

§ 235-17. Wetlands Conservation and Water Quality (WC) Overlay District.

- A. Authority. The WC Overlay District is established in accordance with the provisions of RSA 674:21, Innovative Land Use Controls and is considered to be an innovative land use control. Within the WC District, the Planning Board is authorized to administer and grant conditional use permits for certain types of development. **[Amended 5-22-2000 by Ord. No. 05.2000.05]**
- B. Purpose and intent. The purpose of this chapter, in the interest of public health, safety and general welfare, is to protect and regulate the land adjacent to water bodies, the use of wetlands and their buffer areas, as defined herein. The intent of this chapter is to: **[Amended 5-22-2000 by Ord. No. 05.2000.05]**
- (1) Ensure the protection of water wetland resources and vernal pools from activities that would adversely affect their functions and values to: **[Amended 10-14-2008 by Ord. No. 07.2008.07]**
- (a) Prevent or minimize soil erosion and sedimentation of surface waters and wetlands.
 - (b) Prevent the loss of fish and wildlife habitat.
 - (c) Prevent the degradation of surface and ground water quality and quantity.
 - (d) Prevent the loss or degradation of representative and rare examples of wetland plants and animals.
 - (e) Prevent the loss or degradation of valuable wetland systems and surface waters for education and research in natural sciences.
 - (f) Prevent damage of property and degradation of surface and ground waters by maintaining the capacity of wetlands in the watershed to store floodwaters and manage stormwater.
 - (g) Prevent the loss or degradation of a diversity of recreational benefits such as hunting, fishing, canoeing, bird watching and hiking.
 - (h) Prevent the loss of the visual and aesthetic qualities of wetlands including their contribution to open space, character and overall scenic beauty of the landscape.

- (2) Ensure the protection of wetland and waterbody buffer areas from activities that would adversely affect their ability to protect wetlands from degradation to:
 - (a) Prevent erosion and sedimentation by stabilizing soil.
 - (b) Moderate the effects of stormwater runoff by filtering sediment, nutrients and harmful or toxic substances, and moderating thermal discharges.
 - (c) Protect and maintain wildlife habitat.
 - (d) Support and protect wetland plant species.
 - (e) Reduce the disturbances to wetland resources caused by intrusion of human activity.
 - (3) Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of the destruction or degradation of wetlands and the loss of water quality.
- C. Establishment of the WC District.
- (1) The WC District shall consist of all lands which meet the definition of wetlands, as specified in Article II, and wetland waterbody buffers as designated in this section, and vernal pools as defined in Article II. **[Amended 5-22-2000 by Ord. No. 05.2000.05; 10-14-2008 by Ord. No. 07.2008.07]**
 - (2) The WC District shall be superimposed upon other zoning districts in this chapter, and the regulations pertaining to the WC District shall be in addition to the regulations of the underlying districts and other City ordinances and regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
 - (3) Wetlands and vernal pools shall be delineated by a certified soil scientist as licensed by the State of New Hampshire. **[Amended 10-14-2008 by Ord. No. 07.2008.07]**
- D. Wetland and vernal pool buffers. **[Amended 10-14-2008 by Ord. No. 07.2008.07]**
- (1) Wetland buffer areas shall be defined as all land lying:

- (a) Within 100 feet outside the boundary of any prime wetland.
 - (b) Within 75 feet outside the boundary of any non-prime wetland contiguous to public waters and including the following brooks: Durkee Brook, Jewett Brook, Black Brook, Langley Brook, Mellinger Brook and unnamed brooks designated A through I on the Official Zoning Map.
 - (c) Within 50 feet outside the boundary of any other wetland.
- (2) Wetland buffer maintenance. Wetland buffers shall be retained and maintained in their natural condition. Where wetland buffer disturbance is permitted pursuant to this chapter, revegetation of the disturbed area is required.
 - (3) Vernal pool buffers. Vernal pool buffer areas shall be defined as all land lying within 100 feet outside the boundary of any vernal pool.
 - (4) Vernal pool buffer maintenance. Vernal pool buffers shall be retained and maintained in their natural condition. Where vernal pool buffer disturbance is permitted pursuant to this chapter, revegetation of the disturbed area is required.
- E. Waterbody buffers. Waterbody buffers shall be retained and maintained in their natural condition. Where waterbody buffer disturbance is permitted pursuant to this chapter, revegetation of the disturbed area is required to the greatest extent possible. Waterbody buffers are defined as all land lying: **[Added 5-22-2000 by Ord. No. 05.2000.05¹]**
- (1) Within 75 feet of the following brooks: Durkee Brook, Jewett Brook, Black Brook, Langley Brook, Mellinger Brook and unnamed brooks designated A through I on the Official Zoning Map. **[Amended 10-14-2008 by Ord. No. 07.2008.07; 8-13-2012 by Ord. No. 10.2012.10]**
 - (2) Within 30 feet from the top of bank on both sides of intermittent and perennial streams. These streams are shown on and will correspond to the latest version of the United States Geological Survey Map. **[Added 6-25-2018 by Ord. No. 2018-235-17-01²]**

