

CITY OF LACONIA

In the year of our Lord two thousand and twenty-one

**AN ORDINANCE AMENDING CHAPTER 235, ZONING, TO UPDATE SECTIONS 13, 17, AND 19, MAKING AMENDMENTS RELATED TO VARIOUS ASPECTS OF WETLAND AND WETLAND BUFFER REGULATIONS**

The City of Laconia ordains:

That the Ordinances of the City of Laconia, as amended, be and are further amended in Chapter 235-13, 17, and 19 as follows:

Strikethrough denotes deletion, bold denotes additions.

**235-13 Definitions**

**CERTIFIED WETLAND SCIENTIST**

**A person who, by reason of special knowledge acquired by professional education and practical experience, as specified by RSA 310-A:84, is qualified to practice wetland science and who has been duly certified by the State of New Hampshire.<sup>[3]</sup>**

**REFERENCE LINE**

~~For natural freshwater bodies without artificial impoundments, the ordinary high-water mark; for artificially impounded water bodies, the waterline at full pond as determined by the elevation of the top of the impoundment structure.~~

**Per RSA 483-B, for all lakes, ponds, and artificial impoundments greater than 10 acres in size, the surface elevation as listed in the Consolidated List of Water Bodies subject to the shoreland water quality protection act as maintained by NHDES. For rivers, the ordinary high-water mark.**

**SURFACE, IMPERVIOUS**

**Any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs, and unless designed to effectively absorb or infiltrate water, decks, patios; and paved, gravel, or crushed stone driveways, parking areas, and walkways.**

**SURFACE, PERVIOUS**

**Surfaces that allow for the penetration of runoff through the surface into underlying soils. Examples of pervious surfaces include, but are not limited to, pervious pavers, pervious asphalt, vegetated lawn, garden beds, and other surfaces specifically designed to absorb stormwater runoff.**

**STREAM, INTERMITTENT**

**A watercourse that is fed by groundwater but is not in the groundwater table throughout the year, where runoff from rainfall and snowmelt is a supplemental source of water for flow, such that the stream typically does not have flowing water during dry portions of the year.**

**STREAM, PERENNIAL**

**A watercourse that is in the groundwater table for most of the year and so has groundwater as a primary source of water for stream flow, with runoff from rainfall and snowmelt as a supplemental source of water, so that it contains flowing water year-round during a typical year.**

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

### 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, **except those listed as exempted under 235-17.E.(3).**

(3) Wetlands and vernal pools shall be delineated by a Certified ~~soil~~ **Wetland** Scientist as licensed by the State of New Hampshire.

### D. Verification of Wetland Boundaries

**(1) Where maps or field investigation indicate that a wetland may be present on a proposed development site, the City of Laconia may require the applicant provide a professional wetland determination and delineation. The method of delineation shall be consistent with the current methodology adopted by the NH Department of Environmental Services.**

**(2) Where the presence of a wetland has been identified, the boundaries of the wetland shall be clearly marked on the site with flagging along the wetland perimeter.**

**(3) When it is alleged, an area has been incorrectly delineated as a wetland, or an area not so designated meets criteria for wetlands designation, the Planning Board shall render a decision only upon the determination by a Certified Wetland Scientist, on the basis of additional on-site investigation or other suitable research that the information contained on the wetlands map is incorrect. This evidence shall be accepted only when presented in written form by said scientist to the Planning Board. Any necessary surveying, delineation, or soil testing procedures shall be conducted at the expense of the landowner or developer. Prior to ruling on this, the Planning Board shall request Conservation Commission review and comment on the reclassification.**

### E. Wetland, waterbody, and vernal pool buffers.

(1) Wetland, **waterbody, and vernal pool** buffer areas **shall be established as specified in the Buffer Table below**, and 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 or brook contiguous to public waters and including the following named 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, **not classified as exempt under 235-17.E(3).**

(d) ~~Vernal pool buffers.~~ Vernal pool buffers shall be defined as all land lying within 100 feet outside the boundary of any vernal pool.

(e) 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.

