

§646-4.15 Vegetative Cutting and Clearing Restrictions in Stormwater Regulatory Programs

(a) No vegetation shall be felled into any lake, pond, river, stream or intermittent stream and if inadvertently felled into one of these water bodies, shall be removed immediately from the waterbody. The removal of dead, or dying, diseased trees or trees presenting a health or safety hazard shall not be exempt from this requirement.

(b) Within 500 feet of the mean high water mark of any lake, pond, river, stream, or wetland, no land area, including areas stockpiled with earthen materials, which has been cleared may be made or left devoid of growing vegetation for more than 24 hours without a protective covering securely placed over the entire area and/or erosion control devices properly installed to prevent sediments from entering the water body. Acceptable protective coverings include natural mulch of a depth of two inches, rock rip-rap, nondegradable materials such as plastic or canvas coverings, and impervious structures.

(c) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within 10 days from the substantial completion of such clearing and construction. Acceptable revegetation shall consist of the following:

(1) reseeded with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage, but not less than 50 percent of the total disturbed area, to control erosion until such time as the cover crop is established over 90 percent of the seeded area;

(2) replanting with native woody and herbaceous vegetation accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion; and

(3) any other recognized method which has been reviewed and approved as satisfying the intent of this requirement.

(d) Any area of revegetation must exhibit survival of a minimum of 75 percent of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum 75 percent survival for one year is achieved.

(e) Ground clearing or grading activities which occur during the period October 15th to April 15th, during which germination of vegetation typically will not take place, shall be required to incorporate extra measures during revegetation in order to reduce erosion and maintain water quality. These

extra measures include, but are not limited to, the use of screen mesh, netting, extra mulch, and siltation fences.

§666.13 Table of use guidelines

The table and listing of uses, restrictions and standards in this section is incomplete. It includes many of the most often used provisions of this Part. Notes in the tables provide additional standards, restrictions and references.

Wild, Scenic and Recreational Rivers System 6NYCRR Part 666 Use Guidelines	
Classes of Rivers:	Procedural Requirements:
Wild Rivers	NPN - No permit necessary.
Scenic Rivers	NR - Notification required.
Recreational Rivers	P - Permit required.
Communities	PI - Presumed incompatible.
	X - Prohibited use.

I. Forest Management, Vegetative Cutting and Agriculture

LAND USES AND DEVELOPMENTS	WILD	SCENIC	RECR	COMM
1. Forest management practices, excluding forest management roads, and other vegetative cutting:				
(a) located less than 100 feet from the river bank. (see Notes below)	X	P	P	P
(b) located 100 feet or more from the the river bank. (see Notes below) river bank.	NPN	NPN	NPN	NPN
2. Clearcutting				
(a) areas less than 25 acres.	NPN	NPN	NPN	NPN
(b) areas 25 acres or more, aggregating areas of 8 acres or more which are separated by less than 300 feet at any point by an intervening area with an average basal area of at least 60 sq. ft. per acre of trees one inch or more in diameter at breast height. (see Notes below)	P	P	P	P

3. Harvesting, cutting, culling, removal, thinning or other disturbance of vegetation, not associated with development:				
(a) located less than 100 feet from the river bank. [See Notes below]	X	P	P	P
(b) located 100 feet or more from the riverbank.	X	NPN	NPN	NPN
4. Agricultural uses				
(a) less than 100 feet from the river bank. [See Note (xvi)]	X	NR	NR	NR
(b) 100 feet or more from the river bank.	X	NPN	NPN	NPN

NOTE:

(i) Trees must be felled, where possible, so tops land away from streams.

(ii) Logging debris must be removed from streams immediately.

(iii) Tributary crossings may be no closer than 300 feet apart and must be at right angles to the stream channel.

(iv) Tributary crossings are prohibited where stream bank slopes exceed 10 percent or the stream bottom is not composed substantially of rock.

(v) Skidding or winching of logs or trees in or along the axis of tributary channels or across wild rivers is prohibited.

(vi) Log landings must be located on well drained sites 200 feet or more from the river bank and on slopes of less than 10 percent.

(vii) Road grades may exceed 30 percent for no more than 150 feet.

