

TOWN OF MERRIMACK ZONING ORDINANCE & BUILDING CODE

2.02.11 - Aquifer Conservation District - A

- A. Purpose: The Aquifer Conservation District is created to protect, preserve and maintain the existing potential groundwater supply and recharge areas within known aquifer and wellhead areas from adverse impacts that may result from inappropriate development or land use practices.
- B. Location: The Aquifer Conservation District includes those areas shown on the Map entitled Town of Merrimack Aquifer Conservation District, dated December 1996 prepared by the Nashua Regional Planning Commission based upon the Department of Interior U.S. Geological Survey study entitled Hydrology of Stratified-Drift Aquifers and Water Quality in the Nashua Regional Planning Commission Area, South Central New Hampshire, 1987, and on the Map entitled Surficial Geology and Wellhead Protection Areas Delineated for Merrimack Village District Wells MVD-1 Through MVD-7, dated January 1996, prepared by Emery & Garrett Groundwater, Inc. The Aquifer Conservation District is subdivided into two areas:
1. Wellhead Protection Areas.
 2. Balance of the Aquifer District.

The Aquifer Conservation District maps are hereby declared to be a part of this ordinance and are incorporated by reference.

C. Definitions:

1. Aquifer: Areas of permeable deposits of rock or sand and gravel containing significant amounts of potentially recoverable water whereby a combination of transmissivity, saturated thickness and specific capacity the area can be expected to yield at least 200 gallons per minute to a large diameter well.
2. Hazardous Waste: Shall be as defined in the N.H. Code of Administrative Rules Chapter He-p 1901.03 (v).
3. Impervious: The quality of any material or structure which substantially restricts the penetration of surface water or rainfall into the soil.
4. Leachable Wastes: Waste materials including without limitation solids, sewage sludge and agricultural residue which may release water-borne contaminants to the surrounding environment.
5. Mining of Land: The removal or relocation of geological materials for the purpose of extracting topsoil, sand or gravel, metallic ores or bedrock.
6. Process Waters: Liquids used in cooling or in the manufacturing process which contact raw materials, products, wastes or machinery and which because of that contact contain toxic or hazardous substances or do not meet State and Federal drinking water standards.
7. Radioactive Material: Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II or 10 CFR Part 20 (Standards for Protection Against Radiation).
8. Recharge Area: Areas of the permeable deposits which are hydraulically connected to

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and up gradient of aquifer areas.

9. Solid Waste: Useless, unwanted, or discarded material with insufficient liquid content to be free flowing, including, without limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.
10. Toxic or Hazardous Materials: Shall be defined in the N.H. Code of Administrative Rules Chapter He-p 1901.03 (v).

D. Permitted Uses:

The uses permitted in the Aquifer Conservation District shall in all cases be subject to the zoning regulations of the Town of Merrimack as defined in Sections 1 through 18 of this ordinance. In cases of conflict between permitted uses of this district and permitted defined elsewhere in this ordinance, the more restrictive use shall apply.

1. Permitted Uses, All Areas:
 - a) All uses permitted in the underlying zoning district except as specifically restricted or prohibited herein.
 - b) Farming, commercial gardening, nursery, forestry, harvesting and grazing in accordance with all applicable chapters of RSA title XL and best management practices developed, administered and enforced by the New Hampshire Department of Agriculture, Markets and Food.
2. Prohibited Uses, Wellhead Protection Areas: The following uses shall not be permitted in Wellhead Protection Areas:
 - a) Disposal of solid waste.
 - b) Subsurface storage of petroleum and other refined petroleum products within one thousand feet (1000') of an existing municipal well, however, subsurface storage of petroleum and other refined petroleum products is permitted in locations more than one thousand feet (1000') from an existing municipal well provided that such storage is in containment with suitable secondary barriers and with automatic alarm systems.
 - c) Disposal of liquid or leachable wastes except one or two family residential subsurface disposal systems or equivalent domestic waste water disposal system.
 - d) Industrial uses which discharge contact type process waters on site. Non-contact cooling water is permitted.
 - e) Use of outside un-enclosed storage of road salt.
 - f) Dumping of snow containing deicing chemicals brought from outside the Wellhead Protection Areas.

