

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1601

H.P. 1178

House of Representatives, March 13, 2001

An Act to Authorize the Construction of Public Trails in Shoreland Areas.

Reference to the Committee on Natural Resources suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative WATSON of Farmingdale.

Be it enacted by the People of the State of Maine as follows:

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4 **Sec. 1. 38 MRSA §436-A, sub-§10-A** is enacted to read:

6 **10-A. Public pathway.** "Public pathway" means a cleared way
8 constructed for public nonmotorized recreational uses, including
10 walking, jogging, skiing and biking, and for wheelchair access,
12 approved by the municipality in which the public pathway is
14 located.

16 **Sec. 2. 38 MRSA §436-A, sub-§12,** as enacted by PL 1987, c.
18 815, §§3 and 11, is amended to read:

20 **12. Structure.** "Structure" means anything built for the
22 support, shelter or enclosure of persons, animals, goods or
24 property of any kind, together with anything constructed or
26 erected with a fixed location on or in the ground, exclusive of
28 fences and public pathways.

30 **Sec. 3. 38 MRSA §438-A, sub-§1-C** is enacted to read:

32 **1-C. Guidelines for public pathways.** The guidelines may
34 not prohibit public pathways nor allow the public pathways to be
36 treated as structures.

38 **Sec. 4. 38 MRSA §439-A, sub-§8** is enacted to read:

40 **8. Public pathways.** Notwithstanding the provisions of
42 subsections 5 and 6, a municipal ordinance providing for the
44 construction in a shoreland area of a public pathway must ensure
46 the pathway meets the following criteria:

48 **A.** An alternative location is not available that provides a
50 similar opportunity for outdoor recreation activities and
52 scenic enjoyment in close proximity to the shore of the body
54 of water; and

56 **B.** The proposed public pathway is:

58 (1) Located on a natural ground slope of less than 20
60 degrees;

62 (2) Sited so that a minimum of tree cutting is required;

64 (3) Located so that an adequate vegetation buffer is
66 maintained;

68 (4) Constructed with a minimum amount of fill to reduce
70 the impact on the flood plain;

72 (5) Sited so that there is a minimal impact on wetland
74 areas, streams, ponds or marine uses;

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(6) Limited to a width of 8 feet; and

(7) Constructed to avoid erosion and prevent runoff into an adjacent body of water.

Sec. 5. 38 MRSA §445, sub-§4 is enacted to read:

4. Public pathway. A developer of a public pathway shall demonstrate that no reasonable site for the public pathway exists less than 75 feet from the normal high-water line. When a public pathway is located within less than 75 feet from the normal high-water line, it must be sited so that it is screened from the river by existing vegetation.

SUMMARY

This bill amends the shoreland zoning ordinance guidelines to provide for the construction of public pathways for recreational public nonmotorized uses such as biking, walking and skiing so long as those pathways meet certain construction criteria.