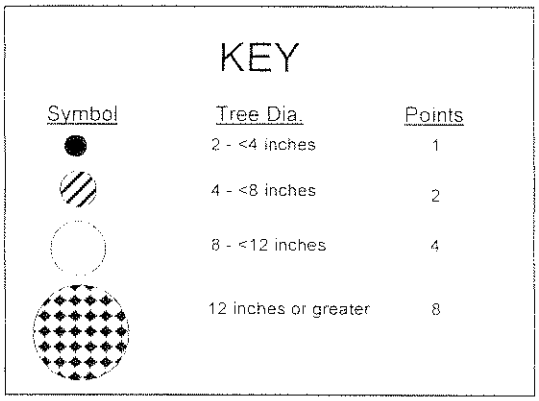


50 feet

After (24 points)



50 feet



KEY

Symbol	Tree Dia.	Points
●	2 - <4 inches	1
▨	4 - <8 inches	2
○	8 - <12 inches	4
✚	12 inches or greater	8

NOTE: Some municipalities have a "point system" based on 25-foot by 25-foot plots, rather than 25-foot by 50-foot plots. In those cases the required number of "points" that must be retained is half that required for the larger plots.

Is the cutting of vegetation less than 2 inches in diameter limited?

Yes. State law prohibits new cleared openings from being created within the buffer area. If removal of vegetation less than two inches in diameter will create cleared openings, enough vegetation must be retained to prevent the creation of such openings. Also, if five saplings less than 2 inches in diameter do not exist in a 25-foot by 50-foot plot, no woody stems less than two (2) inches in diameter can be removed until five saplings are recruited into the plot. Furthermore, in order to protect water quality, vegetation less than three (3) feet in height and other groundcover must be maintained within the buffer strip.

Are there areas where the cutting of vegetation is prohibited?

Yes. Vegetative cutting is prohibited abutting a great pond zoned Resource Protection for a distance of 75 feet inland of the normal high-water line, except to remove safety hazards.

May I cut within the buffer strip for shoreline access?

Yes. A footpath not to exceed six (6) 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. In other words, the footpath must meander, rather than being a straight line to the water. The purpose of this limitation is to prevent runoff from funneling directly along the pathway to the water. By meandering the pathway, runoff is more likely to be trapped by vegetation and natural depressions within the buffer strip.

May I prune trees within the buffer strip?

Yes. Pruning of tree branches, on the bottom 1/3 of the tree is permitted. Dead branches are permitted to be pruned without restriction.

What if a cleared opening is created within the buffer area due to storm damage, disease, or the removal of an unsafe tree?

When the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of a cleared opening, the opening must be replanted with native tree species, unless existing new tree growth is present.

Can existing cleared openings to the water be maintained?

Yes. Cleared openings legally in existence on the effective date of the ordinance may be maintained. However, areas that were once fields or cleared openings, but have reverted to primarily shrubs, trees, or other woody vegetation are regulated as any other buffer area under the ordinance.

If I adhere to the "Clearing of Vegetation For Development" Standards in the Department's Guidelines will I be sure that I am in compliance with all clearing limitations?

No. Local ordinances may be more restrictive. You should always consult with you local code enforcement officer before your begin clearing of vegetation in the shoreland zone.