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- g) Commercial animal feedlots.
 - h) Mining of land except incidental to a permitted use.
 - i) On site disposal or processing for recycling of hazardous or toxic materials.
 - j) Junk and salvage yards.
 - k) Bulk storage of toxic material for resale or distribution.
 - l) The siting or operation of a wastewater or septage lagoon.
 - m) Gasoline and automobile service stations, including auto body repair.
 - n) Sale, storage, lease, or rental of used and new cars or other motorized vehicles.
3. **Regulated Uses, All Aquifer Areas:** The following uses shall be permitted in Aquifer Areas only in accordance with the Standards for Development in the Aquifer Conservation District adopted by the Merrimack Planning Board in accordance with N.H.R.S.A.674:35 through 674:44 and 675:6 through 676:9 which pertains to the Planning Board's authority and responsibilities.
- a) Storage of petroleum and other refined petroleum products and regulated substances in reportable quantities.
 - b) Heliports and airports, including aircraft fueling, deicing and maintenance.
 - c) Recharge of surface runoff water into the aquifer.
 - d) Dumping of snow containing deicing chemicals brought from outside the Aquifer area.
 - e) Commercial animal feedlots.
 - f) Mining of land other than incidental to a permitted uses.
 - g) Automotive service and repair shops, junk and salvage yards.
 - h) Bulk storage of toxic materials for resale or distribution.
 - i) Underground brush and stump dumps.
 - j) Trucking and bus terminals.
 - k) Car Washes.
 - l) Metalworking shops including but not limited to machine shops, metal plating, heat treating, smelting and jewelry making shops.

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- m) Siting or operation of wastewater septage lagoon.

E. Administration:

All subdivision proposals, site plan applications, or any change of use, alterations or expansion of an existing use, uses and changes in use within the Aquifer Conservation District shall be reviewed by the Planning Board and shall conform to the provisions of this ordinance and other applicable regulations of the Town of Merrimack and further shall assure that:

1. All such proposals are consistent with the need to protect the groundwater of the Town of Merrimack and adjacent communities.
2. All sanitary sewer systems are designed to minimize or eliminate leakage or discharges from the system into the groundwater.
3. On site waste disposal systems are located so as to avoid or minimize groundwater contamination.
4. Streets, roads, and parking areas are constructed so that direct application of road salt is not required for winter safety, and so that runoff from such uses is channeled to avoid or minimize groundwater contamination.
5. Written approval of the State of New Hampshire Water Supply and Pollution Control Commission has been obtained where applicable.

F. Conservation Commission Review: The Conservation Commission shall review, within a reasonable time, each plan for development in the Aquifer Conservation District relative to the potential impact of such development plans on the Town's groundwater resources in accordance with the Town's Standards for Development in the Aquifer Conservation District and may make a recommendation to the Planning Board to approve, approve with conditions and/or recommendations, or disapprove the plan, with reasons for disapproval.

G. Merrimack Village District Review: The Merrimack Village District, its agent or designee shall review, within a reasonable time, each plan for development within the Wellhead Protection Areas of the Aquifer Conservation District relative to the potential impact of such development plans on the Town's public water supply in accordance with the Town's Standards for Development in the Aquifer Conservation District and may make a recommendation to the Planning Board to approve, approve with conditions and/or recommendations, or disapprove the plan, with reasons for disapproval.

H. Incorrectly Designated Zones: When the actual boundary of the Aquifer Conservation District is in dispute by any owner or abutter actually affected by said boundary, the Planning Board, at the owner/abutter's expense and request, may engage a professional geologist or hydrologist to determine more accurately the precise boundary of said Aquifer Conservation District, and shall submit to the Planning Board his findings, including:

1. A detailed topographic layout of the subdivision and/or area to be developed prepared by a registered land surveyor.

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2. A revised soils map of the subdivision and/or area prepared by a soils scientist qualified in hydrologic studies including a written report of his on-site field inspection and test boring data.
3. The aquifer boundary as shown on the Town of Merrimack Aquifer Conservation District Map shall be overlaid on the plat as outlined in Section 4.04 of the subdivision regulations and the newly proposed boundary location shall be indicated on the same plat by a broken line.

The Planning Board may adjust the boundary or area designation based thereon.

~~The precise boundary of said Aquifer Conservation District shall be as determined by the Planning Board.~~

2.02.12 - Shoreland Protection District - SP

The Town of Merrimack hereby declares that it will enforce the New Hampshire Minimum Shoreland Protection Standards as defined by RSA 483-B:9.

A. Authority

This ordinance is adopted pursuant to RSA 674:16 and in accordance with RSA 483-B:8 (Shoreland Protection Act).

