



Questions and answers about posting under the Environmental Conservation Law.

Why allow others on your property? Most people who want to enjoy outdoor recreation are people much like you who respect property, people, and the environment. Responsible guests can help you care for the property. DEC relies on hunting as one of the tools of wildlife management. Regulated hunting and trapping help control wildlife populations to avoid diseases, unhealthy wildlife, environmental damage, crop and ornamental plant damage, and highway accidents.

About Posting

What is posting under the Environmental Conservation Law? Landowners who want to control public access to their property without personally seeing everyone who enters the property may post signs warning people to keep out. This may be done with simple *Keep Out* signs under the Penal Law, but for rural properties with many possible points of entry, a few simple posters may not be effective. Where activities such as hunting, fishing, and trapping are concerned, the Environmental Conservation Law provides more specific guidelines which make posting more effective.

How does one post property against trespass according to the Environmental Conservation Law? By placing conspicuous signs close to and along the boundaries of the area to be closed to the public.

Who may post property? The owner, lawful occupant, or other person or organization authorized by them to post. It is a violation of the Law for any person to post any sign prohibiting or limiting activities on land unless authorized to do so by the owner, lawful occupant, or other person or organization having authority to post such lands.

Must I post in order to keep people off my property? No. Trespassing is illegal even on unposted property, *unless* the property is unimproved, apparently unused and unfenced (or not otherwise enclosed to ex-

clude intruders). Even on vacant land, a written notice delivered in person (or by certified mail with a signed receipt, etc.) to any person, in the name of the landowner or authorized party, containing a description of the premises and a warning of the restrictions which apply has the same effect, for that person, as if the lands were posted with those restrictions. Likewise anyone asked to leave the premises (posted or not) by the landowner, occupant, or other authorized person must do so immediately.

What is the effect of posting pursuant to the Environmental Conservation Law? All persons are prohibited from entering, remaining unlawfully, or engaging in any activity which has been prohibited by the terms of the posting or written notice.

About Posted Signs

Must the signs be a specific size? Notices must be a minimum of 11 inches by 11 inches.

How many signs must be used in posting lands and how close together must they be set? At least one sign must be set on each side of the protected area and on each side of each corner provided that the corner can be reasonably identified. Signs shall be posted not more than 660 feet apart close to or along the boundaries of the protected area. Since the signs must be conspicuous, they should be high enough, and spaced closely enough to be seen.

However, please don't turn your property into an eyesore by using more signs than are necessary.

Is there any particular wording that must be used? Signs must bear the name and address of the owner, lawful occupant, or other person or organization authorized to post the protected area. The sign must bear a conspicuous statement which shall either consist of the word POSTED or warn against entry for specified purposes or all purposes without the consent of the person who appears on the sign. These words must cover a minimum space of 80 square inches (about 9" x 9") of the sign.

How frequently must signs be maintained? Illegible or missing signs must be replaced at least once a year.

Does the DEC provide signs for posting private lands? No. Only if the owner is a co-operator under the Fish and Wildlife Management Act does the Department provide *Safety Zone* signs. Cooperators agree to provide free public access to most of their property in large cooperative hunting/fishing areas.

Where can I get signs to post my property? Hardware and farm supply stores frequently carry signs. Customized signs may be obtained from local print shops.



Minimum size: 11x11 inches.
Placement: 660 feet apart (maximum), on each side and corner of the protected area.

Making Exceptions for Use

May only part of the property be posted against trespass? Yes.

May the property be posted against some activities but not others? Yes, by having the wording on the signs indicate which activities are allowed or prohibited.

When lands and waters are posted under the Environmental Conservation Law, are they posted against all forms of trespass or only hunting, trapping, and fishing? They are posted against all forms of trespass unless otherwise specified on the poster.

Is it legal to hunt, fish, or trap adjacent to posted property? Yes.

May a hunter who has wounded game pursue it onto posted property? Only if permission has been granted by the posting party.

