



ADVANCING PUBLIC TRUST SOLUTIONS
TO SAVE THE GREAT LAKES

Beach Grooming in Michigan: What the New Beach Grooming Law Means for Littoral Stewards and How to Protect your Beach While Still Fulfilling Your Responsibilities as a Steward of the Great Lakes

Littoral Stewards:

The purpose of this letter is to address public concerns regarding the recently passed beach grooming law in Michigan under 2012 PA 247. At Flow For Water we attempt to drive policy in a direction that protects one of the greatest natural resources on earth, water, and our Great Lakes office deals solely with threats to the Great Lakes watershed. Truth be told, our organization was against the expansion of the littoral landowners rights to tend to the area beneath the ordinary high water mark as we fear this will lead to exclusive private control over a publicly owned resource. In this light, we implore others as littoral stewards of the Great Lakes to recognize that the land which you may now control is not yours, but rather you are bestowed a new responsibility to effectively manage your shoreline so as not to harm the overall water systems of the Great Lakes which are held in trust for the public for the purposes of navigation, recreation and fishing.

In Michigan, the state holds in trust all navigable waters and their bottomlands for the people of the state. This means that all land up to the ordinary high water mark is publically owned for the benefit of all citizens of the state. Certain concessions have been made over time such as the right to wharf out, but a recent Michigan law has added a few new rights for littoral property owners that may affect the way that such owners care for their portion of land abutting the public trust.

Flow For Water recognizes that the explosion of the non-native species known as *phragmites* places an undue burden on many littoral owners potentially blocking both visual and actual access to the waters of the state. When acting under the new rights afforded by this new Act we only hope that you will join us in acting as stewards of this great natural resource and help protect our shores and our waters for our generation yet to come. The shores where *phragmites* live is habitat to as many as 85% of Great Lakes species at some point in their lives meaning that a mass genocide on *phragmites* could also mean the death of our Great Lakes ecosystem as we know it. Native plants, which are also removed when mowing for *phragmites*, provide critical habitat for breeding waterfowl, filter polluted runoff and protect the shoreline from eroding. Removing native plants encourages invasive species such as *phragmites* to assume control over our shorelines.

As such, we hope you will read the following information on what the new law allows you to do as well as how we believe this can be done in a manner that ensures the future of our waters. Thank you and if you have any further questions that we might be able to help you out with please feel free to use the contact information listed above. Let's do this right, after all we have all chosen to live here For the Love Of Water!

*Note: When permits are needed, the Michigan Department of Environmental Quality (DEQ) has state jurisdiction over the area between the ordinary high water mark and the water's edge. The Michigan Department of Natural Resources (DNR) has jurisdiction over the water and the beach landward of the ordinary high water line. Further, the United States Army Corp of Engineers (ACOE) also has federal jurisdiction over the area between the ordinary high water mark and the water's edge under federal commerce power.

What the new law allows:

The new law allows littoral owners to freely mow, level sand, groom and remove debris from the area between the ordinary high water mark and the water's edge without a permit from any agency provided that the area is made up of only unconsolidated materials such as sand, rock or pebbles. If the soil is wet and sticky, this is considered a protected wetland and cannot be improved without permits.

How are landowners allowed to proceed in accomplishing these tasks: For mowing, any level of mower from a push blade to a tractor is allowed so long as the blades do not disturb the soil in a manner consistent with a rotatiller. The other clearing methods can be done with manual or electrical equipment so long as vegetation is not being up-rooted. What about removal of vegetation: Under the new state law, no state permit is required to remove vegetation from the area between the ordinary high water mark and the water's edge. A permit is required to do this from the ACOE.

Permits from the ACOE take: The ACOE reserves 120 days for a full permitting process including time for full public notice and an environmental assessment of the proposed area.

To mow or not to mow:

While this state law makes mowing a readily available option for landowners who want to act fast, many studies have noted that this process can actually spread the *phragmites* and only make their presence worse. *Phragmites* have roots that extend up to 20 feet into the water, so the act of mowing really only cuts the head off while leaving the body intact. If time is not as sensitive, many recommend a process called the 'death glove,' whereby landowners put on rubber glove and coat the glove with an herbicide (typically of a variety recommended by the ACOE or the DEQ dependant on the region) and coat the stalk of the *phragmite*. This method allows the landowner to kill the entire plant, not just the head, as well as protect other species of native plants which may be killed by spraying the herbicide or even mowing.

Flow For Water recommends that you contact the office of the DEQ and the ACOE if you have any permitting questions or are just looking for further explanations.

Grand Traverse Region DEQ

Robin Schmitt: 231-876-4444 (phone hours Tuesdays 8-5 and Fridays 8-12)

Lake Michigan ACOE

Jeffry Fritsma: 616-842-25523 x 25525