



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

September 29, 2009

Steve Seekins  
Code Enforcement Officer  
Town of Pittsfield  
112 Somerset Avenue  
Pittsfield, Maine 04967

Subject: CONDITIONAL APPROVAL,  
Town of Pittsfield Shoreland Zoning Ordinance

Dear Steve:

Please find enclosed a copy of Department Order #90-09 conditionally approving the Shoreland Zoning Ordinance for the Municipality of Pittsfield, as amended on August 11, 2009. The conditions of approval are binding on the Town and must be administered as part of the Ordinance. Should the ordinance be amended in the future to address the issues identified in paragraphs 3(A) thru 3(H) of this Order, the Department can then fully approve the ordinance and repeal the conditions of approval.

Should you have any questions, please contact me at 287-7730, or by e-mail at [rich.p.baker@maine.gov](mailto:rich.p.baker@maine.gov)

Sincerely,

Richard P. Baker  
Shoreland Zoning Coordinator  
Bureau of Land and Water Quality

enclosed: Department Order #90-09

cc: Town Council  
Planning Board

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 760-3143



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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF PITTSFIELD  
SOMERSET COUNTY  
SHORELAND ZONING  
FILE #90-09

) MANDATORY SHORELAND ZONING ACT  
) 38 M.R.S.A., SECTION 438-A (3)  
) ORDINANCE APPROVAL WITH  
) 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 Pittsfield Town Code, Chapter 16, Shoreland Zoning Ordinance, as adopted by the municipal legislative body on August 11, 2009, and FINDS THE FOLLOWING FACTS:

1. The Mandatory Shoreland Zoning Act (Act) requires the Town of Pittsfield 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 Pittsfield ordinance has revealed the following significant deficiencies:
  - A. Section 7, *Conflicts with Other Ordinances*, may be less restrictive than the standards contained in the Department's Guidelines.
  - B. Footnotes numbers 6 and 8, associated with Table 1 in Section 14 contain incorrect section references.

TOWN OF PITTSFIELD  
SOMERSET COUNTY  
SHORELAND ZONING  
FILE #90-09

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

- C. The ordinance, in various sections refers to "ponds". The term ponds is not defined. Only the term "great pond" is defined.
  - D. In Section 15(B) (5) (g) (v), the reference to Section 15(N) (2) (a) should be to Section 15(O) (2) (a). In Section 15(G) (1), the references to Section 15(H) (1) should be to Section 15(G) (1). In Section 15(G) (4), the reference to Section 15(Q) should be to Section 15(P). In the Section 15(N), references to Section 15(O) should be to Section 15(N).
  - E. Section 15(O) (b), fails to require a rating score of 24 adjacent to great ponds and rivers that flow to great ponds.
  - F. Wording is missing from Section 15(S), *Archaeological Site*, causing the standard to be incomprehensible.
  - G. There is a definition for "Accessory structure or use" and one for "Accessory use". The definition of "Accessory use" is inconsistent with the definition in the Guidelines.
  - H. The definition of "Hotel/Motel" is less restrictive than the Department's Guidelines, and conflicts with the definition of "residential dwelling unit."
4. In a letter dated August 31, 2009, the Town of Pittsfield 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) through 3(H) above can be addressed by the Department approving the Ordinance with attached conditions.

THEREFORE, the Department APPROVES the amended Chapter 16, Shoreland Zoning Ordinance for the Town of Pittsfield, as adopted on August 11, 2009, SUBJECT TO THE ATTACHED CONDITIONS:

TOWN OF PITTSFIELD  
SOMERSET COUNTY  
SHORELAND ZONING  
FILE #90-09

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

1. Where Chapter 16, Shoreland Zoning Ordinance, conflicts with any other ordinance administered by the Town of Pittsfield, the more restrictive provision shall prevail, except that in the shoreland zone road and property line setbacks shall not apply.

2. Footnotes numbers 6 and 8, associated with Table 1 shall read as follows:

<sup>6</sup>See further restrictions in Section 15(K) (2).

<sup>8</sup>Except as provided in Section 15) G) (3).

3. All references to "ponds" within the Ordinance shall include "great ponds".

4. In Section 15(B) (5) (g) (v), the reference to Section 15(N) (2) (a) shall be to Section 15(O) (2) (a). In Section 15(G) (1), the references to Section 15(H) (1) shall be to Section 15(G) (1). In Section 15(G) (4), the reference to Section 15(Q) shall be to Section 15(P). In the Section 15(N), references to Section 15(O) shall be to Section 15(N).

5. In Section 15(O) (b), a "well-distributed stand of trees" adjacent to a great pond or a river or stream flowing to a great pond shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250) area.

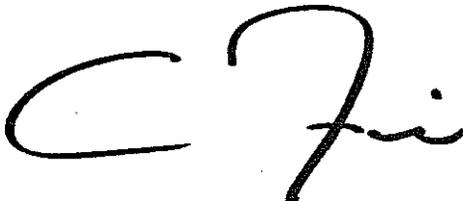
6. Section 15(S), *Archaeological Site*, shall read as follows:

**Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

7. The definition for "Accessory structure or use" shall prevail in the shoreland zone. The separate definition of "Accessory use" shall not apply in the shoreland zone.

8. A "Hotel/Motel" located in the shoreland zone that provides kitchens or kitchenette shall be considered as a "residential dwelling unit".

DEPARTMENT OF ENVIRONMENTAL PROTECTION



This permit has been digitally signed by Andrew C. Fisk on behalf of Commissioner David P. Littell. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature date 2009.09.29 09:34:23 -04'00'

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