

CHAPTER 225
SB 30 - FINAL VERSION

03/09/2017 0019s
1Jun2017... 1588h
06/08/2017 2373EBA

2017 SESSION

17-0946
08/10

SENATE BILL **30**

AN ACT defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act.

SPONSORS: Sen. Bradley, Dist 3

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill defines woodland buffer.

This bill also makes changes to the measurements of woodland buffers and waterfront buffers.

This bill is a request of the department of environmental services.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT defining woodland buffers and relative to such woodland buffers for the purposes
of the shoreland protection act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 225:1 Natural Woodland; Definition. Amend RSA 483-B:4, XI to read as follows:

2 XI. "Natural woodland [~~buffer~~]" means a forested area consisting of various species of trees,
3 saplings, shrubs, and ground covers in any combination and at any stage of growth.

4 225:2 New Paragraph; Woodland Buffer; Definition. Amend RSA 483-B:4 by inserting after
5 paragraph XXVI the following new paragraph:

6 XXVII. "Woodland buffer" means all protected shorelands within 150 feet of the reference
7 line including those protected shorelands within 50 feet of the reference line more specifically
8 designated as the waterfront buffer.

9 225:3 Exemptions from Required Permits. Amend RSA 483-B:5-b, III to read as follows:

10 III. ***Applications for the*** construction of public roads, public utility lines and associated
11 structures, [~~and~~] facilities, [~~and~~] public water access facilities, ***and projects solely funded by***
12 ***municipal, county, state, or federal entities*** shall be exempt from the permitting fees of
13 paragraph I[~~and the abutter notification requirements of paragraph IV-a~~].

14 225:4 Exemptions from Required Permits. Amend RSA 483-B:5-b, V(a) and (b) to read as
15 follows:

16 (a) Within 30 days of receipt of an application for a permit or 30 days of receipt of an
17 application for a permit that will require a waiver of the minimum standards of RSA 483-B:9, the
18 department shall request any additional information reasonably required to complete its evaluation
19 of the application, and provide the applicant with any written technical comments the department
20 deems necessary. Any request for additional information shall specify that the applicant submit
21 such information as soon as practicable and notify the applicant that if all of the requested
22 information is not received within [~~120~~] **60** days of the request, the department shall deny the
23 application.

24 (b) When the department requests additional information pursuant to subparagraph
25 (a), the department shall, within [~~20~~] **30** days of the department's receipt of the information:

26 (1) Approve the application and issue a permit; or

27 (2) Deny the application, and issue written findings in support of the denial; or

28 (3) Extend the time for rendering a decision on the application for good cause and

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1 with the written agreement of the applicant.

2 225:5 Minimum Shoreland Protection Standards. Amend the introductory paragraph of RSA
3 483-B:9, V(a)(2)(D) to read as follows:

4 (D) Starting from the northerly or easterly boundary of the property, and
5 working along the shoreline, the waterfront buffer shall be divided into ~~[50 by 50 foot]~~ segments
6 **measuring 25 feet along the reference line and 50 feet inland**. Owners of land within the
7 waterfront buffer shall measure, calculate, and maintain the tree, sapling, shrub, and groundcover
8 point score in each of these segments in accordance with the methods and standards described in
9 subparagraphs (i) through (ix).

10 225:6 Minimum Shoreland Protection Standards. Amend RSA 483-B:9, V(a)(2)(D)(ii) to read as
11 follows:

12 (ii) For the purpose of ~~[planting]~~ **replanting** under RSA 483-B:9, V(g)(3),
13 shrubs and groundcover plants shall be scored as follows:

14 Four square feet of shrub area--1 point.

15 Ground cover, not including mowed lawn--one point for every 50 square feet.

16 Shrub and groundcover shall count for at least ~~[15]~~ **5** points and not more than ~~[25]~~ **10** points in
17 each full segment.

