

CAMP ROADS & Shorelands – General INFO/LAWS

Excerpted from the MAINE.GOV Website Courtesy of the LAA

State Laws Related to Unpaved Roads

The following are general descriptions and should not be used in any legal manner. Go to the actual statute for details.

[Private Way Law](http://www.mainelegislature.org/legis/statutes/23/title23ch305sec0.html) (Title 23, Chapter 305, Subchapter 2) – this statute provides the authority for and guidelines under which a statutory road association can form. <http://www.mainelegislature.org/legis/statutes/23/title23ch305sec0.html>

[Erosion and Sedimentation Control Law](http://www.mainelegislature.org/legis/statutes/38/title38sec420-C.html) (Title 38, Chapter 3, §420-C) – requires that a person who conducts an activity involving filling, displacing, or exposing earthen materials take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource such as lakes, rivers, streams, coastal waters, and wetlands. <http://www.mainelegislature.org/legis/statutes/38/title38sec420-C.html>

[Contractor Certification in Shoreland Zone](http://www.mainelegislature.org/legis/statutes/38/title38sec439-B.html) (Title 38, Chapter 3, §439-B) – this statute goes into effect January 1, 2013 and requires excavation contractors conducting excavation activity in the shoreland area be certified in erosion control practices by the DEP. <http://www.mainelegislature.org/legis/statutes/38/title38sec439-B.html>

[Natural Resources Protection Act \(NRPA\)](http://www.maine.gov/dep/blwq/docstand/ip-nrpa.htm) (Title 38, Chapter 3, §480-B) - this law regulates activities in, on, over or adjacent to natural resources such as lakes, wetlands, streams/rivers, fragile mountain areas, and sand dune systems. For lakes, it regulates certain activities 75 feet from the lake. The program uses permit by rule (PBR) for certain classes of activity. <http://www.maine.gov/dep/blwq/docstand/ip-nrpa.htm>

[Shoreland Zoning](http://www.maine.gov/dep/blwq/docstand/szpage.htm) (Title 38, Chapter 3, §435-449) - this law is primarily administered through municipalities, and involves the regulation of activities in the shoreland zone (250 feet from lakes and 75 feet from streams). <http://www.maine.gov/dep/blwq/docstand/szpage.htm>
http://www.maine.gov/dep/blwq/docstand/sz/SZGuide_2006_Inland_Version.pdf (no coastal references)

Town of Hartford Shoreland Zoning Ordinance located at: <http://www.megalink.net/~hartford>

Town of Canton Shoreland Zoning Ordinance – See Town Office

Maine Mandatory Shoreland Zoning This law focuses upon areas near great ponds, rivers and larger streams, coastal areas, and wetlands. The "Shoreland Zoning" law helps to prevent and control water pollution; to protect fish spawning grounds, bird and wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

The Shoreland Zoning law requires that municipalities protect shoreland areas through adopting *shoreland zoning maps and ordinances*. Zoning ordinances provide for what types of activities can occur in certain areas. For example, they address building size and setbacks, and the establishment of resource protection, general development, residential, and other zones. Shoreland areas include areas within 250 feet of the normal high-water line of any great pond, river or saltwater body, areas within 250 feet of the upland edge of a coastal wetland, areas within 250 feet of the upland edge of a freshwater wetland except in certain situations, and areas within 75 feet of the high-water line of a stream. The law is primarily administered through each municipality, and the local code enforcement officer is usually the first point of contact on shoreland zoning issues. The MDEP also has a Shoreland Zoning Unit.

Clearing Vegetation in the Shoreland Zone

Excerpted from <http://www.maine.gov/dep/blwq/docstand/ip-szveg.htm>

Revised: October 18, 2007 contact: Augusta office (207) 287-3901; Portland office (207) 822-6300; Bangor office (207) 941-4570 The information presented in this Issue Profile is based on the standards in the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* (Guidelines). If your community's locally adopted shoreland zoning ordinance has more restrictive standards those more restrictive provisions apply.