1. Editor's Note: This ordinance also redesignated former Subsections E through I as Subsections F through J, respectively.

2. Editor's Note: This ordinance also redesignated former Subsection E(2) as Subsection E(3).

(3) Exceptions. Buffers on property with shoreline frontage on the Winnepesaukee River from the Messer Street Bridge to the river's entrance to Lake Winnisquam may be reduced to 15 feet, provided that a conditional use permit is granted and the following standards from Subsection I(2)(a), (c), (e), (f), (g) and (h). Standards for the granting a conditional use permit, are met. The applicant shall further demonstrate that the overall development of the site improves the current water quality of stormwater discharge. **[Amended 8-26-2019 by Ord. No. 2019-235]**

F. Permitted uses (exempt from Planning Board approval). The following uses are permitted in all wetlands and wetland and waterbody buffers, provided that they will not require the erection or construction of a building or structure; they will not require recontouring or grading of the land; no draining, dredging, filling or change in the flow of water will result; and the activity will not result in the pollution of wetlands and surface and ground waters. **[Amended 5-22-2000 by Ord. No. 05.2000.05; 8-13-2001 by Ord. No. 05.2001.05]**

(1) Logging operations which:

(a) Utilize best management practices as described in Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire; and

(b) Comply with all applicable state laws including obtaining and filing an intent-to-cut form according to RSA 79:10, and filing a complete Notification of Forest Management Activities Having Minimum Wetlands Impact according to RSA 482-A:3, or obtaining a State Wetlands Board permit according to RSA 482-A.

(2) Agricultural activities and operations as defined in RSA 21:34-a, Farm, Agriculture and Farming, and as governed by RSA 430 provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the New Hampshire Department of Agriculture, and UNH Cooperative Extension.

(3) Outdoor recreational activities including hunting, hiking, fishing, swimming and boating.

(4) Wildlife or fisheries management activities.

- (5) Educational activities and scientific research.
 - (6) Activities incidental to ordinary residential use such as normal ground maintenance including mowing, trimming of vegetation and removal of dead or diseased vegetation around a residence. This shall not include the regrading or recontouring of land or the clearing of vegetation.
 - (7) Alterations for access to a lot for single-family residential use, provided that a permit is obtained for such purpose from the State of New Hampshire Wetlands Board.
- G. Prohibited uses. Uses which are prohibited in the WC District include the following:
- (1) The establishment or expansion of:
 - (a) Salt storage sheds.
 - (b) Junkyards, resource recovery facilities, transfer stations or landfills.
 - (c) Solid or hazardous waste facilities.
 - (2) The bulk storage of chemicals, petroleum products or toxic and hazardous materials.
 - (3) The dumping or disposal of snow and ice collected from roadways and parking areas.
- H. Uses requiring a conditional use permit. A conditional use permit is required for the following uses in the WC District:
- (1) Activities that alter or remove soils or vegetation including clearing, dredging, draining or filling.
 - (2) Activities which alter the natural drainage system resulting in a change in the flow of water, water level or water table.
 - (3) Water impoundments for the purpose of creating a waterbody for wildlife, on-site detention of stormwater runoff and/or for recreational uses.
 - (4) The undertaking of a use not otherwise permitted in the WC District that is permitted in the underlying zoning district, if it can be shown that such proposed use is not in conflict with any and all of the purposes of the WC District.
- I. Standards for granting of a conditional use permit.