B. Purpose

The conservation of shorelands adjacent to public waters within the town of Merrimack, and other surface waters as specified herein, is essential for the protection of town's drinking water supply, wildlife habitats, recreational resources and the natural and scenic beauty of the town. This ordinance is intended to establish minimum standards for the use, subdivision and development of shorelands adjacent to such surface waters for the purpose of minimizing or eliminating potential threats to these water resources due to non-point pollutant sources, erosion and sedimentation, flooding and inappropriate development or redevelopment.

C. Location

The Shoreland Protection District is an overlay district that includes all land located within two-hundred and fifty (250) feet of the reference line of the following surface waters and water ways and all areas within the one-hundred (100) year floodplain adjacent to said surface waters and water ways. The terms "surface waters" and "waterways" as used herein are those surface waters and waterways as identified by New Hampshire Administrative Rule ENV-Wq 1401.02 (a)-(e) and include, but are not necessarily limited to, the following:

1. Baboosic Brook
2. Baboosic Lake
3. Bowers Pond

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2.02.12 - Shoreland Protection District - SP (Continued)

4. Greens Pond
5. Harris Pond
6. Holts Pond
7. Horseshoe Pond
8. Merrimack River
9. Naticook Lake
10. Pennichuck Brook
11. Pennichuck Pond
12. Retention Pond B
13. Souhegan River
14. Stump Pond
15. Supply Pond

The above list of applicable water bodies and watercourses is provided for illustrative purposes only. If there is a conflict between the list contained herein and the jurisdictional waters and waterways defined by the above-referenced Administrative Rule, the above-referenced Administrative Rule shall control.

D. NH DES Approval Required

Any Subdivision or Site Plan, which takes place wholly or partially in the Shoreland Protection District, shall obtain approval from the New Hampshire Department of Environmental Services (NH DES) in accordance with NHRSA 483-B. This approval shall be obtained prior to final approval of the subdivision or site plan by the Planning Board. Prior to making application to the NH DES for a permit, applicants are encouraged to hold a Pre-Submission Hearing with the Planning Board.

Section 2.02.13 - ~~TOWN CENTER OVERLAY DISTRICT~~

- A. Purpose: To create a Town Center Overlay Zoning District intended to implement the overall goals of the Town Center Plan by encouraging an appropriate mixture of land uses, transportation corridor, and forms of development.
- B. Boundaries: The Boundaries of the Town Center Overlay District are defined on the Zoning Map which is hereby incorporated by reference.
- C. Permitted Uses: All uses permitted in any underlying zone except as specifically provided for or prohibited herein.
 1. Notwithstanding any contrary use provisions in any underlying zoning district, residential uses are permitted anywhere within the Town Center Overlay District.
- D. Special Exceptions:
 1. Notwithstanding any contrary provisions in any underlying zoning district, the Zoning Board of Adjustment may grant a special exception for the following uses of land anywhere within the Town Center Overlay District:

ARTICLE IX

Wetland Conservation District

[Amended 3-14-1995 by Amdt. No. 1; 3-12-1996; 3-10-1998; 3-9-1999; 3-4-2000; 3-12-2002 by Amdt. No. 6; 3-10-2020 ATM, Art. No. 2]

§ 334-33. Authority and purpose.

- A. The title of this district shall be the Wetlands Conservation Overlay District. This article is adopted under authority granted pursuant to RSA 674:16, Grant of Power, and 674:21, Innovative Land Use Controls. All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation District is subject to this article.
- B. The purpose of the Wetland Conservation District is to protect the health, safety and general welfare of the public by promoting both the most appropriate use of land and by protecting wetland and surface water ecosystems and water quality in accordance with the goals and objectives of Hudson's Master Plan.
- C. All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation Overlay District is subject to this article.
- D. The wetlands and buffers in the Town of Hudson are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The Town of Hudson finds that wetlands and buffers:
- (1) Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.
 - (2) Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses.
 - (3) Provide for nutrient attenuation and augmentation of stream flow during dry periods.
 - (4) ~~Preserve and~~ Protect important wildlife habitat, including amphibian and invertebrate breeding habitat (ie. vernal pools), maintain ecological balance, and enhance ecological values. (Merrimack)
 - (5) 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.
 - (6) Protect the wetlands, watercourses, surface and groundwater supplies and waterbodies of the Town from degradation.
 - (7) Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

- (8) To prevent the development of structures and other land uses on or adjacent to wetlands that would contribute to pollution of surface and ground water.
(*Merrimack*)

§ 334-34. Definitions.