18 225:7 Minimum Shoreland Protection Standards. Amend RSA 483-B:9, V(a)(2)(D)(iv) to read as
19 follows:

20 (iv) If the total tree and sapling score in any ~~[50]~~ **25** foot by 50 foot segment
21 exceeds ~~[50]~~ **25** points, then trees, saplings, and shrubs over 3 feet in height may be removed as
22 long as the sum of the scores for the remaining trees and saplings in that segment does not total
23 less than ~~[50]~~ **25** points. If for any reason there is insufficient area for a full segment, or the
24 segment contains areas **naturally** incapable of supporting trees and saplings, such as areas of rock,
25 ledge, or beaches, the point score requirement for the remaining vegetation in that partial segment
26 shall be reduced proportionally to that required of a full segment. Vegetation shall not be removed
27 from any segment which fails to meet the minimum point score for that segment. Owners are
28 encouraged to take efforts to plan the maintenance of their waterfront buffer areas including the
29 planting of additional non-invasive vegetation to increase point scores within segments, thus
30 providing sufficient points to allow the future removal of vegetation as may become necessary while
31 still meeting the requirements of this paragraph.

32 225:8 Woodland Buffer. Amend the introductory paragraph of RSA 483-B:9, V(b) and RSA 483-
33 B:9, V(b)(1) to read as follows:

34 (b) Maintenance of ~~[a Natural]~~ **Vegetation within the** Woodland Buffer.

35 (1) ~~[A natural]~~ **The** woodland buffer shall be ~~[maintained]~~ **those protected**
36 **shorelands** within 150 feet of the reference line. ~~[The first 50 feet of this buffer is designated the~~
37 ~~waterfront buffer and is subject to the additional requirements of subparagraph (a).]~~ The purpose

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1 of the ~~[natural]~~ woodland buffer shall be to protect the quality of public waters by minimizing
2 erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and
3 chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy
4 and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of
5 the protected shoreland. ***The first 50 feet of this buffer is designated the waterfront buffer***
6 ***and is subject to the additional requirements of subparagraph (a).***

7 225:9 Woodland Buffer. Amend RSA 483-B:9, V(b)(2)(A)-(C) to read as follows:

8 (2)(A) ~~[Within the natural]~~ ***On a given lot, at least 25 percent of the*** woodland
9 ~~buffer [of a given lot the vegetation, except lawn, within at least 25 percent of the area outside the~~
10 ~~waterfront buffer]~~ ***area located between 50 feet and 150 feet from the reference line shall be***
11 ***maintained as natural woodland. The vegetation, exclusive of lawn, within the natural***
12 ***woodland*** shall be maintained in an unaltered state or improved with additional vegetation.
13 Owners of lots legally developed or landscaped prior to July 1, 2008 that do not comply with this
14 standard are encouraged to, but shall not be required to, increase the percentage of ***the woodland***
15 ***buffer*** area to be maintained ~~[in an unaltered state]~~ ***as natural woodland***. The percentage of ***the***
16 ***woodland buffer*** area maintained ~~[in an unaltered state]~~ ***as natural woodland*** on
17 nonconforming lots shall not be decreased. In addition, the commissioner of the department of
18 resources and economic development may order vegetation on lands or properties owned by, leased
19 to, or otherwise under the control of the department of resources and economic development within
20 the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities
21 and endangers public safety. If such cutting will exceed that which is allowed under this
22 subparagraph, the commissioner of the department of resources and economic development shall
23 provide written notification to the department of environmental services identifying the areas to be
24 cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.

25 (B) Any person applying to the department for a septic system construction
26 approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging
27 permit pursuant to RSA 482-A, within the protected shoreland shall include photographic
28 documentation of any areas of the ~~[natural]~~ woodland buffer in which impacts would occur.

29 (C) Dead, diseased, or unsafe, trees, limbs, saplings, or shrubs that pose a
30 hazard to structures or have the potential to cause personal injury may be removed regardless of
31 any requirements that pertain to ***the maintenance of vegetation within*** the ~~[natural]~~ woodland
32 buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.

33 225:10 Effective Date. This act shall take effect 60 days after its passage.

Approved: Enacted in accordance with Article 44, Part II, of N.H. Constitution, without signature of
the governor, July 11, 2017
Effective Date: September 09, 2017

