

 DEPARTMENT OF ENVIRONMENTAL QUALITY	DIVISION POLICY	NUMBER: 353-09-02
	LAND & WATER MANAGEMENT DIVISION	DATE: July 31, 2009
SUBJECT: Activities Not Constituting A Use Under Part 353		PAGE: 1 of 2
SECTION / UNIT: Lakes, Streams, and Shorelands Section	APPROVAL SIGNATURE: Original signed by	ALSO SEE:
	TITLE: Elizabeth M. Browne, Chief	

PURPOSE

To identify activities generally considered to not be a "use" requiring a permit under Part 353.

APPLICABLE STATUTES

Part 353, Sand Dune Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

INSTRUCTIONS

The following activities are considered to generally not significantly alter the physical characteristics of a critical dune or constitute a contour change under Part 353, and therefore do not constitute a "use" requiring a Part 353 permit:

1. Construction using hand tools of a stairway, boardwalk, or tram to service up to two single-family homes (including the entry/exit platform) that is elevated above grade, five feet wide or less, has no roof or walls, involves no tree removal, and disturbs vegetation only within the footprint.
2. Removal of a tree that is threatening a structure, utility line, or human safety, when it does not significantly alter the physical characteristic or stability of the dune feature, the stump and root system is left in place, and the cut tree is placed on slopes with a gradient of less than 25 percent.
3. Installation of a single pole or post installed by using hand held tools. Examples include a flag pole, mailbox, sign, utility pole, light pole, birdhouse, birdfeeder, basketball hoop, and yard art.
4. Replacement of an existing deck, in-place and in-kind, by using hand held tools.

5. Installation of a fence by using hand held tools when the fence is located landward of the crest, follows the existing grade, and the fence surface is open, such as a split rail fence or chain link fence.
6. Placement of a temporary snow or sand fence.
7. Planting a native tree or other native vegetation using hand held tools without changing existing grades or contours.
8. Excavation for the purpose of accessing an existing septic system or utility lines for clean-out purposes and/or in-kind and in-place maintenance or repairs.
9. Re-grading an existing driveway or adding additional material such as gravel, concrete, asphalt, or crushed rock to an existing driveway without changing the size of the driveway or contours outside of the driveway footprint.
10. Removing one (1) cubic yard of blow sand in areas landward of the crest by using hand held tools to clear an existing structure or walkway. Excess sand must be disposed of in a legal manner.

The Land and Water Management Division (LWMD) may add to this list over time. The LWMD may determine, on a site specific circumstance, that an activity listed above does constitute a "use" requiring a permit under Part 353.

NOTE: A permit would be required for a stairway, boardwalk, fence, or tram that is constructed below the ordinary high watermark of any Great Lake under Part 325, Submerged Lands, of the NREPA.