Reference shall be made to §334-6, Definitions, of this chapter for the definition of words and terms used throughout this Wetland Conservation Overlay District Article.

§ 334-35. Boundaries.

A. The Wetlands Conservation Overlay District includes all of the following:

- (1) Surface waters.
- (2) Wetlands of any size.
- (3) A fifty-foot-wide buffer around wetlands and surface waters. (*Hudson*)
- (4) Table of Minimum Wetland Buffers. All dimensions are given in feet.
 - (a) Buffers to Prime Wetlands – 150'
 - (b) Buffers to Surface Waters, Wetlands with very poorly drained soils, Vernal pools – 75'
 - (c) Buffers to Wetlands 0.25 acre or larger – 50'
 - (d) Buffers to other Wetlands, less than 0.25 acre – 30'
 - (e) Swamps, Marsh, Bogs - ?'

The Wetland Buffers described above shall consist of ungraded and undisturbed upland. (*Bow*)

B.

- (1) Comprehensive Shoreland Protection Act. The Merrimack River shall be subject to the Comprehensive Shoreline Protection Act, NH RSA 483-b as maybe amended from time to time. The Comprehensive Shoreline Protection Act addresses activities within two hundred fifty (250) feet of great ponds and 4th order streams. (*Milford*)
- (2) Vernal Pools (*Hampton*)
- (3) Classification of Streams & Rivers, 1st through 4th Order. (*Hampton*)
- (4) Wetlands Soils. The wetland soils in the Town of Merrimack are those areas delineated as poorly drained or very poorly drained soils identified by the U.S. Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Conservation Service, through field mapping surveys completed in 1971 and shown on its field mapping photographic sheets for the Town of Merrimack, New Hampshire. The soil types which the Soil Conservation Service has determined in its field mapping surveys to be poorly drained or very poorly drained soils shall include the following (a detailed explanation of soil types is included in the Hillsborough County Soil Handbook which is on file with the

Planning and in the office of the Soil Conservation Service, Milford, N.H.).
(Merrimack)

- (5) **Bogs** (Milford)
- (6) **Swamps** (Hopkinton)
- C. For the purposes of this article, the reference line of all wetlands and surface waters shall be established by an on-ground delineation performed by a Certified Wetland Scientist. All wetlands, surface waters, and vernal pools shall be field delineated and defined by a Certified Wetland Scientist.
- D. The Wetland Conservation Overlay District shall not include those wetlands which have developed, as a result of the construction of stormwater treatment and/or detention facilities, agricultural use, waste treatment, or other water-dependent structures or uses, and manmade facilities. In the case of beaver activity, the reference line shall be determined by those areas that meet the jurisdiction of the New Hampshire Department of Environmental Services.
- E. When a boundary of the Wetlands Conservation Overlay District is disputed by either the Town of Hudson or an applicant, the Conservation Commission, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation District limit. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The independent Certified Wetland Scientist shall transmit their findings to the applicant who shall add said findings to the project plan. This revised plan, showing both wetland delineation boundaries, shall be presented to the Planning Board who shall make the final determination regarding District boundaries.
- F. 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. The applicant may also be required to place a permanent monument (e.g., iron pin, granite bound) at all points of the lot lines which intersect with the upland limit of the Wetlands Conservation Overlay District prior to such activities. These monuments shall be shown on the site plan submitted with the application. The applicant may also be required to affix tags to trees or other durable objects (e.g., four-inch-by-four-inch wood posts) at fifty-foot intervals along the upland boundary of the Wetlands Conservation Overlay District, and maintain said tags as needed to provide evidence of the upland side buffer boundary. Tags shall be obtained from the municipality at the applicant's cost.

§34-36 Uses within Wetland Conservation District.

- A. **Permitted uses:** The following uses shall be permitted in the Wetland Conservation District, subject to review by the Conservation Commission and the Planning Board. This review is intended to assure that best management practices are used to prevent degradation of the Wetland Conservation District by slope erosion, sedimentation and chemical and thermal pollution. 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; or involve substantial clearing of vegetation, except for the purposes of agriculture or forest management as described below.

