

Weare, New Hampshire  
Article 28, Wetlands Zone and Land Planning Ordinance  
Kimon Koulet  
Lakes Regional Planning commission  
(603)279-8171  
Zoning Ordinance

## ARTICLE 28

### 28.1

#### WETLANDS ZONE LAND PLANNING ORDINANCE

28.2 PURPOSE AND INTENT: The purpose and intent of this ordinance is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables over extended periods of time. It is intended that this ordinance shall:

28.2.1 Prevent the development of structures and land uses on naturally occurring wetlands which could contribute to pollution of surface and ground water by sewage or toxic substances.

28.2.2 Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection.

28.2.3 Protect unique and unusual natural areas.

28.2.4 Protect wildlife habitats, travel ways, and maintain ecological balances.

28.2.5 Protect potential water supplies and existing aquifers and aquifer recharge areas.

28.2.6 Prevent expenditure of town funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.

28.2.7 Encourage those low-intensity uses that can be harmoniously, appropriately and safely located close to wetlands.

28.3 WETLANDS DEFINED: Wetlands are areas with two key attributes as defined by the U.S. Fish and Wildlife Service and developed and described by Cowardin, et al., 1979. These include (1) the presence of wetland plants (hydrophytes) and (2) the presence of wet soils

(hydric soils) or soil saturation or flooding.

28.4 EXAMPLES OF WETLANDS: Wetlands would be expected to bound in areas which consist of, but do not necessarily include all of the following:

28.4.1 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
- Button Bush
- Common Elder
- High-bush Blueberry
- Marsh Rose
- Poison Sumac
- Red Maple
- Rhodora
- Sphagnum Moss
- Spicebush
- Sweet Pepperbush
- Tamarack
- Willow
- Winterberry

28.4.2 MARSHES; Marshes are mostly treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered with water year round, though seasonal fluctuations in water depth are expected. Marshes range from the wet meadows variety to deep marshes which can be covered with several feet of water. The vegetational community is made up of some or all of the following:

- Arums
- Bladderworts
- Bur-reeds
- Cattails
- Duckweeds
- Eelgrass
- Horsetails
- Hydrophyllus grasses
- Leatherleaf
- Pickering Weed

Rushes  
Sedges  
Smartweeds  
Sweet Gale  
Water Lilies  
Water Milfoil

28.4.3 SOILS: Soils commonly associated with wetlands, as described by the SOIL SURVEY OF HILLSBOROUGH COUNTY, NEW HAMPSHIRE, 1983, include the following "Very Poorly Drained" soils:

Borohemists  
Chocorua  
Greenwood  
Ossipee  
Peacham  
Sear sport  
Rumney  
Naumb erg  
Lyme  
Lyme, Stony  
Pillsbury  
Pillsbury, Stony  
(#197)  
(#395)  
(#295)  
(#495)  
(#549)  
(#15)  
(#105)  
(#2.14)  
(#246)

(#624467))  
(#647)

## 28.5 WETLAND ZONE BOUNDARIES

28.5.1 WETLAND ZONE DEFINED: The Wetland District is defined as those areas which meet the definition in Article 28.3. The Wetland District is overlayed over all other districts, when adequate onsite investigation indicates the definition is met.

28.5.2 ESTABLISHMENT OF A WETLANDS ZONE: The limits of the Wetlands District are hereby determined to be wetland areas of one-half acres (21,780 sq. ft.) or more in size, or any size if contiguous to surface waters such as lakes, ponds, and streams.

28.5.3 WETLANDS INCORRECTLY DELINEATED: When a plan is proposed for development in an area which may involve wetlands, it is the responsibility of the applicant to indicate on all maps those areas which meet the definition of the Wetland District. In the event that an area is incorrectly designated as being wetland, and evidence to that effect is satisfactorily presented to the Planning Board, the restrictions contained in this Section shall not apply. Conversely, in the event an area is incorrectly designated as not being a wetland to the Planning Board, the restrictions contained in this section shall apply. Such evidence may be obtained by adequate on-site investigation and analysis conducted by a qualified professional.

28.5.4 RELATION TO OTHER ZONES: Where the Wetlands Zone is superimposed over current town maps, or land planning maps of the future, the more restrictive regulations shall apply.

28.6 PERMITTED USES: In designated wetland areas, permitted uses are any uses that are compatible with the intent of this Ordinance and does not involve significant alteration of the wetland.. Such uses include:

28.6.1 Forestry tree farming, using best management practices in order to protect streams from damage and to prevent erosion or sedimentation.

28.6.2 Cultivation and harvesting of crops according to recognized soil conservation practices including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation.

28.6.3 Wildlife refuges and wildlife travel corridors.

28.6.4 Parks and recreation uses. consistent with the purpose and intent of this regulation.

28.6.5 Conservation areas and nature trails.

28.6.6 Open spaces as permitted or required by subdivision regulations or zoning ordinances, if any.

28.7 SPECIAL EXCEPTIONS: Special Exceptions may be granted by the Zoning Board of Adjustment after proper public notice and public hearing, for undertaking the following uses in the Wetlands Zone when application has been referred to the Planning Board, the Conservation Commission and to the Health Officer for review and comment at least twenty (20) days prior to the hearing date.

28.7.1 Street, roads and other access ways and utility right-of-way easements, including power lines and pipe lines, if essential to the productive use of the land and if so located and constructed as to minimize any detrimental impact of such

uses upon and within the Wetlands Zone.

28.7.2 Dredging and filling. If allowed, all necessary federal, state and Town of Weare permits will be required. Failure to obtain all necessary permits will result in a fine of one hundred dollars (\$100) per day for each day of violation.

28.7.3 The undertaking of a use not otherwise permitted in the Wetlands Zone, if it can be shown that such proposed use is not in conflict with any and all of the purposes and intentions listed in Section 28.2 of this Article.

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