

# The Lakes, the Land, the Laws- are You Playing by the Rules?

*text and photos by Karen King & Lisa Burns*

**W**e hear it everyday, “We just moved here and we want to do things right!” Southern Maine is developing at an unprecedented rate and everyone who can afford it wants their piece of it.

Why is this? Was September 11th a catalyst? Did that cause us to reprioritize when we, as a nation, came to realize that the quality of life might mean a great deal more than the sum of our financial portfolios? Did we begin to reevaluate “quality” and seek places where peace, quiet and natural beauty is the premium investment? Of course, low interest rates may be a key driver as well. But land has never danced the same ticker tape tap dance as the stock market. It just keeps going up! Urban sprawl and development are happening elsewhere too; where so many of the trees are being cut down and the new streets are then named after them. Here in Maine, nature, beauty and clean, clear lakes are our true commodity. Nature completes us, it heals our souls and rekindles the innocence left in the world. And that is why we see not just one or two, or twenty two, of the good people moving here wanting to “do things right” but rather almost all of the new owners, having a fervent desire to follow the rules. Maine has some of the toughest environmental laws and regulations in the country. And for good reason! Because we also have some of the most beautiful scenery, clean air and surface waters, not to mention drinking water, in the country, and all are worthy of our protection. So, whether you live, work or play on a lake, beside a stream or brook, deep in the woods, or smack dab in the middle of town, we all need to follow the rules to protect the treasures of Maine.

*But is everybody playing by the same rules of protection when it comes to water quality?*

A disproportionate burden seems to be placed upon the property owners of waterfront lots. In a watershed that may contain hundreds of square miles, and thousands of acres of land, we have homes, businesses, manufacturing, agriculture, forestry, development and municipalities; large and small. We have roads, swales, brooks, streams and culverts; private, town and state roads all contributing innumerable, though not immeasurable, tons of silt, sediment, phosphorous, toxins and a myriad of pollutants from all over the watershed, which ultimately find their way into lakes and ponds. Last winter alone the combined sand/salt mixture that just seven small towns in this Lake Region area applied to their roadways was in excess of twenty thousand cubic yards of material loaded with phosphorous and other pollutants. To help you put that into perspective, this would equal more than one hundred thirty thousand (130,000) wheelbarrows of sand!! Just try to imagine **that** on your beach and what that would do to water quality! So, why do the regulators expect one proportionately very small group of people, the owners of waterfront property, to carry the burden and stem the tide of this voluminous runoff from activities created

miles away from their property? Understanding that healthy buffers are our last defense in the effort to preserve water quality does not mean it is the **only** mechanism in stopping renegade pollutants and phosphorous loading.

*Lakefront property owners presently pay some of the highest property taxes for some of the most regulated land in the state.* This diminished use is due, in part, to the state’s requirement that towns adopt the minimum mandated Shoreland Zoning Ordinance (SZO) regulations drafted by the Maine Department of Environmental Protection (DEP), back in 1990, as part of the Natural Resource Protection Act (NRPA), that quantifies the amount of activities and disturbances allowable within the shoreland zone. Waterfront lots are a finite commodity in Maine. So are pristine lakes. Balancing the collision of these two opposing elements will take even stronger laws than we presently have. Currently, most of the regulations we do have for homeowners pertain to tree cutting, limbing, clearing of understory and groundcover, soil disturbance and erosion, and the establishment of footpaths; elements the state deems essential to minimizing impact on water quality. Picnic benches, hammocks, chairs, hibachi barbeques and disturbance of the natural “duff” (leaves, pine needles, sticks, etc.) are not, as yet, specifically disallowed within the 100’ buffer.

Now we ask, *do regulators and rule makers really believe that a 100’ buffer along the shoreline can halt this deluge of environmentally damaging pollutant loading?* This question is especially vexing when we see that no new regulations are being created to eliminate the “grandfathered” super green, grassy, clear cut, waterfront lots. Yet, every year, further discussions are held to tighten up the restrictions within the 100’ buffer on previously undeveloped waterfront property; a continuation of attempts to make it even more difficult for property owners to utilize their land. The agreement between the state, the towns, lake associations and environmental organizations regarding the best means to prevent phosphorous and contaminant runoff from personal property is not even remotely equitable when literally tons of silt and sediment are being exported into our water sources, through so called Non Point Source Pollution (in fact, every contaminant has a point of origin), new and maintenance road construction, seasonal storm events, spring runoff and irresponsible development.