(viii) Clearcuttings must leave a 50 foot uncut strip along streams, ponds and wetlands and must be conducted under a harvesting plan approved by the Department.

(ix) All roads, including skidways, must be regraded after logging is completed.

(x) Diversion devices must be installed during construction of roads on slopes exceeding 10 percent in such a way that water is diverted from the road and is not discharged directly into the designated river or its tributaries.

(xi) Any debris resulting from forest management must, if such debris consists of hardwoods, be lopped so that no such debris is piled higher than 4 feet above ground level or, if such debris

consists of conifers, lopped so that all limbs are removed up to a point where the tree trunk has a diameter not exceeding 3 inches.

(xii) Forest management roads must be located so as to minimize their visibility from the river.

(xiii) Logging equipment must not be stored within the banks of the river or abandoned within the river area.

(xiv) No forest management roads will be allowed inside or within 150 feet of the river bank, except those forest management roads necessary for crossing the designated river and developed pursuant to a rivers system permit.

(xv) The harvesting, cutting, culling, removal or thinning of vegetation inside or within 100 feet of the bank of the river, that is allowed with a rivers system permit, must be undertaken in a manner that preserves the stability of the river bank and minimizes erosion and direct runoff to the river. Such cutting must be performed in recreational river areas for the purpose of creating a view provided that it occurs only in association with a residential structure and that screening of the structure is maintained as viewed from the river.

(xvi) New agricultural uses within 100 feet of the river bank must be done in accordance with the best management practices (BMP's) contained in the certified county Soil and Water Conservation District conservation plan for the farm. A letter of notification and a copy of the certified farm plan must be submitted to the regional DEC permit administrator prior to commencement of any clearing or removal activities. Failure to comply with the applicable BMP's will be considered a violation of this Part.

§666.14 Judicial review

Any person aggrieved by the issuance, denial, suspension, or revocation of a permit may within thirty days from the date of the commissioner's order seek judicial review pursuant to article 78 of the civil practice law and rules in the Supreme Court for the county in which the river area is located.

§666.15 Severability

If any provision of this Part or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other persons and circumstances.

NEW YORK STATE CONSOLIDATED LAWS

EXECUTIVE

Article 27

Adirondack Park Agency

§ 806. Shoreline restrictions.

1. In order to provide adequate protection of the quality of the lakes, ponds, rivers and streams of the park and the qualities of their shorelines, no person shall undertake any new land use or development or subdivision of land that involves any shoreline within the park, except in compliance, at a minimum, with the following restrictions. In addition, compliance with these restrictions shall be required by the agency in its review of any project under section eight hundred nine and, at a minimum, by any local government in the adoption and enforcement of a local land use program. All distances contained in these restrictions shall be measured horizontally. For the purpose of this section, any lot, parcel or site that adjoins a shoreline, includes a shoreline or, in whole or in part, is located at or within the minimum set back requirement as provided in subparagraph two of paragraph a of this subdivision, and any land use or development on such a lot, parcel or site, shall be deemed to involve that shoreline.

a. In the case of the shorelines of all lakes and ponds and the shorelines of any river designated to be studied as a wild, scenic or recreational river in accordance with the environmental conservation law or any river or stream navigable by boat, including canoe, the following restrictions shall apply:

(1) The minimum lot width measured along the shoreline for each one family residential structure shall be fifty feet in hamlet areas, one hundred feet in moderate intensity use areas, one hundred twenty-five feet in low intensity use areas, one hundred fifty feet in rural use areas, and two hundred feet in resource management areas; provided that the minimum lot width for a lot not adjoining or including shoreline which is deemed to involve shoreline for the purposes of this section may be measured lateral to the shoreline at any point on the lot. Nothing herein shall be deemed to preclude the application of appropriate shoreline restrictions to new uses other than one family residential structures subject to project review by the agency or to an approved local land use program.

(2) The minimum setback of all principal buildings and accessory structures in excess of one hundred square feet, other than docks or boathouses, from the mean high-water mark shall be fifty feet in hamlet areas and moderate intensity use areas, seventy-five feet in low intensity and rural use areas, and one hundred feet in resource management areas.