- (1) Forest management in the wetland buffer, consistent with best management practices published by the New Hampshire Department of Resources and Economic Development and UNH Cooperative Extension, or their successors.
 - (2) Agriculture, including grazing, cultivation and harvesting of crops, consistent with Best Management Wetland Practices published by the New Hampshire Department of Agriculture, Markets and Food or its successor.
 - (3) Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating. Trails shall have minimal impact on drainage, flora and fauna.
 - (4) Wildlife or fisheries management.
 - (5) Water supply wells, public and private.
 - (6) Rehabilitation, repair or replacement of stormwater management facilities or other structures that lawfully existed prior to March 11, 2020
 - (7) **Minimum impact projects that meet project specific criteria for NH Department of Environmental Services Wetlands Permits-by-Notification (PBNs) listed in the NH Code of Administrative Rules Env-Wt 309.05. (Hopkinton)**
- B. Prohibited uses: Any use that is not expressly permitted in §334-36A or by conditional use in §334-36C is prohibited. Prohibited uses that may not be established or expanded within the Wetlands Conservation Overlay District include, but are not limited to, the following:
- (1) Structures, except as provided in §334-36C.
 - (2) Salt storage.
 - (3) Automobile junkyards.
 - (4) Solid or hazardous waste facilities.
 - (5) Use of fertilizer on lawns, except lime or wood ash.
 - (6) Bulk storage or handling of chemicals, petroleum products or hazardous materials.
 - (7) Sand and gravel excavations.
 - (8) Processing of excavated materials.
 - (9) Impervious surfaces, except as provided in §334-36C
 - (10) Activities which result in soil compaction such as parking vehicles or heavy equipment, except as provided in §334-36C.
 - (11) Underground tanks.
 - (12) **Temporary or permanent construction in a bog, marsh, or Atlantic white cedar swamp. (Milford)**
- C. Conditional Uses: Any use not identified as a permitted use listed in §334-36A is presumed to impair the wetland functions and values unless proven otherwise by an

applicant as provided below. The following uses may be granted a Conditional Use Permit by the Planning Board in accordance with §334-37:

- (1) Accessory structures associated with a legally existing primary structure, provided the applicant demonstrates that no practicable alternative exists elsewhere on the lot and outside of the Wetland Conservation Overlay District.
- (2) Construction of streets, roads, and other access ways, including driveways, footpaths, bridges, and utilities if essential to the productive use of land beyond the Wetland Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize the potential for detrimental impact to the District and be planned, designed, and constructed in a manner consistent with applicable state and local standards. Such construction may be permitted within the District only when no viable alternative is available.
- (3) Water impoundments for the purposes of creating a water body for wildlife, fire protection, stormwater management, or recreational use. Construction of impoundments for on-site detention and/or treatment of stormwater runoff in the Wetland Conservation Overlay District, provided the Planning Board finds that it is not practical or possible to locate them outside of the District.
- (4) Other uses which the applicant is able to demonstrate to the satisfaction of the Planning Board that will not significantly interfere with wetland functions and values, water quality, or wildlife habitat pursuant to the statement of purpose of this article; or in the alternative, uses that will impact wetlands functions and values; but, in the opinion of the Planning Board, are not contrary to the public interest and will result in significant public benefit provided:
 - (a) Compensatory mitigation is provided such that those Wetland Conservation Overlay District functions and values to be impacted will be off-set in whole. Such mitigation may be located on- or off-site. As a guide to the type and extent of compensatory mitigation considered, reference shall be made to the New England District Compensatory Mitigation Guidance, US Army Corps of Engineers, New England District, Regulatory Division, 7-22010 as amended.
 - (b) The applicant has demonstrated avoidance and minimization to the fullest extent practical.
 - (c) No septic tank or leach field may be constructed or enlarged closer than seventy-five (75) feet to any wetland or as otherwise indicated by the NH Department of Environmental Services. (*Hopkinton*)
 - (d) No part of a wetland may be considered as part of the minimum size requirement of any lot. No wetland or part of a wetland may divide a lot in such a manner that its minimum lot size is not contiguous, unless:
 - (1) The lot contains at least one (1) acre of contiguous upland (The “buildable area”), and
 - (2) Such buildable area is served by municipal water or is proven to support on-site water without a variance or waiver from Town or State regulations, and

(3) Such buildable area is served by municipal sewer or is proven to support on-site sewage disposal without a variance or waiver from Town or State regulations. *(Hopkinton)*

- (e) *Signage Required. Required Wetlands Buffers on parcels for which conditional use permits, subdivision, and site plans have been approved shall be marked at 50' intervals with sign approved by the Conservation Commission. (Bow)*

