

## COMPREHENSIVE SHORELAND PROTECTION ACT **URBANIZED SHORELAND EXEMPTION APPLICATION GUIDANCE**

The following is intended to assist municipalities prepare a request for an Urbanized Shoreland Exemption (RSA-483-B:12) under the Comprehensive Shoreland Protection Act. Pursuant to RSA 483-B:12, I, “the governing body of a municipality may, in its discretion, request the commissioner to exempt all or a portion of the protected Shoreland within its boundaries from the provisions of this chapter if the governing body finds that special local urbanization conditions exist in the protected shoreland for which the exemption is sought”.

The urban exemption is available to encourage the redevelopment of historic areas and urban centers located along New Hampshire’s many water bodies. The urbanized shoreland exemption is provided for in RSA 483-B:12 and Env-Wq 1410. More information can be found online at:

- <http://des.nh.gov/organization/divisions/water/wetlands/cspa/>

Or obtained by contacting:

- Department of Environmental Services at 271-2147; or
- Office of Energy and Planning at 271-2155.

**Eligible Applicants** only include the governing body of the applying municipality or Pease Development Authority Division of Ports and Harbors, based upon Env-Wq 1410.01 (b) and RSA 483-B:12, I and IV.

The **eligible area** is determined by the statutory definition of “urbanization.” The exemption is strictly available for those areas that meet this definition. Currently undeveloped areas, or those that can comply with the requirements of the CSPA, should not be included within a request for an urbanized exemption. Additionally, the exemption area should include entire parcels and exempting partial parcels is highly discouraged.

**Urbanization** means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for residential, commercial, industrial, or mixed uses such that it contributes to or constitutes the municipality's downtown, community center, or central business district and wherein all vegetative buffers have been depleted, impervious surfaces are in excess of 50 percent, and residential uses are of at least 10 dwelling units per acre. (RSA 483-B:4, XXV)

**Historic** for purposes of Env-Wq 1410.03(a) and Env-Wq 1410.03(b), means the time period from 1971 to the date of the application or such longer period as the applicant designates. (Env-Wq 1410.01(b))

The evidence required to be submitted with the exemption request is to demonstrate that the areas to be exempted conforms with the definition of urbanization – it must:

- Currently be compact with greater than 50 percent the area impervious;
- Have historically (pre 1971) been intensely developed; **and**
- Be commercial, industrial, residential or mixed use development.

If the area is exclusively residential in character it must have a density of at least 10 dwelling units per acre.

## **APPLICATION BASICS:**

The application should include the following basic identifying information:

- Name of Municipality
- Name and title of Authorized Municipal Agent or contact person
- Mailing address
- Location of proposed exemption area – describe bounds in narrative format
- Tax map numbers (attach a complete list if necessary)
- Note whether a GIS, CAD or similarly generated map showing the areas for which the exemption is being applied for is included in the submission.
- Name of water body - Please use the name of the waterbody as it appears on the *DES Consolidated List of Water Bodies Subject to the CSPA* ([http://des.nh.gov/organization/divisions/water/wetlands/cspa/water\\_bodies.htm](http://des.nh.gov/organization/divisions/water/wetlands/cspa/water_bodies.htm)).

## **REQUIRED EVIDENCE:**

Evidence of existing and historic patterns of building and development that address:

- A. Current and historic building density.
- B. Current commercial or industrial uses.
- C. Municipal or other public utilities.
- D. Current municipal land use regulations that affect the protected Shoreland.
- E. Designation as a downtown, community center, central business district, or urbanized area or urban cluster as delineated by the United States Census Bureau.
- F. The number of structures in sight from the water body.
- G. Density allowed under current local zoning ordinances.
- H. Extent of non-residential land use currently existing.
- I. If available, a recent aerial photograph of the area.
- J. If available, GIS, CAD, or similarly formatted map to show the area where the exemption is being applied for. (If a GIS or CAD map is not available, please clearly show how area will be delineated.)

If any portion of a property within protected Shoreland is to be exempted, then the entirety of that property shall be considered exempt.

For all items, please be precise and focus on the requested area. For small exemption areas, requested for only a portion of the area eligible, supporting documentation should include some of the surrounding context for a fair interpretation of whether the properties to be exempted lie within an area that meets the definition of exemption. However, submission of town wide or generalized information that requires the reviewers to search for applicable information will delay the application review.

The following provides some guidance on how to provide the required evidence and/or some important questions to answer through the evidence. These are examples of possible evidence, not an exhaustive list of requirements. The actual materials submitted will vary by community based upon the data and resources available, existing and historic conditions, and the size of the requested exemption area.

*A. Current and historic building density*

Narrative – describe both the current and historic pattern of concentrated development and intensive building, including details such as:

- Current total numbers of structures and lots;
- Size of the exemption area – square feet, acres, or square miles;
- Description of the exemption area;
- Total impervious area and percentage of total area that is impervious;
- Overall density of residential areas measured in dwelling units per acre;
- Description of the area’s historic pattern of intensive building for commercial, industrial or mixed use; and/or
- Other supporting information.