- (1) An application for a conditional use permit in the WC District shall be filed with the Planning Board pursuant to Article XII, Conditional Use Permits. The Planning Board shall refer the application to the Conservation Commission for review and comment through the plan review committee process. In acting on the application, the Board shall consider any report received from the Commission. **[Amended 8-13-2001 by Ord. No. 05.2001.05]**
- (2) In addition to the requirements of Article XII, the applicant shall provide adequate documentation in order for the Planning Board to make a finding that the proposed use or activity meets the following standards:
 - (a) The proposed activity or use is consistent with the purposes of the WC District.
 - (b) The proposed activity minimizes the degradation to or loss of wetlands, wetland buffers, vernal pools and vernal pool buffers and minimizes any adverse impact to the functions and values of wetlands, wetland buffers, vernal pools and vernal pool buffers as determined by a wetlands evaluation in accordance with the New Hampshire Method, New Hampshire authored by the Audubon Society, as amended. **[Amended 10-14-2008 by Ord. No. 07.2008.07]**
 - (c) The proposed activity minimizes the environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources.
 - (d) The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland and/or its buffer area.
 - (e) Federal and/or state permit(s) have been received for the proposed activity in accordance with Wetlands Board Rules (N.H. Adm. Rules Wt 100-800), the State Programmatic General Permit and the Army Corps of Engineers Section 404 Permit.
 - (f) Where applicable, proof of compliance with all other state and/or federal regulations has been received.
 - (g) The proposed activity, when being considered, whether concurrently with subdivision or site plan applications or

not, shall take into account future development requirements or possibilities pertinent to the land under consideration and shall reasonably provide therefor. Lots shall be designed to minimize future alterations to wetlands and wetland buffers. **[Added 10-14-1997 by Ord. No. 10.97.10]**

(h) The activity has been designed using the New Hampshire Department of Environmental Services, the USDA - Soil Conservation Service and the Rockingham County Conservation District, Stormwater Management and Erosion and Sediment Control, A Handbook for Urban and Developing Areas in New Hampshire, August 1992, as may be amended and New Hampshire Department of Environmental Services Water Supply and Pollution Control Division Best Management Practices for Urban Stormwater Runoff, January 1996, as may be amended. **[Added 5-22-2000 by Ord. No. 05.2000.05]**

(3) The Planning Board, in acting on an application for a conditional use permit in the WC District, may attach conditions to its approval, including but not limited to requirements such as more extensive buffers, additional plantings in areas to be revegetated, an increase in the proposed amount of green space and the like. When such additional conditions are imposed, the Planning Board shall be governed by the standards as set forth in Subsection I(2) above. **[Amended 5-22-2000 by Ord. No. 05.2000.05]**

J. Subsurface disposal systems. The following conditions, based on characteristics of the receiving soil as they relate to United States Department of Agriculture, Soil Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(1) Where the receiving soil downgradient of the leaching portions of the septic system is a porous sand and gravel material with a percolation rate faster than two minutes per inch, the setback shall be at least 125 feet from a wetland.

(2) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from a wetland.

(3) For all other soil conditions, the setback shall be at least 75 feet from a wetland.

§ 235-19. Shoreland Protection (SP) District.

- A. Authority. The SP District is established in accordance with the provisions of RSA 483-B:8, Shoreland Protection Act, Municipal Authority.
- B. Purpose and intent. The purpose of the SP District is to establish standard for the use and development of shorelands adjacent to public waters, as defined herein. The intent of this chapter is to minimize the degradation of shorelands, protect water quality, and assure the retention of benefits provided by such shorelands, including but not necessarily limited to: **[Amended 8-13-2012 by Ord. No. 09.2012.09]**
- (1) Maintenance of safe and healthy conditions.
 - (2) Prevention and/or control of water pollution.
 - (3) Protection of fish, bird and wildlife habitat.
 - (4) Reduction or elimination of flooding and accelerated erosion.
 - (5) Protection of wetlands and their important natural functions.
 - (6) Maintenance of water quantity and related stream flows during low flow periods.
 - (7) Protection of shoreland cover as a means of maintaining water quality.
 - (8) The conservation and protection of natural beauty and the scenic qualities which are critical attributes of the City of Laconia.
 - (9) Protection of the economic benefits that the natural beauty and the scenic qualities shoreland cover provide to tourism.
- C. Establishment of the SP District. The SP District shall include all land within 250 feet of the reference line of public waters as listed below. The SP District shall be superimposed upon other zoning districts in this chapter, and the regulations pertaining to the SP District shall be in addition to the regulations of the underlying districts and other City ordinances and regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control, except where specifically exempted. The SP District is established in the following areas: **[Amended 10-14-1997 by Ord. No. 10.97.10]**