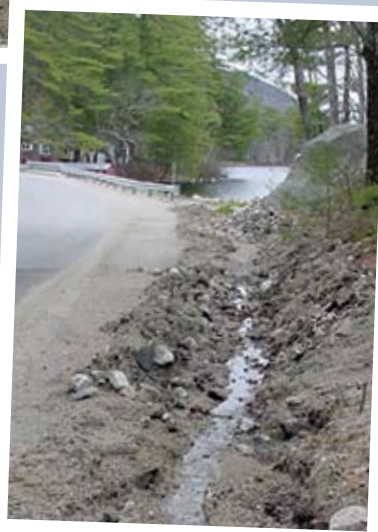
*Environmentally responsible development does not result in negative impacts to water quality.* Adequate funding is imperative for towns to train for, and properly implement, Best Management Practices (BMPs) and construction phasing when repairing, building and maintaining roadways, swales, culverts and boat ramps. This would immediately begin to have the desired effect of curtailing a great deal of the serious erosion problems throughout the watershed. When these efforts become more evident, then the SZO regulations that do exist might have a less ambiguous stance for homeowners.

Financially, it is often difficult for small towns to implement some of these measures but if we don't require them to spend the money now, and take these proactive and protective measures, what will the long term cost to water quality be? If individuals must absorb these costs and follow the rules, then the towns and state departments should also be held to the same exacting standards. Ideas like this are not necessarily popular, but if not now, when?

While the state regulations have been through review and amended several times, the towns have also been allowed to make their own SZO more stringent, modifying it for their own particular needs. In fact, Bridgton has actually increased their shoreline setback for "structures utilizing solid wall foundations" to one hundred twelve feet (112'), twelve feet more than its previous ordinance, and more than the state requires. Meanwhile, the state, in an effort to make the southern part of the state of Maine congruent with the northern part of the state, has revised their setback in the Resource Protection zone, back down, from one hundred feet (100') to seventy five feet (75')! It is also very important to note here that town ordinances do include the "Resource Protection" zone of two hundred fifty feet (250') in their guidelines. Most buildable home lots are zoned in the "Limited Residential" zone, or its equivalent by some other name, and therefore allow for quite a bit of trimming and cleanup within the one hundred foot (100') shoreland zone. Outside of that, the 250' Resource Protection continues to apply. There is much outdated and misinformation circulating so it is advisable to have a consultant well versed and familiar with the DEP and town regulations to assist you in determining what you can, and cannot, remove from your waterfront lot, whether it is already developed with a home on it or presently undeveloped. Even those previously built upon may have some latitude for further cleanup and most certainly can improve the shoreline and enhance the vegetated buffer with additional plantings. Copies of the ordinance and zoning maps are available at your town office for verification, and your local Code Enforcement Officer (CEO) can be a valuable asset when it comes to other questions regarding



**(top) Public boat launches put Maine lakes at risk by becoming ramps for phosphorous runoff, invasive plants, gas and motor oils.**



**(middle) Poorly designed, constructed and maintained road ditches move tons of sediment into lakes every year.**



**(bottom) State road construction and staging areas devastate water quality by not properly "phasing" projects or utilizing BMP'S (don't try this at home, it's more than a "technical" violation)**

International Erosion Control Association., Federal Environmental Protection Agency, USDA Natural Resource Conservation Service, National Soil and Water Conservation Society, National Certified Profession in Erosion and Sediment Control (#2625) and Maine Department of Environmental Protection, specializing in all aspects of site consultation and permitting, comprehensive landscaping and stoneworks, erosion control and reclamation, design and installation; "Naturally".

your particular town's ordinance and zoning regulations. If you have further issues on a state level, you can direct these to the MDEP field representative for your area.

So, whether you are a property owner, homeowner or vacationer; either on the water or off, protection and preservation within the entire watershed is paramount. State waters are presently available to all for fishing, swimming, boating and other recreational uses. However, such public use of Maine waters, combined with the extensive development, rarely allows one the idyllic vision of the Norman Rockwell fisherman, alone in his canoe at first light watching a moose browsing chest deep near the tranquil forested shoreline. These pristine ecosystems that do exist are those that we cannot easily access; they remain virtually untouched and undisturbed. Public access boat launches in areas such as these would severely threaten, if not obliterate the last fragile elements of these interrelated and co-dependent habitats. Accelerated runoff, exposure to invasive plants, turbulence, turbidity and noise could prove to be ruinous for these habitats of this caliber and sensitivity. Lines must be drawn if we earnestly hope to preserve these few remaining wilderness environments; perhaps even instituting a lottery system for their use, much like the successful merging of reserved public use and ecotourism undertaken at Baxter State Park. It is incumbent upon all of us living, working and vacationing in Maine's watersheds, to play by the rules if we really want Maine to remain "The Way Life Should Be!"

*Karen King and Lisa Burns are co-owners of Cabins To Castles Inc., an award winning, environmentally responsible, internationally recognized company endorsed by the*

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