D. Nonconforming Uses: In addition to Article VIII of the Zoning Ordinance, existing, nonconforming uses are subject to the following in the Wetland Conservation Overlay District:

- (1) Expansion of a nonconforming use or structure may be allowed by the Zoning Board of Adjustment in the wetland buffer provided that the encroachment upon the wetland is not increased, and review by the Conservation Commission finds that any potential increased impact upon the wetland functions will be mitigated.
- (2) Where an existing, nonconforming use or structure within the Wetland Conservation Overlay District is destroyed or in need of extensive repair, it may be replaced or rebuilt, provided that the provisions of Article VIII of this chapter are met.
- (3) The replaced or rebuilt use shall not have a greater impact on the Wetland Conservation District than the impact of the original use.

§ 334-37. Conditional Use Permit criteria.

- A. The Planning Board shall, in addition to referencing the findings referenced in the preceding section, consider all relevant facts and information prior to making a decision on any application for a Conditional Use Permit; find that the proposed project is consistent with the stated Purpose of this article; and find, that to the extent possible, the project avoids and minimizes impacts to land situated within the District, including but not limited to the following:
- (1) The proposed activity minimizes degradation of land situated within the District and offsets potential adverse impacts to functions and values of wetlands, surface waters, and vernal pools including but not limited to their capacity to:
 - (a) Support fish and wildlife;
 - (b) Attenuate flooding;
 - (c) Supply and protect surface and groundwater resources;
 - (d) Remove sediments;
 - (e) Remove pollutants;
 - (f) Support wetland vegetation;

- (g) Promote public health and safety; and
 - (h) Moderate fluctuations in surface water levels.
- (2) The proposed activity will have no significant negative environmental impact to abutting or downstream properties and/or hydrologically connected water and/or wetland resources, including:
- (a) Increased potential for erosion, siltation, and turbidity of surface waters;
 - (b) Loss of fish and wildlife habitat;
 - (c) Loss of unique habitat having demonstrable natural, scientific, or educational value;
 - (d) Loss or decrease of beneficial aquatic organisms and wetland plants and their habitat;
 - (e) Increased danger of flooding and/or transport of pollutants; and
 - (f) Destruction of the economic, aesthetic, recreational, and other public and private uses and values of the wetland to the community.
- (3) The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce impact to the Wetland Conservation Overlay District.
- (4) The proposed activity incorporates the use of those Best Management Practices recommended by the New Hampshire Department of Environmental Services and/or other state agencies having jurisdiction.
- (5) All applicable federal and/or state permit(s) have been received for the proposed activity in accordance with New Hampshire Code of Administrative Rules, Part Env-Wt 100-800 and Section 404 of the Federal Clean Water Act, as amended.
- (6) Where applicable, proof of application to all required state and/or federal permits.
- (7) Prior to making a decision on any Conditional Use Permit pursuant to the Wetland Conservation Overlay District, the Planning Board shall receive a written comment from the Conservation Commission. The Conservation Commission may recommend the Planning Board impose conditions of approval is deemed necessary to mitigate the potential for adverse effects of the proposed activity or use.
- B. Application requirements for this Conditional Use Permit are set forth in Chapter 276, Administrative Requirements and Definitions.

§ 334-38. through § 334-41. (Reserved)

WETLAND - Definition

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. **Three technical criteria: hydric soils, hydrophytic vegetation and wetland hydrology under natural conditions are required for the positive identification of a wetland. Wetlands generally include, but are limited to, swamps, marshes, bogs, and similar areas. Where on-site delineation is required, wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetland hydrology, in accordance with the techniques outline in the Corps of Engineers....**
(Merrimack)

TO CONSIDER:

Merrimack –

19-1 Fund established.

A Conservation Fund as authorized by RSA 36-A:5 is hereby established, to be administered by the Merrimack Conservation Commission subject to the approval of the Town Council, for the purpose of promoting the better utilization of our natural resources. The whole or any part of unexpended Conservation Commission budget appropriations shall be allowed to accumulate in the Conservation Fund from year to year and to be expended for those purposes set forth by statute.

• § 19-2 Ceiling; deposits.

Pursuant to RSA 79-A:25 (I), this article creates a ceiling for the Conservation Fund of \$1,000,000. Upon reaching the balance of \$1,000,000, all current use funds collected thereafter will be deposited into the General Fund. If the Conservation Fund falls below \$1,000,000, 50% of all future current use revenues will be deposited into the Conservation Fund and 50% deposited into the General Fund until the Conservation Fund is replenished to a balance of \$1,000,000.