The Mandatory Shoreland Zoning Act requires municipalities to adopt land use regulations for all areas within the shoreland zone. The **shoreland** zone consists of areas within 250 feet of the normal high-water line of great ponds, rivers, and tidal waters; within 250 feet of the upland edge of non-forested freshwater and coastal wetlands; and within 75 feet of certain streams. Distances are measured horizontally. The land use controls adopted by the municipalities must be consistent with or no less restrictive than the Board of Environmental Protection's *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances*.

Do the Guidelines for Municipal Shoreland Zoning Ordinances include limitations on vegetative cutting for development activities in shoreland areas?

Yes. The Guidelines limit the amount of vegetation that can be cut in the shoreland zone. In order to maintain water quality, protect wildlife, and to preserve the natural beauty of shoreland areas...

What are the restrictions on clearing of vegetation in the shoreland zone?

Generally, in the first 75 feet from the normal high-water line or the upland edge of a wetland, 40% percent of the volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level can be removed in any ten year period, although no "clear-cut openings" (openings in the forest canopy greater than 250 square feet) are permitted. The cutting must be done such that a well-distributed stand of trees and other vegetation remains. This area is commonly referred to as the buffer strip. Adjacent to great ponds and rivers flowing to great ponds, the buffer strip extends for a distance of 100 feet from the normal high-water line.

Beyond the buffer strip, vegetative cutting limitations are less restrictive. In this area cleared openings are permitted provided that such clearings do not exceed 25% of the lot area, or ten thousand square feet, whichever is greater. In total, however, no more than 40% of the volume of trees can be removed in any 10-year period from the shoreland zone.

Do the Department's Guidelines define a "well-distributed stand of trees and other vegetation"?

The Department's Guidelines define a well-distributed stand of trees and other vegetation by a "point system". This system, which assigns values to trees down to two (2) inches in diameter, requires a certain total value of trees be maintained in each 25-foot by 50-foot square rectangular (1250 square feet) area within the buffer strip. The tree values are based on tree diameters and are as follows:

Diameter of Tree at 4-1/2 feet Above Ground Level (inches) = Points

2-<4 inches 1 4-<8 inches 2 8-<12 inches 4 12 inches or greater 8

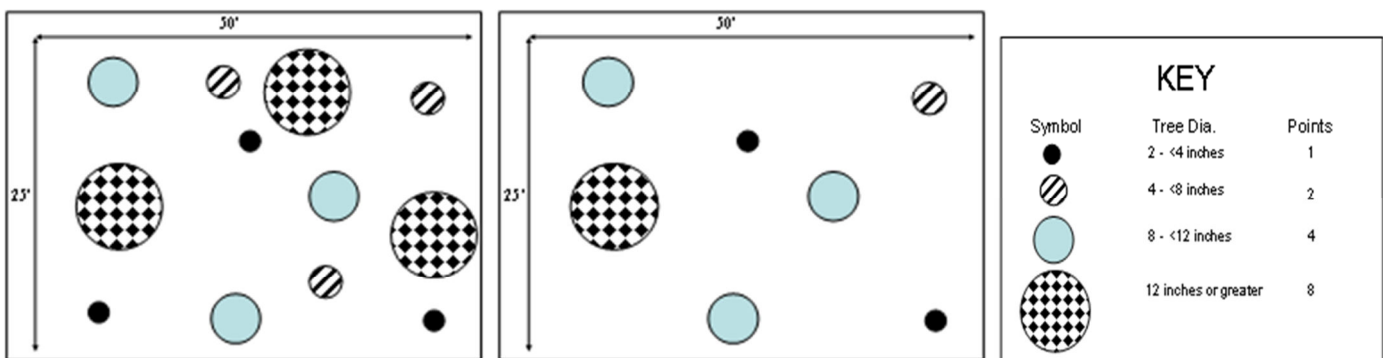
Adjacent to great ponds, and rivers and streams flowing to great ponds, a rating score of 24 or more points must be maintained. Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area. The point system was created to provide a more enforceable standard for tree cutting activities within the buffer strip.