(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 **may be** required. **Disturbing the buffer without prior permit approval may subject you to violations and penalties per City Ordinance 235-82.**

**(3) Exemptions to wetland and waterbody buffers. Vernal pools are nonexempt.**

(a) Wetlands less than 3,000 square feet in their entirety, unless contiguous to a river, brook, lake or pond. The wetland must be delineated and documented in a wetland delineation report by a Certified Wetland Scientist. Documentation must include the total square footage of the wetland system that would be impacted and may require a map.

(b) Man-made sedimentation/detention basins, ditches/swales, active agricultural/irrigation ponds, fire ponds, roadside drainage ditches or other stormwater management devices, for which there is no prior wetland or stream history. Man-made stormwater devices intentionally designed as wetland habitat are nonexempt. ~~The applicant will need to provide documentation that proves the wetland is manmade. Routine activities must be undertaken at a sufficient frequency that the structure being maintained remains intact and functional for its intended purpose. in a way to prevent it from becoming wetland habitat (i.e. having hydric soils, hydric vegetation, and hydrology) with riprap, mowing, etc.~~

(c) ~~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 1(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.

**(4) In the event two buffer requirements conflict with each other, the more restrictive shall apply.**

**Buffer Table**

Water Source	Buffer Setback
Designated Prime Wetland*	100'
Brook or Stream Contiguous to Public Waters	75'
Wetland	50'
Exempt Wetland	N/A
Vernal Pool	100'
Intermittent or Perennial Stream	30'

*\*The City of Laconia has no designated prime wetlands as of 10/23/2020.*

E. Waterbody buffers:

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.

(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. **Stumps shall remain in place but can be ground down to existing grade.** This shall not include the regrading or recontouring of land or the clearing of vegetation.

G. Prohibited uses. Uses which are prohibited in the WC District include the following:

**(4) Portable toilets must be at least 33 feet from all wetlands and waterbodies under all circumstances. If a portable toilet will be used during construction of the project, its temporary location must be indicated on the plans submitted for review and approval.**

**(5) Newly established or expanded activity that results in the compaction of soils such as parking or storage of vehicles or equipment.**

**(6) Storage of fill and/or construction materials.**

**(7) Dumping or burial of construction and demolition (C&D) debris, such as waste concrete, cement, brick, asphalt, and other inert masonry materials. C&D debris is required to be disposed of at an authorized facility.**

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.~~

**(1) The removal of vegetation, the recontouring or grading of the land, construction of structures, or the placement of impervious surfaces.**

## **235-19 Shoreland Protection (SP) District**

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.

**(20) Portable toilets must be at least 33 feet from all wetlands and waterbodies under all circumstances. If a portable toilet will be used during construction of the project, its temporary location must be indicated on the plans submitted for review and approval.**

**(21) Dumping or burial of construction and demolition (C&D) debris, such as waste concrete, cement, brick, asphalt, and other inert masonry materials. C&D debris is required to be disposed of at an authorized facility.**

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

(1) ~~Vegetative~~ **Waterfront** buffer requirements.

~~(a) Whenever property is developed or redeveloped, a~~ **Establishment of the Waterfront Buffer.**  
~~vegetative~~ **The waterfront** buffer ~~is~~ shall be maintained or established within 50 feet of the reference line **of the public waters listed in 235-19.C.** ~~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.

~~(c) Within the vegetative buffer, the following shall apply:~~

~~[1]~~ **(c)** The existing natural shoreline, **vegetation, and soil** 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.

~~(6)~~ **(d)** No stumps can be removed ~~within 50 feet of the shoreline~~, although they can be ground down **to existing topographical grade.**

(2) Development standards.

(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 stabilize~~

**(g) Impervious structures and surfaces must be set back at least fifty feet from the reference line. This includes but is not limited to patios, firepits, sheds, retaining walls four feet in height or greater, etc., unless they are designed to be pervious.**

~~(1)(d)~~ **(h)** 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.

**(6) Any and all work must be conducted in compliance with local, state, and federal regulations.**

These amendments shall take effect upon its passage.

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Andrew Hosmer, Mayor

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Cheryl Hebert, City Clerk