

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS  
GOVERNOR



MELANIE LOYZIM  
COMMISSIONER

Sent Via Electronic Mail Only

February 24, 2025

Aaron Zufelt  
Municipal Clerk  
Town of Haynesville  
16 Danforth Road  
Haynesville, Maine 04497

Re: Mandatory Shoreland Zoning Act noncompliance

Dear Town officials:

The Department of Environmental Protection (DEP or Department) is writing in response to deficiencies observed by DEP staff regarding the Town of Haynesville's obligation to adequately administer and enforce its shoreland zoning ordinance under the Mandatory Shoreland Zoning Act (the Act). This letter is intended to remind the Town of the statutory requirement to appropriately administer and enforce its shoreland zoning ordinance and the Department's role in ensuring the Town meets this requirement.

The Act directs municipalities to adopt shoreland zoning ordinances in order "[t]o aid in the fulfillment of the State's role as trustee of its waters and to promote public health, safety, and the general welfare." 38 M.R.S. § 435. The Department is responsible for ensuring that municipalities comply with the Act. 38 M.R.S. § 438-A. The Act provides that "[a]ny municipality that fails to adopt, administer, or enforce zoning and land use ordinances as required under this article" is subject to enforcement actions and civil penalties. 38 M.R.S. § 443-A(3); see also *Maine v. Inhabitants of the Town of Damariscotta*, No. CV-98-84, 2001 WL 36525607, at \*1 (Me. Super. Ct. June 12, 2001) (stating that the Act "impos[es] upon the municipalities in the State of Maine an obligation to undertake, administer, and enforce a program of zoning within the State's shoreland areas."). Zoning and land use ordinances adopted by a municipality must be consistent with or no less stringent than minimum guidelines for shoreland zoning adopted by the Board of Environmental Protection. 38 M.R.S. § 438-A(2).

In November 2024, Department staff contacted the Haynesville Town Office. During a phone conversation with the Town Manager and a later phone conversation with a Select Board member, it was discovered that Town Officials had not appointed a code enforcement officer (CEO) and that permits were not being required specifically for land use activities under the shoreland zoning ordinance. Therefore, the municipality is not in conformance with 38 M.R.S. § 441 and 06-096 C.M.R. ch 1000, *Guidelines for Municipal Shoreland Zoning Ordinances* (Chapter 1000) §16 (A)(1) & §16 (B).

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
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  
(207) 764-0477 FAX: (207) 760-3143

After the effective date of the municipality's shoreland zoning ordinance, municipal officers must appoint or reappoint a CEO annually by July 1<sup>st</sup> to conduct the following duties (38 M.R.S. §441):

- Enforce the local shoreland zoning ordinance.
- If authorized, collect permit fees set by and remitted to the municipality.
- Keep complete records of all essential transactions of the office:
  - Applications submitted.
  - Permits granted or denied
  - Variances granted or denied.
  - Revocation actions.
  - Revocation of permits.
  - Appeals.
  - Court actions.
  - Violations investigated.
  - Violation found and fees collected.
- Investigate complaints of alleged violations of local land use laws.

Additionally, after the effective date of the municipality's shoreland zoning ordinance, it is a requirement for any persons to obtain a permit prior to engaging in any activity or use of land or construction of a structure requiring a permit in the district in which such activity or use would occur; or to expand, change, or replace an existing use or structure; or to renew a discontinued nonconforming use (Chapter 1000 §16 (B)).

As detailed above, municipalities are obligated to administer and enforce their adopted shoreland zoning ordinance. By failing to appoint or reappoint a code enforcement officer and issue required permits for land use activities within the shoreland zone, the Town of Haynesville is not complying with its statutory requirement to protect the shoreland areas of the state. In instances when the Department finds that a municipality has neglected its obligation to adequately administer and enforce its shoreland zoning ordinance, the matter may be referred to the Attorney General's Office for civil prosecution. 38 M.R.S. §§ 347-A(1)(A)(2), 443-A(3). The Department does not weigh commencing such an enforcement action lightly and requires that the Town of Haynesville promptly take concrete action to remedy the issues identified in this letter.

To that end, to demonstrate that the Town of Haynesville will comply with the statutory requirement to appropriately administer and enforce shoreland zoning requirements, the Town is directed to:

- (1) Within sixty (60) days of the date of this letter, provide to the Department documentation that the Town has updated its shoreland zoning ordinance and shoreland zoning map to be in compliance with the Chapter 1000 minimum guidelines or that concrete steps have been taken to achieve this goal.
- (2) Within sixty (60) days of the date of this letter, and every sixty days thereafter until the Department determines the Town has achieved compliance, continue to provide the Department with regular updates regarding the Town's attempts to obtain compliance with the Mandatory Shoreland Zoning Act's requirements and steps taken to address violations identified by Department staff.

Town of Haynesville  
February 24, 2025

The Town is notified that a continuing failure to adequately address the Department's concerns regarding the administration of the Town's shoreland zoning ordinance could result in the initiation of enforcement action against the Town.

Department staff are available to support the Town in complying with these requests. If you have any questions regarding this letter, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ross Gatcomb IV".

Ross Gatcomb IV  
Shoreland Zoning Unit, Bureau of Land Resources  
Maine Department of Environmental Protection  
Cell: (207) 242-0063  
Email: ross.gatcomb@maine.gov

Cc: Select Board, Town of Haynesville  
Colin Clark, Shoreland Zoning Coordinator, MDEP  
Caleb Elwell, Assistant Attorney General, AG's Office  
Rob Wood, Director, Bureau of Land Resources, MDEP  
Mark Stebbins Director, Land Division, Bureau of Land Resources, MDEP  
Bill Sheehan, Regional Director, NMRO-MDEP