- (1) Lake Winnepesaukee from the Meredith Town line southeasterly to the intersection of Lakeside Avenue and Centenary Avenue and from the Gilford Town line westerly to the Commercial Resort District boundary line;
 - (2) The westerly side of Paugus Bay from Hilliard Road at Moultons Cove, southerly to the railroad crossing of School Street;
 - (3) The easterly side of Paugus Bay from the boundary line shared by Tax Lots Nos. 75-248-2 and 74-248-4 southerly to the boundary line shared by Tax Lot Nos. 62-23-4 and 62-248-6 at the intersection of Weirs Boulevard, White Oaks Road and Lake Street;
 - (4) Lake Opechee from a point on a southwesterly projection of the center line of Fairmont Street, northwesterly to the most northerly point of the lake and continuing southeasterly to the Messer Street Bridge;
 - (5) The entire shoreline of Pickerel Pond; and
 - (6) Winnisquam Lake from the Meredith Town line, southeasterly to a point on a southwesterly projection of the center line of Fenton Street.
- D. Prohibited uses. The following uses, whether as defined in this chapter or as the terms are commonly understood, are prohibited in the SP District: **[Amended 10-14-1997 by Ord. No. 10.97.10]**
- (1) Establishment or expansion of salt storage sheds, junkyards and solid or hazardous waste facilities.
 - (2) Use of fertilizer, particularly those containing phosphorus, with the following exceptions: **[Amended 8-13-2012 by Ord. No. 09.2012.09]**
 - (a) Use of lime and/or wood ash; or
 - (b) In conjunction with agricultural activities and operations.
 - (3) Bulk storage of chemical fertilizer, pesticides and herbicides. **[Amended 8-13-2012 by Ord. No. 09.2012.09]**
 - (a) The use and application of pesticides and herbicides.
 - (4) Bulk storage of petroleum products or hazardous materials.

- (5) Sand and gravel excavations as defined in RSA 155-E, Local Regulation, Excavation.
- (6) Processing of excavated materials.
- (7) Dumping or disposal of snow and ice collected from roadways or parking areas outside the district.
- (8) Car washing facilities.
- (9) Auto repair and body shops.
- (10) Chemical and bacteriological laboratories.
- (11) Commercial painting, wood preserving and furniture stripping.
- (12) Dry cleaning.
- (13) Electronic circuit assembly.
- (14) Laundromats unless connected to a municipal sewer system.
- (15) Metal plating.
- (16) Photographic processing.
- (17) Printing.
- (18) Invasive species as listed under New Hampshire DES banned invasive species list. **[Added 8-13-2012 by Ord. No. 09.2012.09]**
- (19) The definition of "hazardous waste" as defined by the United States Environmental Protection Agency: "Hazardous waste is waste that is dangerous or potentially harmful to our health or the environment. Hazardous wastes can be liquids, solids, gases, or sludges. They can be discarded commercial products, like cleaning fluids or pesticides, or the by-products of manufacturing processes." (See <http://www.epa.gov/osw/hazard> for a more detailed list.) **[Added 8-13-2012 by Ord. No. 09.2012.09]**

E. Subsurface waste disposal systems.

- (1) The minimum lot size for new lots in areas not served by municipal sewer shall be as follows:
 - (a) Where the lot is served by a municipal water system, the minimum lot size shall be one acre, or as determined by the New Hampshire Department of Environmental

Services (NHDES), Division of Water Supply and Pollution Control, whichever is the larger; or

(b) Where a municipal water system is not available to serve the lot, the minimum lot size shall be two acres, or as determined by the NHDES, Division of Water Supply and Pollution Control, whichever is the larger.

(2) All new lots created within the protected shoreland that are not served by a municipal sewer system are subject to subdivision approval by the New Hampshire Department of Environmental Services in accordance with the Division of Water Supply and Pollution Control publication Subdivision and Individual Disposal System Design Rules, Env-Ws 1000.

(3) All subsurface waste disposal systems must be designed and installed in accordance with the NHDES, Division of Water Supply and Pollution Control, publication Subdivision and Individual Sewage Disposal System Design Rules, Env-Ws 1000.

(4) The following conditions, based on the characteristics of the receiving soil as they relate to United States Department of Agriculture Natural Resource Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(a) Adjacent to freshwater bodies:

[1] Where the receiving soil downgradient of the leaching portions of the septic system is porous sand and gravel material with a percolation rate faster than two minutes per inch, the setback shall be at least 125 feet from the reference line.