As an example of the above rating system, adjacent to a great pond, if a 25-foot x 50-foot plot contains three (3) trees between 2 and 4 inches in diameter, three (3) trees between 4 and 8 inches in diameter, three (3) trees between 8 and 12 inches in diameter, and here (3) trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) + (3 \times 8) = 45 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees totaling 45 points. Trees totaling 21 points (45 - 21 = 24) may be removed from the plot provided that no cleared opening is created. The figure below is just one example of allowable cutting under the point system.

Before (45 points) After (24 points) Example is 25 feet 50 feet (NOTE: Some municipalities have a "point system" based on 25-foot by 25-foot plots, rather than 25-foot by 50-foot plots. In those cases the required number of "points" that must be retained is half that required for the larger plots.)



Is the cutting of vegetation less than 2 inches in diameter limited?

Yes. State law prohibits new cleared openings from being created within the buffer area. If removal of vegetation less than two inches in diameter will create cleared openings, enough vegetation must be retained to prevent the creation of such openings. Also, if five saplings less than 2 inches in diameter do not exist in a 25-foot by 50-foot plot, no woody stems less than two (2) inches in diameter can be removed until five saplings are recruited into the plot. Furthermore, in order to protect water quality, vegetation less than three (3) feet in height and other groundcover must be maintained within the buffer strip.

Are there areas where the cutting of vegetation is prohibited?

Yes. Vegetative cutting is prohibited abutting a great pond zoned Resource Protection for a distance of 75 feet inland of the normal high-water line, except to remove safety hazards.

May I cut within the buffer strip for shoreline access?

Yes. A footpath not to exceed six (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. In other words, the footpath must meander, rather than being a straight line to the water. The purpose of this limitation is to prevent runoff from funneling directly along the pathway to the water. By meandering the pathway, runoff is more likely to be trapped by vegetation and natural depressions within the buffer strip.

May I prune trees within the buffer strip?

Yes. Pruning of tree branches, on the bottom 1/3 of the tree is permitted. Dead branches are permitted to be pruned without restriction.

What if a cleared opening is created within the buffer area due to storm damage, disease, or the removal of an unsafe tree?

When the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of a cleared opening, the opening must be replanted with native tree species, unless existing new tree growth is present.

Can existing cleared openings to the water be maintained?

Yes. Cleared openings legally in existence on the effective date of the ordinance may be maintained. However, areas that were once fields or cleared openings, but have reverted to primarily shrubs, trees, or other woody vegetation are regulated as any other buffer area under the ordinance.

If I adhere to the "Clearing of Vegetation For Development" Standards in the Department's Guidelines will I be sure that I am in compliance with all clearing limitations?

No. Local ordinances may be more restrictive. You should always consult with your local code enforcement officer before you begin clearing of vegetation in the shoreland zone.

Establishing the Starting Point for Measurement of the Shoreland Zone and Related Setback Determinations Excerpted from: <http://www.maine.gov/dep/blwq/docstand/sz/ip-setback.htm>

Great Ponds, Rivers and Streams

1. **Great Ponds, Rivers, and Streams, Without Adjacent Wetlands at the Elevation of the High Water Line** – The starting point for the shoreland zone is determined by locating that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

2. **Great Ponds With Adjacent Wetlands** – If a great pond has an adjacent non-forested wetland (attached or connected) the starting point for the shoreland zone is the shoreward point in the non-forested wetland that is at the same elevation as the high-water line of the great pond.

3. **Rivers with Adjacent Floodplain Wetlands** – The shoreland zone begins at the upland edge of non-forested, 100-year, floodplain wetlands (these are considered to be a part of the river).

4. **Streams** – The shoreland zone of a stream begins at the point described in #1 above in all cases, regardless of whether or not there is a floodplain wetland.

Freshwater Wetlands

In order for a freshwater wetland to have a shoreland zone it must:

Be at least 10 acres in size or Be adjacent to a surface waterbody of less than 10 acres so that the combined area is 10 acres or more, **and**;

1. Not be a forested wetland (dominated by woody vegetation that is equal to or greater than six meters, or approximately 20 feet, in height) **and**
2. Be mapped and adopted as a shoreland zone by the municipality.

