

Common Questions and General Guidelines for Repair or Rebuilding in the Coastal Sand Dune System

Contact: Southern Maine Regional Office, Land Division
207-822-6300 or 1-888-769-1036

Coastal sand dune systems are fragile and dynamic ecosystems that act as natural barriers protecting the shoreline from ocean storms. Many activities in coastal sand dunes require permits prior to the start of these activities. However, there are several activities that may be necessary after a severe coastal storm that do not require approval from the Department. Below are common questions about these activities:

1. **Can I move sand and debris away from my house/lawn/developed area on my property?**

Yes. This is “de minimis” (a permit is not required) provided debris is removed and sand/cobble/seaweed is placed properly back into the sand dune system. Debris is defined in rule as “non-mineral material” so would not include sand, cobble or seaweed, but does include, and in this case, allows the removal of, driftwood, pieces of structure, and most other man-made material, including garbage or trash. If garbage or trash is removed, it must be disposed of at an approved solid waste disposal facility. See “de minimis” section for more information.

2. **Can I move cobbles away from my house/lawn/developed area on my property?**

Yes, but with limitations. Limited amounts of cobble can be removed by hand but need to be placed

immediately seaward of a frontal dune or seawall on your property. However, any clearing of significant amounts of cobble or removal using large equipment may require a permit. Please contact the Department to discuss permitting requirements.

3. **Can I move sand/debris/cobble from the Town owned beach in front of my house?**

No. If the beach is owned by the Town, permission must first be granted by the Town. Cobble removal may require permits from the Department (See #1 and #2 above). Check with your local Code Enforcement Officer, Town Engineer, or Public Works Director.

4. **What do I do with garbage and other waste found within the natural cobble/sand/debris?**

See #1 above.

5. **Can I shore up my seawall with riprap?**

Yes, but with limitations. For a seawall damaged during a storm, or in imminent danger of being damaged, certain exemptions apply. There are provisions in the statute that allow the placement of riprap to shore up a seawall; however, the riprap would eventually have to be removed and the seawall repair would need to be permitted. Permanently protecting a seawall using riprap is not allowed. See repair and maintenance and seawall repair sections below for more information.



6. Can I increase the height of my seawall to prevent over wash in the future?

No. According to the rules, “No new seawall or similar structure may be constructed. No existing seawall or similar structure may be altered or replaced, and as allowed under Chapter 305, Permit by Rule and 38 M.R.S.A. §480-W”. Existing seawalls cannot be expanded. See repair and maintenance section below for more information.

7. Is seaweed considered waste and should it be removed?

No. Seaweed is not considered waste and should be treated differently from “debris” i.e. not removed from the dune system. It can be moved as a “de minimis” activity provided it is not removed from the sand dune system and its placement does not disturb dune vegetation.

8. Can I stockpile the sand recovered from my lawn into a protective berm?

No. The “de minimis” provisions require sand to be spread out not to exceed 3 inches in depth. If a property owner would like to use the sand to create a protective dune, there is an abbreviated permitting process (i.e. Permit by Rule) that can be obtained.

9. Can I build a new footpath to the beach if the existing one was damaged or destroyed?

Yes, if you intend to rebuild the path in the same location, Call the Department’s Portland office for guidance. However, dunes can lose their protective cover of vegetation along foot paths where people access the beach. Over time, these paths can act as conduits for floodwaters and waves. A path that curves or zig-zags near the seaward edge of the dune can slow

erosion and flooding. Path rerouting will likely require a permit the Department since it may impact dune vegetation. To protect dunes from foot-traffic that can contribute to erosion, elevated walkways or bridges can be constructed perpendicular to the natural sand dune. For guidance on this and other issues related to activities in coastal sand dunes, Maine Sea Grant has published a helpful resource called the Maine Property Owners’ Guide to Erosion, Flooding and Other Coastal Hazards: seagrant.umaine.edu/coastal-hazards-guide/beaches-and-dunes

“De minimis” activities that DO NOT require a permit:

- Removal of debris from a beach provided only limited amounts of cobble and no sand is removed;
- Addition of loam on existing lawn so that the total depth of loam does not exceed 3 inches;
- Removal of sand from lawns or other developed areas provided the sand is retained in the coastal sand dune system, does not disturb existing dune vegetation, and is spread on beach areas to a depth of no greater than three inches above the existing beach grade;
- Construction of open fences to keep pedestrian traffic off dune vegetation or away from designated essential wildlife habitat areas;
- Replacement of a foundation provided the new foundation is a post or piling foundation that meets the requirements of Chapter 355

5(D) and 6(G) and remains in the same footprint;

- Removal of seaweed from developed area (this does not apply to undeveloped frontal dunes) provided the seaweed remains in the coastal sand dune system and it does not impede the growth of dune vegetation.
- Construction of a walkway or path on an existing developed area.