[2] For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line.

[3] For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(b) Adjacent to rivers, the setback shall be at least 75 feet from the reference line.

F. Minimum requirements within specified areas of the SP District.

(1) Vegetative buffer requirements.

- (a) Whenever property is developed or redeveloped, a vegetative buffer shall be maintained or established within 50 feet of the reference line. We recommend that this buffer be composed of a variety of native and/or noninvasive species. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a natural tree canopy and understory, preserving fish, bird and wildlife habitat and respecting the overall natural conditions of the protected shoreland. **[Amended 8-13-2012 by Ord. No. 09.2012.09]**
- (b) Within this area, dead, diseased, unsafe, noxious or fallen trees or saplings may be removed, provided that dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved.
- (c) Within the vegetative buffer, the following shall apply:
- [1] The existing natural shoreline shall not be disturbed except in compliance with all local, state (New Hampshire Wetlands Board New Hampshire Code of Administrative Rules Wt. 100-800) and federal regulations.
- [2] Existing trees of less than four inches in diameter measured at 4.5 feet above the ground may be removed, and larger trees may be pruned, provided that a well-distributed stand of trees is maintained and that disturbance of the soil and forest floor is minimized.
- (d) If invasive species as listed under New Hampshire DES banned invasive species list are encountered within the construction area, they must be made not viable and properly disposed of. **[Added 8-13-2012 by Ord. No. 09.2012.09]**
- (2) Development standards.
- (a) New lots; cluster development. **[Amended 10-14-1997 by Ord. No. 10.97.10]**
- [1] New lots in conventional subdivisions shall have a minimum shoreland frontage of 150 feet.

- [2] Cluster developments which grant exclusive shorefront access to dwelling units shall have a minimum average of 150 feet of shoreline per dwelling unit granted exclusive access rights.
- [3] Cluster developments which provide shared shorefront access shall meet the requirements for § 235-41G, Common beach lot.
- (b) New primary structures and additions to existing structures shall be set back at least 50 feet from the reference line of public waters, provided that no disturbance of the vegetative buffer area occurs within 50 feet of the reference line and that any disturbance within 50 feet of the reference line is revegetated with a variety of native and/or noninvasive species and stabilized. **[Amended 10-14-1997 by Ord. No. 10.97.10; 8-13-2012 by Ord. No. 09.2012.09]**
- (c) No primary structure or additions thereto shall exceed 35 feet in height. **[Amended 10-14-1997 by Ord. No. 10.97.10]**
- (d) Total green space shall be no less than 70% of a lot. Within cluster developments, total green space shall be no less than 70% of the total development area utilized to calculate unit density. **[Amended 10-14-1997 by Ord. No. 10.97.10]**
- (e) Roads and/or driveways shall be set back at least 50 feet from the reference line and shall be designed to minimize disturbance to existing natural vegetation and topography, except for bridges and bridge approaches and access ways for fire-fighting equipment.
- (f) Water-dependent uses and structures, including but not necessarily limited to boathouses, beaches, docks and moorings, are permitted subject to receipt of a federal and/or state permit(s) in accordance with Wetlands Board Rules (New Hampshire Adm. Rules Wt 100-800), the State Programmatic General Permit and the Army Corps of Engineers Section 404 Permit, and any other applicable state and/or federal regulations.
- (3) Common beaches. Standards and provisions relating to shorefront lots which are intended for common access by non-shoreland property owners, within a development or

subdivision which owns or has control over the common land, are addressed in Article VI, Supplementary Provisions.

- (4) Nonconforming lots of record. The use of nonconforming lots of record within the SP District is addressed in Article X, Nonconforming Lots, Uses and Structures.
- (5) Additional requirements for a building permit in the SP District. Application materials for a building permit in the SP District shall include the following:
 - (a) Photographs of the lot that display the extent of the existing vegetative buffer.
 - (b) A sketch plan that indicates the location and extent of existing stands of trees, shrub groups, grassed areas, exposed soil, and rock outcrop.
 - (c) A sketch plan indicating existing and proposed buildings, green space, septic systems and areas of disturbance.
 - (d) Include a sketch and photographs of the location of invasive milfoil in and around any docking structures. **[Added 8-13-2012 by Ord. No. 09.2012.09]**
- (6) No stumps can be removed within 50 feet of the shoreline, although they can be ground down. **[Added 8-13-2012 by Ord. No. 09.2012.09]**