Determining Non-Forested Freshwater Wetland Size When Working with Narrow Wetlands or Portions of Wetlands – For long, narrow, non-forested wetlands adjacent to, but not part of, a river or stream the following applies: If a wetland narrows to less than 100' for a length of 100' or more, it is effectively ended and another wetland begins where it widens to 100' or more. The municipality's shoreland zoning map should reflect the separation of these wetlands.

Measurement - The starting point for measuring the shoreland zone of a 10 acre or larger non-forested freshwater wetland that is mapped and identified in a municipal shoreland zoning ordinance is:

1. The upland edge of the wetland; or
2. The edge (transition zone) of where the wetland becomes a forested wetland.

Wetlands Adjacent to Small Ponds - If a pond is less than ten acres in size but has adjacent nonforested wetlands such that the pond and the adjacent wetlands total ten or more acres, the pond, together with the adjacent nonforested wetlands, is regulated as a freshwater wetland. The shoreland zone begins at the upland edge of the nonforested wetland. If the pond is greater than 10 acres the wetland would be considered part of the great pond (see paragraph 2 on page 1 above).

Overlapping Shoreland Zones – If a 10 acre or larger non-forested freshwater wetland that is identified in a municipal ordinance as having a shoreland zone is located close enough to a great pond, river or stream, its shoreland zone may overlap that of the great pond, river or stream. In that case, the shoreland zone extends from the edge of the great pond, river or stream to the edge of the wetland. The area of overlap would be subject to the more restrictive standards applicable to the two resources. Where there is no overlap, the standards for the relevant resource would apply.

SEPTIC & DRINKING WATER INFORMATION FOR MAINE

A Homeowner's Guide To Environmental Laws Affecting Shorefront Property in Maine's Organized Towns Maine DEP, Nov.2000 <http://www.maine.gov/dep/blwq/docstand/home.pdf>

Protection and Improvement of Waters Law

This comprehensive law regulates activities which discharge *or could potentially discharge* materials ("pollutants") into waters of the state (rivers, streams, brooks, lakes and ponds and tidal waters). This law is administered by the Maine Department of Environmental Protection (DEP). *Note: Systems that go into waters are considered "overboard discharge" in understanding the law.*

<http://www.maine.gov/dep/blwq/docstand/OBD/index.htm>

http://www.maine.gov/dep/blwq/docstand/OBD/ip_obd.htm

What is an overboard discharge?

An overboard discharge (OBD) is a discharge to surface waters of the State of domestic pollutants (sanitary wastes or wastewater from household activities generated at residential or commercial locations) that are not conveyed to municipal or quasi-municipal sewerage treatment facilities. The vast majority of OBDs in Maine are associated with residential dwellings and small commercial operations along the coast. Treated wastewater from the OBD system is discharged directly into Maine's rivers, streams and the ocean. The Department of Environmental Protection (DEP) has regulated OBDs since the 1970s when most direct discharges of untreated waste (*i.e.*, straight pipes) were banned. By the late 1980s, most of the "straight pipe" discharges were connected to municipal wastewater treatment systems or were replaced with subsurface leachfield systems. Certain properties were not within the reach of a public sewer line and did not have suitable soils for the installation of a subsurface treatment system. In these cases, OBDs were installed. There are approximately 1,300 licensed OBDs remaining in Maine as of October 2010, which is less than half the number of OBDs documented to be in existence in 1987. With advances in wastewater disposal technologies and revisions to Maine laws and rules, the number of OBDs in Maine continues to decrease each year.

Septic Information – Safe Home Program on Household Wastewater:

<http://www.maine.gov/dep/blwq/docgw/safehome/shp4.pdf> The average life of a septic system is 15 to 25 years. How long yours will last depends on many factors, including: size, amount of use, how often you pump it and what you put in the system. This booklet includes some tips for better septic system performance.