

Proposed Amendment No. 6

Would add New Section, Article XII

(with adoption of Amendment No. 1, new section would become part of new ARTICLE VI Overlay Districts).

Subsequent Articles to be renumbered accordingly.

Section xxx WETLANDS CONSERVATION OVERLAY DISTRICT

XXX.1 Purpose

The purpose of the Wetlands Conservation Overlay District is to protect the public health, safety and general welfare by promoting the most appropriate use of land and the protection of wetland ecosystems and water quality in accordance with the goals and objectives of the master plan.

XXX.2 Findings

The wetlands and buffers in the town of Carroll are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The town of Carroll finds that wetlands and buffers:

- A. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.
- B. Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses.
- C. Provide for nutrient attenuation and augmentation of stream flow during dry periods.
- D. Preserve and protect important wildlife habitat and maintain ecological balance.
- E. 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 abuse or inharmonious use of wetlands.
- F. Protect the wetlands, watercourses, surface and groundwater supplies and waterbodies of the town/city from degradation.
- G. Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

XXX.3 Applicability

- A. The Wetlands Conservation Overlay District is an overlay district superimposed over the existing conventional zoning districts in the town of Carroll. All proposed development, removal of vegetation, and alteration of the land surface within wetlands 10 acres in size or larger as identified on the most recent National Wetlands Inventory produced by the US Fish & Wildlife Service, and a buffer 50 feet wide around wetlands 10 acres in size or larger is subject to this ordinance.

- B. Wetlands constructed for stormwater treatment, agricultural use, waste treatment or other such purpose are exempt from the provisions of the Wetlands Conservation Overlay District.
- C. Boundary Disputes. When a boundary of the Wetlands Conservation Overlay District is disputed by either the Planning Board or an applicant, the Planning Board, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation Overlay District limit on the properties affected. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The Planning Board shall make the final determination of the wetlands limit based on its consultant's report. The Wetlands Conservation Overlay District boundary shall be considered to be amended to incorporate the results of any such studies.

xxx.4 Permitted Uses

The uses listed below are presumed to be consistent with the protection of wetland functions and values when in accord with the following and so are allowed in the Wetlands Conservation Overlay District without a Conditional Use Permit. These uses will not:

- Require the erection or construction of any structure.
- Alter the natural surface configuration by re-contouring or grading of the land.
- Involve filling, dredging, or draining of the wetland.
- Change the flow of water.
- Result in the pollution of the wetlands, surface water, or groundwater.
- Involve substantial clearing of vegetation, except for the purposes of agriculture or forest management in accord with current best management practices.

Permitted uses include:

- A. Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating.
- B. Wildlife or fisheries management.
- C. Scientific research and educational activities.
- D. Agriculture in the wetland buffer, consistent with best management practices published by the NH Department of Agriculture, Markets and Food.
- E. Forest management in the wetland buffer, consistent with best management practices published by the NH Department of Resources and Economic Development and UNH Cooperative Extension.

xxx.5 Prohibited Uses

The following uses may not be established or expanded within the Wetlands Conservation Overlay District:

- A. Structures, except as provided in xxx.6 Conditional Uses.

- B. Use of fertilizer on lawns, except lime or wood ash.
- C. Bulk storage or handling of chemicals, petroleum products or hazardous materials.
- D. Sand and gravel excavations.
- E. Impervious surfaces, unless associated with a use approved as a Conditional Use.
- I. Activities which result in soil compaction such as parking vehicles or heavy equipment, unless associated with a use approved as a Conditional Use.
- J. Underground tanks.

xxx.6 Conditional Uses

All activities in the Wetland Conservation Overlay District not listed in xxx.4. Permitted Uses, above are presumed to impair the wetland functions and values unless proven otherwise by the applicant as provided below. The following uses may be granted a Conditional Use Permit by the Planning Board:

- A. Primary structures in the wetland buffer on legally preexisting lots if it is demonstrated that no practicable alternative exists elsewhere on the lot.
- B. Accessory structures in the wetland buffer associated with legally preexisting primary structures if it is demonstrated that no practicable alternative exists elsewhere on the lot.
- C. The construction, repair, or maintenance of streets, roads, and other access ways, including driveways, footpaths, bridges, and utility right of way easements including power lines and pipe lines, if essential to the productive use of land adjacent to the Wetlands Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize any detrimental impact upon the wetlands and consistent with current state recommended design standards, and only if no viable alternative is available.
- D. Agricultural activities consistent with best management practices as published by the NH Department of Agriculture Markets and Food.
- E. Forestry activities consistent with best management practices as published by the NH Department of Resources and Economic Development and NH Cooperative Extension. As specified in Logging Operations (Env-Wt 304.05), all skid trails, truck roads and log landings shall be located 50 feet from streams or ponds and designed using appropriate erosion control devices. Stream and wetlands crossings shall be kept to a minimum in size and number.
- F. Water impoundments for the purpose of creating a waterbody for wildlife, fire safety, or recreational uses. Conditional Use Permits may be granted for impoundments for on-site detention of stormwater runoff in buffers only.
- G. Construction of a trail for nonmotorized recreation in compliance with NHDES Minimum Impact Project requirements.
- H. Other uses that the applicant proves will not interfere with the wetlands functions

and values, water quality or value as wildlife habitat, pursuant to Section xxx.2. Findings.

xxx.7 Nonconforming Uses

Expansion of a nonconforming use or structure in the wetland buffer may be granted a Conditional Use Permit by the Planning Board provided that: 1. the encroachment upon the wetland is not increased, and 2. any potential increased impact upon the wetland functions will be mitigated.

xxx.8 Conditional Use Permit

A. Application for a Conditional Use Permit shall be made on forms supplied by the Planning Board and shall include a site plan containing the following information on one or more sheets at a scale of 1 inch = 100 feet or larger, and a report demonstrating compliance with the requirements listed below in Section xxx.8.B:

1. North arrow and date.
2. Property lines.
3. Locus map showing adjacent wetlands and other significant hydrological features.
4. Names and addresses of abutting property owners and holders of conservation restrictions and easements.
5. Wetland limit and wetland buffer.
6. Soil types.
7. Vegetation types.
8. Topographic contours at no greater than 5 foot intervals.
9. Surface drainage patterns, intermittent and year-round.
10. Existing and proposed development, removal of vegetation, and alteration of the land surface.
11. Computation of the area to be impacted, in square feet of surface area and cubic yards of cut and fill.
12. Stormwater management proposed during and after construction.

B. The Planning Board shall provide an opportunity for Conservation Commission comment and shall consider all relevant facts and circumstances in making its decision on any application for a permit and shall make findings that the project is both consistent with the purposes of this ordinance and minimizes impacts to the wetland and buffers, including but not limited to the following:

1. The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and

- values of wetlands and wetland buffers, including but not limited to the capacity of the wetland to:
- a. Support fish and wildlife
 - b. Prevent flooding
 - c. Supply and protect surface and ground waters
 - d. Control sediment
 - e. Control pollution
 - f. Support wetland vegetation
 - g. Promote public health and safety
 - h. Moderate fluctuations in surface water levels.
2. The proposed activity will have no negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources, including:
- a. Erosion
 - b. Siltation
 - c. Turbidity
 - d. Loss of fish and wildlife
 - e. Loss of unique habitat having demonstrable natural, scientific, or educational value
 - f. Loss or decrease of beneficial aquatic organisms and wetland plants.
 - g. Dangers of flooding and pollution.
 - h. Destruction of the economic, aesthetic, recreational and other public and private uses and values of the wetlands to the community.
3. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer.
4. The proposed activity utilizes applicable best management practices.
5. Federal and/or state permit(s) have been received for the proposed activity in accordance with N.H. Administrative Rules Env-Wt 100-800 and the Federal Clean Water Act Section 404 Permit.
6. Where applicable, proof of compliance with all other state and/or federal regulations has been received.
- C. The Planning Board, in acting on an application for a conditional use permit in the Wetlands Conservation Overlay District, may attach conditions to its approval including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces.

xxx.10 Identification of Buffer

The entire length of the upland limit of the wetland buffer shall be marked with highly

visible construction tape prior to, and maintained for the full duration of, any construction-related activities.

ADD the following definitions to ARTICLE II, Section 202 Definitions:

Buffer: The protected upland areas adjacent to wetlands and surface waters in the Wetlands Conservation Overlay District.

Certified Wetland Scientist: A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.

Development: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, excavation or drilling activities.

Wetland: Pursuant to RSA 482-A:2.X, an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.