(3) The removal of vegetation, including trees, shall be permitted on shorefront lots provided the following standards are met:

(a) Within thirty-five feet of the mean high-water mark not more than thirty percent of the trees in excess of six inches diameter at breast height existing at any time may be cut over any ten-year period.

(b) Within six feet of the mean high-water mark no vegetation may be removed, except that up to a maximum of thirty percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to (a) above.

(c) The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.

(4) The following minimum shoreline frontages shall be required in all land use areas for deeded or contractual access to all such lakes, ponds, rivers or streams for five or more lots, parcels or sites or multiple family dwelling units not having separate and distinct ownership of shore frontage:

(a) Where five to twenty lots or multiple family dwelling units are involved, a total of not less than one hundred feet.

(b) Where more than twenty and not more than one hundred lots or multiple dwelling units are involved, a minimum of three feet for each additional lot or multiple dwelling unit in excess of twenty.

(c) Where more than one hundred and not more than one hundred fifty lots or multiple dwelling units are involved, a minimum of two feet for each additional lot or multiple dwelling unit in excess of one hundred.

(d) Where more than one hundred fifty lots or multiple dwelling units are involved, a minimum of one foot for each additional lot or multiple dwelling unit in excess of one hundred fifty.

b. In the case of all lakes, ponds, rivers and streams, the minimum setback of any on-site sewage drainage field or seepage pit shall be one hundred feet from the mean high-water mark in all land use areas.

2. In all of the above restrictions, the term "mean high-water mark" shall mean the spillway elevation contour, which is at seven hundred seventy-one feet elevation above mean sea level, whenever the Great Sacandaga Lake is involved.

3. a. Any person seeking a variance from the strict letter of the shoreline restrictions in connection with any new land use or development or subdivision of land proposed to be located in a land use area governed by an approved local land use program shall make application therefor to the local government as provided in such approved local land use program. If a person is seeking such a variance in a land use area not governed by an approved local land use program, he shall make application therefor to the agency whether or not the agency has project review jurisdiction over the new land use or development or subdivision of land involved. Upon such application, and after public hearing thereon, the local government or the agency shall, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the restrictions, have authority to vary or modify the application of such restrictions relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of such restrictions shall be observed, public safety and welfare secured and substantial justice done.

b. The local government shall act upon any application to it within the time provided for in its local land use program. The agency shall act upon any application to it which is associated with a project subject to its review jurisdiction within the period provided in section eight hundred nine. In the case of any other application, the agency shall schedule a public hearing within fifteen days of receipt of an application in such form and manner as it shall prescribe. The public hearing shall be commenced within thirty days of the date it is scheduled. The agency shall act upon a variance application within forty-five days of the receipt by the agency of a complete record, as that term is defined in paragraphs (a) through (e) of subdivision one of section three hundred two of the state administrative procedure act.

4. The shoreline restrictions shall not apply to any emergency land use or development which is immediately necessary for the protection of

life or property as defined by the agency in its rules and regulations governing its procedures to review projects as authorized in section eight hundred nine.

5. In order to encourage clustering of buildings and the maintenance of undeveloped shorelines, as an alternative to minimum lot widths of the shoreline restriction, shoreline development may take place in the following land use areas upon the following approximate overall intensities of principal buildings (other than boathouses) per linear mile of shoreline or proportionate fraction thereof:

Land Use Areas	Principal Buildings Per Linear Mile
Hamlet	106
Moderate Intensity	53
Low Intensity	42
Rural Use	36
Resource Management	26

This alternative method of cluster shoreline development shall only be employed where a single ownership or a group of two or more owners acting in concert is involved. In addition, approval of this method of development must carry with it provisions, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure the retention in open space of the undeveloped portions of shoreline developed on a cluster basis. The agency, within its project review jurisdiction, or a local government under an approved local land use program, may apply these optional shoreline clustering provisions. Any person proposing to undertake new land use or development or subdivision of land in a land use area not governed by an approved local land use program and that is not subject to the agency's project review jurisdiction, may apply to the agency for a permit to employ such alternative method and the agency shall have authority to grant such a permit if the above required terms and conditions are met. The agency shall act upon such application within thirty days after receipt thereof.