Definitions To Include:

12.6 WETLAND AREA CHARACTERISTICS Wetlands are areas where a significant part of the vegetational community and soil and land types consist of, but do not necessarily include all, of the following:

12.6.1 Swamps: Swamps are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community consists mostly of trees and woody shrubs, such as:

Alders

Arrow-wood

Atlantic White Cedar Black Ash

Black Gum

Black Spruce Buttonbush Common Elder High-bush Blueberry Marsh Rose

Poison Sumac Red Maple Rhodora Sphagnum Moss Spicebush

Sweet Pepperbush Tamarack (Larch) Willows Winterberry



New Hampshire Association of Conservation Commissions

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September 28, 2023

*Please join us again
this year.*

Dear Hudson Conservation Commission,

Local conservation commissions now face increasing pressures and complex challenges. Emerging contaminants threaten our drinking water, lakes and streams. Climate change impacts our built infrastructure and the state's biodiversity. New Hampshire Association of Conservation Commissions (NHACC) is here to help your commission face these challenges by providing support, education and advocacy. NHACC strives to be a powerful and respected voice in the State Legislature and among State agencies and organizations. We need your conservation commission to renew your NHACC membership so we can continue to provide technical assistance and strong leadership. Please renew your NHACC membership; **your support of NHACC helps build a stronger New Hampshire conservation community.**

Your annual dues provide so much more than simply access to technical assistance and guidance on conservation funding. NHACC membership gives you discounted rate at our **Annual Conference to be held on November 4, 2023**. This year, we have expanded our educational programs to reach more of our members with the Lunch & Learn webinars. NHACC strives to be a powerful and respected voice in the State Legislature and among State agencies and organizations.

Last year, with your support, NHACC achieved many significant goals:

- Hosted the Spring Wetlands Training Program;
- Provided a monthly Enews to our members;
- Tracked state legislation, providing testimony on bills impacting natural resources and providing legislative updates to our members;
- Presented a Lunch & Learn series to educate our members;
- Collaborated on the Taking Action for Wildlife team;
- Updated the NHACC website.

NHACC's goals are to educate commissions so they can be effective and successful and to advocate for environmental policy. We cannot accomplish these goals without help from our members. Feel free to contact me at Barbara@NHACC.org or call 224-7867 if you need assistance. We look forward to working with you this year.

Sincerely,

Barbara

Barbara Richter,
Executive Director

Enc: NHACC Conference Announcement
Dues Invoice



New Hampshire Association of Conservation Commissions

SERVING NEW HAMPSHIRE'S COMMUNITIES SINCE 1970

Join us for the NHACC 53rd Annual Meeting & Conference on Saturday, November 4, 2023

REGISTER ON-LINE:
nhacc.org/annualmeeting

Keynote; *Journey to the Swamp* with naturalist, author, and artist David Carroll as he shares his love of wetlands and turtles.

9:30 AM	Keynote; <i>Journey to the Swamp</i> with David Carroll					
Session A 10:15 - 11:15 am	COMMISSION FUNDAMENTALS 101	WETLANDS ASSESSMENTS	BEAVER PANEL DISCUSSION	PROTECTING THE LITTLE BIG FOREST	THE GLOBAL STAKE OF CLIMATE AND CLEAN ENERGY	NH STONEWALL MAPPER & LIDAR
Session B 11:30 am- 12:30 pm	FUNDAMENTALS 202; WORKING WITH OTHER BOARDS	CASE STUDIES IN WETLAND ZONING	TRAILS FOR PEOPLE AND WILDLIFE	CONSERVING THE NH MAHOOSUCS	HEALTH IMPACTS OF CLIMATE CHANGE	INVASIVE SPECIES CONTROL & FOREST MANAGEMENT
Session C 1:30 - 2:30 pm	NATURAL RESOURCE INVENTORY	RESTORING STREAM NATURALLY WITH WOOD	INTRO TO BIOBLITZ & INATURALIST	HOW EAST KINGSTON PASSED A CONSERVATION BOND	ROADWAY ADAPTATION & CLIMATE PLANNING	COMMUNITY SCALE SOLAR & CONSERVATION

Join us for the only the only State-wide conference dedicated to municipal conservation commission members. Don't miss this educational networking opportunity to learn from both peers and professionals.