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ARTICLE 10. OVERLAY DISTRICTS

10.01 Wetlands Conservation (WC) District

A. Authority for the WC District

The WC District is adopted pursuant to Section 1.03, Authority, of this Ordinance, and in accordance with the provisions of RSA 674:21, Innovative Land Use Controls. The WC District is considered to be an innovative land use control as environmental characteristics zoning. Within the WC District, the Planning Board is authorized to administer and grant conditional use permits in accordance with Article 12, Conditional Use Permits, of this Ordinance. Reasonable Exceptions from the terms of Section 10.01 may only be approved through a Conditional Use Process by the Planning Board where the applicant, in addition to the standards contained in Section 10.01 F. 1 through 3 and Article 12, meets the additional standards of Section 10.01 F. 4.

B. Establishment of the WC District

1. The WC District is established in accordance with, and for the purposes so stated in Section 4.01, Establishment of Districts and Statement of Purpose of Each, of this Ordinance.
2. The WC District shall consist of the following lands:
 - a. Lands as indicated in Section 4.02, Zoning Map, of this Ordinance;
 - b. Lands that meet the definition of Wetlands, Vernal Pools, or Surface Waters as specified in Article 3, Definitions, of this Ordinance (collectively "Wetlands Resources");
 - c. Lands designated as Prime Wetlands pursuant to RSA 482-A:15, N.H. Administrative Rules Env-Wt 700, and this Section; and
 - d. Buffers to Wetlands, Vernal Pools, Prime Wetlands, and Surface Waters as designated pursuant to this Section (collectively "Wetlands Buffers").
3. If a boundary of the WC District is disputed by either the Planning Board or an applicant, the exact location of the boundary shall be determined by the Planning Board in consultation with the Conservation Commission. The Planning Board, at the applicant's expense, may engage a certified wetland scientist to determine the precise location of the WC District boundary, using the methodology consistent with N.H. Administrative Rules Env-Wt 100-900, and in accordance with the "1987 Corps of Engineers Wetlands Delineation Manual", as modified by the 2011 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0)*, or most current methodology accepted by NH DES Wetlands Bureau and providing documentation in the form of the US Army Corps of Engineers WETLAND DETERMINATION DATA FORM – Northcentral and Northeast Region. In the alternative, the applicant may retain such a scientist, acceptable to the Planning Board and Conservation Commission, to make such determination. A report of the scientist's findings shall be submitted to the Planning Board and the Conservation Commission, and shall include, if warranted, a revised wetland map of the area in question along with a written report of the results of the investigation together with the completed data forms.

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4. Signage Required. Required Wetlands Buffers on parcels for which conditional use permits, subdivisions, and site plans have been approved shall be marked at 50' intervals with signs approved by the Conservation Commission.

C. Prime Wetlands

Wetlands designated as Prime Wetlands by the town of Bow, within the scope of RSA 482-A and N.H. Code of Administrative Rules Env-Wt 700, are described in the Bow Wetlands Report dated December 1989 and include the following wetlands:

PRIME WETLANDS

WETLAND NUMBER	LOCATION	TAX MAP SHEET NO.
32	Great Meadow Swamp Woodhill-Hooksett Road	33, 38
34	Center Brook and Horse Brook	33, 34, 38
35	Bow Bog Brook upstream of Interstate 93	34, 35
43	Brown Hill Road and Dunbarton Center Road	13, 18
44	White Rock Brook Branch Londonderry Turnpike West	13
45	Headwaters of White Brook	13, 18, 23
55	White Rock Brook Birchdale Road area	3, 4, 5
56	Turee Pond	8, 9, 10, 14, 15

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D. Buffers to Wetlands and Setbacks from Wetlands

The minimum Wetland Buffer shall consist of undisturbed land in accordance with the following regulations, the only exception would be for driveway crossings that are in compliance with town, state and federal permitting. As set forth in the Table of Minimum Wetlands Setbacks, certain uses must adhere to setback requirements that are more restrictive than the applicable Wetlands Buffer in the Table of Minimum Wetlands Buffer.

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 ¹	75'
C. Buffers to Wetlands ² 0.25 acre or larger	50'
D. Buffers to other Wetlands, less than 0.25 acre	30'

The Wetland Buffers described above shall consist of ungraded and undisturbed upland.

Buffers shall not be required if the Wetland, Surface Water, or Vernal Pool is one of the following types:

- A. A constructed vegetated swale, roadside ditch, or driveway ditch;
- B. A sedimentation, detention, or retention basin; or
- C. An excavated agricultural, irrigation, or fire pond.

¹ This shall include vernal pools in the RU, R, R-1, and CV Districts.

² This shall include vernal pools in all zones except RU, R, R-1, and CV Districts.

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TABLE OF MINIMUM WETLAND SETBACKS

All dimensions are given in feet.

A. Setbacks from Prime Wetlands

B. Setbacks from Surface Waters, Wetlands with very poorly drained soils, Vernal Pools.

C. Setbacks from Wetlands 0.25 acre or larger

D. Setbacks from other Wetlands less than 0.25 acre

A.	B.	C.	D.	Uses and Activities
150	75	75	75	On-site waste disposal systems for one and two family dwellings
150	125	125	125	On-site waste disposal systems for all other uses
150	75	50	30	Buildings, parking lots, and all accessory structures including residential fuel tanks
200	200	200	200	Underground chemical and fuel tanks, except for fuel tanks accessory to a single family dwelling

Where an existing use within the buffer or setback is destroyed or in need of extensive repair, it may be rebuilt provided that such rebuilding is completed within one year of the event causing destruction. The new or rebuilt use shall not extend further into the wetland or setback area than the original use. The buffer shall consist of natural vegetation.