Graphics – present both current and historic images, such as:

- Current aerial image;
- Photographs;
- Old USGS maps;
- Sanborn Fire maps;
- Birdseye map; and/or
- Other evidence of a current and historic pattern of concentrated development/intensive building.

*B. Current commercial or industrial uses*

At a minimum, present the total number of commercial, industrial and residential parcels within the area at the time of application. If possible, indicate each parcel’s current and historic use – commercial, industrial, or residential and the number of structures. Additionally, if possible, break down into subcategories such as retail, business, restaurant, automotive, light industrial, manufacturing, or other applicable type.

*C. Municipal or other public utilities*

What utilities are available within the proposed exemption area? In particular, it is important to know whether there are water and sewer service available. Additionally, list all other municipal facilities within the exemption request area.

*D. Current municipal land use regulations which affect the protected shoreland*

Narrative:

- What zoning districts apply to the requested exemption area?
- What overlay zones apply?
- What uses are permitted or prohibited within those zones?
- How do the zoning provisions affect future (re)development?
- Is development in the protected shoreland reviewed by the conservation commission?
- How do subdivision and site plan review regulations affect future (re)development in the area?

Either provide a map depicting zoning district boundaries within the exemption area or identify zoning districts for each parcel as a list or table. DO NOT submit a copy of local ordinances and regulations to meet this evidentiary requirement without providing a narrative summary of the

ordinance's pertinent sections. Failure to identify and summarize the pertinent provisions will result in a delay of the application's review.

*E. Designation as a downtown, community center, central business district, or urbanized area or urban cluster as delineated by the United States Census Bureau*

Demonstrate that the area for which the exemption is sought is officially designated and recognized as a community center.

Possible means of municipal designation include, but are not limited to:

- Zoning district designated as central business district or other title recognizing the area as the community's center;
- Main Street designation;
- State or National Historic District designation;
- Master Plan delineation/identification as a community center.

The municipality may also utilize the U.S. Census Bureau's determined boundaries for urbanized areas or urban clusters that are designated based upon the population density.

The narrative may denote how and when the area was designated by the municipality as a downtown, community center, or central business district. Any narrative information should be accompanied with a map to show how the designated downtown, community center, central business district, or urbanized area or urban cluster as delineated by the United States Census Bureau boundaries compare to those of the requested exemption area.

*F. The number of structures in sight from the water body*

Three of the many possible methods that can either be employed jointly or singularly include:

- Series of photographs of the complete, or nearly complete, shoreline within the exemption area keyed to a map;
- Identify in a table or list the number of structures on each parcel that is visible from the water; and/or
- Identify the total number of structures in the exemption area that are visible from the water within the application's narrative.

*G. Density allowed under current local zoning ordinances*

For each zoning district within the exemption area identify either in narrative or tabular format:

- Applicable zoning district;
- Minimum frontage;
- Minimum lot size;
- Minimum lot area per dwelling/commercial/industrial unit;
- Maximum lot coverage and/or building footprint; and
- Any other area or dimension based zoning provision that affects the ultimate lot density.

*H. Extent of non-residential land use existing*

Identify the total number of non-residential versus residential parcels and structures in narrative form. The narrative should describe how the exemption area's land uses support the definition of urbanization and are predominantly non-residential in nature. If available, a map of current existing land uses is helpful.

*I. Map clearly delineating the area to be exempted*

The map should depict the following details/data as is available:

- Exact exemption boundary (required);
- Roads with key names;
- Water bodies labeled with names;
- Parcel boundaries;
- CSPA jurisdictional area;
- Zoning districts; and
- Building footprints or aerial image.

Note: the exemption boundary should follow parcel boundaries and not cut parcels into fragments.

*J. If available, a recent aerial photograph of the area*

Aerial imagery is available for all communities in the state through GRANIT's online data mapper which can be accessed at: <http://mapper.granit.unh.edu>.

**SUBMISSIONS:**

Once complete, the full application must be sent to both the Department of Environmental Services AND the Office of Energy and Planning.

Commissioner, Department of Environmental  
Services  
29 Hazen Drive; PO Box 95  
Concord, NH 03302-0095

Director, Office of Energy and Planning  
4 Chenell Drive  
Concord, NH 03301

**TIME FRAMES FOR DECISIONS:**

The department shall request the Office of Energy and Planning to submit a written recommendation to the commissioner within 30 days of receipt of a complete request.

The commissioner shall approve the request if the evidence required by Env-Wq 1410 shows that the municipality has existing and historic patterns of buildings and development in the protected Shoreland.

The commissioner shall issue written findings in support of the decision within 30 working days from receipt of the recommendations from the Office of Energy and Planning.