Is written permission from the person posting necessary? No, but written permission bars prosecution of trespass. Some land-

landowner's convenience, the Department provides, free of charge, small *ASK permission stickers* which can be attached to posted signs to provide a visual indicator that permission for access may be granted.

May a person travel in a boat or canoe on a waterway which is posted? Yes, but travel may not include fishing. A person in a vessel has a right of passage on a navigable waterway, even if the bed of the waterway is privately-owned and is posted. A waterway is navigable if it is capable, in its natural state and ordinary volume of water, of transporting, in a condition fit for market, floating logs or manufactured or agricultural goods to market. A navigable waterway need not be navigable in both directions, nor need it be navigable 12 months of the year.

Furthermore, a waterway's navigability is not destroyed by rapids or other temporary obstacles so long as the rest of the waterway is otherwise navigable. Where such obstacles exist, the right to public navigation authorizes a boater to get out of the vessel and walk alongside the boat to get around such obstacles, or to portage around such obstacles, even over private property above the mean high water mark, so long as the portage is by the most direct, least intrusive, safest route possible.

The right to navigation does not otherwise authorize the public to go on private land above the mean high water mark, even for access to or egress from a navigable waterway. A 1997 ruling of the New York Court of Appeals indicates that the public right to navigation does *not* include the right to walk on the bed of a waterway to fish, or to anchor for the purpose of fishing where the bed of the waterway is privately-owned, or to fish while navigating through privately-owned waters.

Money and Liability

Is posting required to protect landowners from liability suits? No. Whether the property is posted or not, the General Obligations Law protects landowners from liability for

non-paying recreationists on their property. Recreational activities covered include: hunting; fishing; boating; canoeing; trapping; hiking; sledding; speleological (caving) activities; organized gleaning (picking); tobogganing; horseback riding; bicycle riding; cross-country skiing; hang gliding; motorized vehicle operation for recreation; snowmobiling; non-commercial wood cutting or gathering; and dog training. This protection does not apply in cases of willful or malicious failure to guard or warn against dangers.

May the owner or lessee of posted lands or waters charge for the privilege of hunting, fishing, or trapping on the posted property? Yes, but charging for access removes the liability protection granted to landowners by the General Obligations Law.

Enforcement

Is it an offense to trespass on areas posted against trespass pursuant to the Environmental Conservation Law? Yes, it is a violation, punishable by a fine up to \$250 and/or up to 15 days in jail.

Is it illegal to tear down someone else's posted signs? A person who damages property, posted signs, livestock or other property while hunting, fishing, or trapping can be assessed damages, as determined by the court, in addition to the penalties described above.

How should the owner or lessee of posted property go about prosecuting a person for trespass? If the trespass is witnessed, write down as much information as possible to assist the police in identifying the person, then contact an Environmental Conservation Officer or any other police officer for assistance. Conservation Officers make arrests for, and prosecute, trespass, particularly if it relates to hunting, fishing, trapping, or disturbing wildlife.

For more information, contact your nearest DEC regional office, visit our website at <http://www.dec.state.ny.us>, or write to:

NYSDEC, 625 Broadway
Albany, NY 12233-4754

LANDOWNER PERMISSION RECORD
LANDOWNER COPY

Permission given to _____
Address _____

Vehicle Make _____ Yr. _____ Color _____
Vehicle Lic. No. _____ No. in party _____
Other License, tag no. _____
Permission Dates: from _____ to _____
Limitations _____
Card provided by New York State Dept. of Environmental Conservation

VISITOR COPY - NOT TRANSFERABLE

I request permission to enter your property for the following purpose:

Dates: from _____ to _____
Limitations _____
Landowner's Name _____
Address _____

Outdoor recreation on private property is a privilege, NOT A RIGHT.

owners write simple notes or make home-made forms. The Department also furnishes blank forms, free of charge, that landowners may use to grant permission.

If I post, can I give permission to some people to use the property? Yes. Permission may be granted to specific individuals. For the