

**§ 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, except those listed as exempted under § 235-17E(3). **[Amended 5-22-2000 by Ord. No. 05.2000.05; 10-14-2008 by Ord. No. 07.2008.07; 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**
  - (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 wetland scientist as licensed by the State of New Hampshire. **[Amended 10-14-2008 by Ord. No. 07.2008.07; 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**
- D. Verification of wetland boundaries. **[Added 5-24-2021 by Ord. No. 2021-235-13, 17, 19<sup>1</sup>]**
- (1) Where maps or field investigation indicate that a wetland may be present on a proposed development site, the City of Laconia may require that the applicant provide a professional wetland determination and delineation. The method of delineation shall be consistent with the current methodology adopted by the New Hampshire 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

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1. Editor's Note: This ordinance also redesignated former Subsection D as Subsection E. In addition, this ordinance repealed former Subsection E, Waterbody buffers, added 5-22-2000 by Ord. No. 05.2000.05, as amended 10-14-2008 by Ord. No. 07.2008.07; 8-13-2012 by Ord. No. 10.2012.10; 6-25-2018 by Ord. No. 2018-235-17-01; and 8-26-2019 by Ord. No. 2019-235.

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, water body, and vernal pool buffers. [Amended 10-14-2008 by Ord. No. 07.2008.07; 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**

- (1) Wetland, water body, 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 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, not classified as exempt under § 235-17E(3).
  - (d) Vernal pool buffer areas 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) Buffers shall be retained in their natural condition. Where buffer disturbance is permitted pursuant to this chapter, revegetation of the disturbed area may be required. Disturbing the buffer without prior permit approval may subject you to violations and penalties per § 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. Routine activities must be undertaken at a sufficient frequency that the structure being maintained remains intact and functional for its intended purpose.

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

<b>Buffer Table</b>	
<b>Water Source</b>	<b>Buffer Setback (feet)</b>
Designated prime wetland <sup>1</sup>	100
Brook or stream contiguous to public waters	75
Wetland	50
Exempt wetland	N/A
Vernal pool	100
Intermittent or perennial stream	30

NOTE:

<sup>1</sup> The City of Laconia has no designated prime wetlands as of October 23, 2020.

- 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. 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. **[Amended 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**
  - (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.
  - (4) Portable toilets must be at least 33 feet from all wetlands and water bodies 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. **[Added 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**
  - (5) Newly established or expanded activity that results in the compaction of soils, such as parking or storage of vehicles or equipment. **[Added 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**
  - (6) Storage of fill and/or construction materials. **[Added 5-24-2021 by Ord. No.**

**2021-235-13, 17, 19]**

- (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. **[Added 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**
- H. Uses requiring a conditional use permit. A conditional use permit is required for the following uses in the WC District:
- (1) The removal of vegetation, the recontouring or grading of the land, construction of structures, or the placement of impervious surfaces. **[Amended 5-24-2021 by Ord. No. 2021-235-13, 17, 19]**
  - (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.