PLEASE NOTE: *Removal of significant amounts of cobble and/or removal of cobble by large equipment requires permitting in the frontal dunes. Please contact the Department to discuss permitting requirements for your property or contact the Town to discuss cobble removal from the beach in front of your property.*

Maintenance and Repair Activities DO NOT require a permit provided that:

- They do not result in more than 50% of the structure being repaired or rehabilitated;
- They do not result in additional intrusion in the sand dune system;
- The repaired structure does not exceed the dimensions (height, width, and length) of the existing structure;
- The structure to be repaired is not an historic structure.
- Any resettlement of rocks or boulders in a riprap structure that were dislodged due to wave action, if the work is less than 50% of the riprap. If the repair is more than 50% of the riprap structure, a NRPA permit by rule is required.

Note: Cost of the maintenance and repair activity may not equal or exceed 50% of a building's value prior to the start of the project. Once 50% of a building's value is equaled or exceeded, the project is no longer considered maintenance and repair and permits for reconstruction are necessary. Incremental improvements to a structure within a 5-year period are considered by the Department in determining whether the exemption applies. If reconstruction is necessary, please refer to the Standards for Building Reconstruction below and contact the Department for permitting requirements.

Seawall Repair:

No new seawalls or additions to existing seawalls are allowed in the coastal sand dune system. **A seawall may be reconstructed or repaired maintaining the same dimensions.** Repairs to more than 50% of a seawall are eligible for a permit by rule provided the same dimensions are maintained. An existing seawall may be reconstructed in a different location (more landward) and with different dimensions provided the new seawall is determined by the Department to be less damaging to the sand dune system, wildlife habitat and adjacent properties and would require an individual NRPA permit.

If deemed necessary by the local code enforcement officer, a state-licensed professional engineer, or a state-certified geologist, a seawall or similar structure located within the sand dune system that was destroyed or in danger of being destroyed may be reinforced with riprap or sandbags as an

emergency measure, provided the following steps are taken:

- Written notice must be provided to the Department within 5 days of when the emergency action was taken.
- Within 6 months following placement of the material, a permit application must be submitted to the Department to repair or replace the structure, and the reinforcement material must be removed within 18 months from the date a permit is issued.

Standards for Building

Reconstruction:

Other standards apply to reconstruction of buildings severely damaged by wave action, including buildings that have already been reconstructed once – please refer to the Natural Resources Protection Act Chapter 355 rules.

- Reconstructed buildings must always be moved landward to the extent practicable. When reconstructing a building that will be moved landward, the shape of the building's footprint may be altered provided the overall area of the proposed building's footprint is not exceeded. If the building cannot be moved back, then the shape (area and dimensions) of the building's footprint must remain the same as the existing building.
- The height of the structure must not exceed the height of the existing structure, unless a vertical addition is proposed that meets Section 6(B)(4).
- **All buildings modified or reconstructed in the frontal dune must be supported on a post or piling foundation that allows the free movement of sand, with the lowest**

portion on structural members of the lowest floor elevated at least three feet above the highest natural elevation of the dune measured five feet from the corners of the existing building's foundation. A flow-through foundation or one with breakaway panels does NOT meet this standard.

- Post or piling foundations should be designed by a structural engineer. An acceptable design frequently includes posts or piles supported by a continuous footing and/or spread footings below the frost line.
- The post or piling foundation can be enclosed with lattice or vertical boards. Lattice must have minimum openings of 4 inches by 4 inches and vertical boards must have openings that are twice the width of the boards, with a minimum opening size of 4 inches. Doors and garage doors under a post or piling foundation must also have these size openings. If the project design includes provisions to park a vehicle under the building, any doors used to enclose the parking area must have a three-foot opening measured from the existing ground elevation to the bottom of the garage doors. Large mesh hardware cloth may be attached to the lattice or vertical boards to keep rodents out of the foundation area. Detached garages are not subject to this requirement and may have solid walls and doors.
- Mitigation is required in some cases where practicable, and may include dune construction and/or enhancement of developed areas with native beach vegetation if there are areas on the lot not covered by buildings or parking areas.