

WOODLAND BUFFER PROPOSAL 09-19-06
Revised 11-13-06

Preamble: The surface waters of the State of New Hampshire are held by the State in public trust for the benefit of residents and visitors and for the ecological services and values they provide.

The Comprehensive Shoreland Protection Act was passed in order to protect these varied natural resource and economic values. The rules regarding the NATURAL WOODLAND BUFFER portion of the Act are critical to the successful administration of the Act.

We appreciate the opportunity to suggest modifications in the NATURAL WOODLAND BUFFER section that will increase understanding and transparency of the NATURAL WOODLAND BUFFER and allow homeowners, contractors and regulators to effectively comply with the Statute and thereby effectively protect the public trust.

Our proposal continues the NATURAL WOODLAND BUFFER from the water body reference line back 150 feet from shore. We propose that the first 50 feet of this buffer is designated the **WATERFRONT BUFFER**.

The **WATERFRONT BUFFER**:

1. Proposed as the first 50 feet back from the *reference line* (edge of the water body).
2. Activities **NOT** allowed in this buffer:
 - a. **NO** chemical applications including pesticides of any kind (herbicides, insecticides, fungicides, nematicides) OR fertilizers of any kind (nitrogen, potassium, phosphorus, lime).
 - b. **NO** stump, root or rock removals
 - c. **NO** cutting of vegetation below 3 feet in height and maintenance of a natural ground cover – natural ground cover is defined as “any herbaceous plant (eg. meadow grass) or any woody seedling or shrub less than 3 feet height Ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, and stones and boulders. Ground cover shall NOT include lawns, imported organic or stone mulches, or other artificial materials.
 - d. **NO** tree cutting below a 50 point tree score in each 50 X 50 foot grid established in the WATERFRONT BUFFER. The “layout” of the 50x50 foot grid should be started at one side of the property or the other.
 - i. Tree diameters are measured at 4 ½ feet above the ground and are scored as follows:

<u>diameter</u>	<u>tree score *</u>
1 inch to 6 inches	1
greater than 6 inches to 12 inches	5
greater than 12 inches	10

*The 50 point score represents approximately 50% of the normal density of naturally occurring vegetation measured by the Woodland Buffer Committee for several different shoreland sites in New Hampshire.

- ii. If the total tree score, in any 50 X 50 foot grid, exceeds 50 points then trees may be removed as long as the total tree score for remaining trees does NOT total less than 50 points
- iii. Dead, diseased or unsafe trees, saplings or shrubs, that pose an imminent hazard to structures or have the potential for personal injury may be removed and are NOT included in the tree score point calculation..
- iv. Normal trimming, pruning and thinning of branches to protect structures, maintain clearances and provide views is permitted, providing that such trimming, pruning and thinning is done to the bottom 1/3 of the trees, saplings or other vegetation.
- v. Water dependent structures, with appropriate permits are allowed
- vi. A temporary 12 foot wide access path to the water body is allowed during construction – post-construction this access way must be re-planted
- vii. A permanent 6 foot wide meandering (configured to prevent erosion) access path to the water body is allowed
- viii. Accessory structures, without a “building envelope”, are allowed in the WATERFRONT BUFFER zone 20 feet back from the reference line to the 50 foot rear line of this WATERFRONT BUFFER
- ix. Currently developed lots as of the effective date of the *revised statute* may maintain, but NOT enlarge, cleared areas within the WATERFRONT BUFFER. Conversion to or planting of cleared areas with native species of ground cover, shrubs, saplings and trees to comply with the point system is encouraged, but not required.

The **WOODLAND BUFFER:**

1. Established as the first 150 feet back from the edge of the water body.
2. The first 50 feet of this buffer is designated the WATERFRONT BUFFER and is subject to the allowances and limitations previously described.
3. From 50 feet from the reference line to 150 feet back from the reference line, the following shall prevail:
 - a. 50 percent of the area outside the permitted impervious surfaces (as defined in the Impervious Surface Proposal) of the lot be maintained in an “undisturbed state”
 - b. “Undisturbed state” is defined as natural (native) vegetation allowed to grow without interference
4. For any tree cutting proposed in the **WOODLAND BUFFER, of trees 6 inches in diameter or greater, a PERMIT BY NOTIFICATION (PBN) is required to be**

submitted to the relevant Town.. The DES would receive a copy of the **PBN** from the Town.

Rationale: Our modifications for improvement of the Act accomplish the following:

1. Deletion of the BASAL AREA metric whose calculation was a source of confusion and misinterpretation.
2. Deletion of the 20 year time period for tree calculations as this was a source of confusion and misinterpretation..
3. The NO cutting of vegetative materials under 3 feet and of trees below the 50 point grid score in the WATERFRONT BUFFER and 50% undisturbed vegetation in the WOOLAND BUFFER adequately protect water quality while allowing homeowner discretion with regard to water access, safety, viewscape maintenance and lot design.
4. The simplifications we have proposed allow homeowners to prepare PBNs without professional assistance.
5. We further recommend that “Shoreland Exceptions” should allow for creative solutions and variations that fully meet the intentions of the Act.

Respectfully,

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Bill Smith
Bob Snelling