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E. Uses Prohibited, Permitted, and Requiring a Conditional Use Permit in the WC District

TABLE OF USES FOR THE WETLAND CONSERVATION (WC) DISTRICT

Uses and Activities	PW	Wet	PWB	Wet Buff
Salt storage, junk yards, resource recovery facilities, transfer stations, landfills, solid or hazardous waste facilities	-	-	-	--
Bulk storage of chemicals, petroleum products, toxic & hazardous materials	-	-	-	-
Dumping/disposal of snow & ice from roadways & parking	-	-	-	-
Erection/construction of structures	-	-	-	-
Recontouring/grading of land	-	-	-	-
Draining, dredging, filling, or change in flow of water	-	-	-	-
Pollution of wetlands, surface or ground waters	-	-	-	-
Agricultural ¹	-	P	C	P
Logging ² operations	P	P	P	P
Activities which alter the natural drainage system resulting in a change in the flow of water, water level or water table	-	C	-	-
Water impoundments for the purpose of creating a water body for wildlife, or for recreational uses	-	C	-	C
On-site detention/treatment of stormwater runoff	-	-	C	C
Outdoor recreational activities including hunting, fishing, swimming, and boating; Wildlife or fisheries management activities; Educational activities and scientific research	P	P	P	P
Activities incidental to ordinary residential use such as normal vegetation maintenance, mowing, trimming, removal of dead or diseased vegetation; No regrading or recontouring land or clearing vegetation	P	P	P	P
Repair and/or maintenance of existing streets, roads, and other access ways.	C	P	C	P
Construction of streets, roads, and other access ways and utility right of way easement, including power lines and pipelines; repair, and/or maintenance of utility right of way easement, including power lines and pipelines.	C	C	C	C
Uses permitted within the base district, but which are not otherwise permitted in the WC District	-	C	C	C

Abbreviations:

PW = Prime Wetlands

Wet = Wetlands Resources

PWB = Prime Wetland Buffer

Wet Buff = Wetlands Buffers

P = Permitted

C= Conditional Use Permit

- = Not Permitted

¹ Includes agricultural activities as defined in NH RSA 21:34-a and as governed by RSA 430, provided that such activities and operations are in conformance with RSA 482-A and the most recent best management practices determined by the USDA Natural Resources Conservation Service, NH Department of Agriculture, Markets & Food, and UNH Cooperative Extension.

² Logging operations must (1) utilize best management practices as described in Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire; and (2) comply with all applicable state laws including RSA 227-J:9 Cutting of Timber Near Certain Waters and Public Highways, obtaining and filing an intent to cut form according to RSA 79:10 (as appropriate), and filing a complete Notification of Forest Management Activities Having Minimum Wetlands Impact according to RSA 482-A:3, V.(a), or obtaining a NHDES Wetlands permit according to RSA 482-A.

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F. Standards for Granting of a Conditional Use Permit in the WC District

1. An application for a conditional use permit in the WC District shall be filed with the Planning Board pursuant to Section 12.02, Application and Review Procedure, of this Ordinance. The Planning Board shall refer the application to the Conservation Commission for review and comment prior to the public hearing on the application. In acting on the application, the Board shall consider any report received from the Commission and information obtained during a site walk.

2. In addition to the requirements of Article 12, Conditional Use Permits, of this Ordinance, 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 conditions:

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 Resources and Wetlands Buffers, and minimizes any adverse impact to the functions and values of Wetlands Resources and Wetlands Buffers as determined by a Wetlands Resources evaluation in accordance with an established methodology such as *The Highway Methodology Workbook Supplement* (1999) of the US Army Corps of Engineers;

c. The proposed activity minimizes the environmental impact to abutting or downstream property and/or hydrologically connected water and/or Wetlands Resources;

d. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the Wetlands Resources;

e. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the Wetland Buffer;

f. Federal and/or state permit(s) have been received for the proposed activity in accordance with N.H. Administrative Rules Env-Wt 100-900, the Federal Section 404 Permit; and

g. Where applicable, applicant has provided proof of compliance with all other state and/or federal regulations to the Planning Board.

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 for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces.

For uses or activities that involve construction within 25 feet of a Prime Wetland Buffer, or where a Wetlands Buffer is present, in advance of any site disturbance:

a) Erosion control measures that are appropriate to the site and seasonal conditions shall be installed to protect the Wetlands Resources and Wetlands Buffer;

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- b) Barriers to restrict access to sensitive resources during construction (such as orange construction fencing) shall be installed as required by the Planning Board.

All construction, forestry and agricultural activities within one hundred feet (100') of any Wetlands Resource shall be undertaken with special care to avoid erosion and siltation into the Wetlands Resource. When deemed appropriate to protect water quality or a sensitive resource, documentation of Best Management Practices in place may be required by the Planning Board or the Conservation Commission.

4. Reasonable exceptions. The TABLE OF USES FOR THE WETLAND CONSERVATION (WC) DISTRICT specifically authorizes certain Uses and Activities within Wetlands Resources and Wetlands Buffers. The TABLE OF WETLAND BUFFERS specifies the minimum standards for buffers to wetlands. Reasonable exceptions may only be granted by the Planning Board through the Conditional Use Permit process where the applicant additionally demonstrates that granting the exception:

- a. is consistent with the purposes of the Zoning Ordinance,
- b. will not cause undue financial burden on the Town or adjacent properties,
- c. creates a balance between the adverse impacts to Wetlands Resources and Wetlands Buffers and the reduction of adverse impacts to private property, and
- d. is necessary for reasonable use of the property.

In addition, the Planning Board may require mitigation measures to offset the adverse impacts to Wetlands Resources and Wetlands Buffers.

G. Subsurface Disposal Systems in the WC District

The following conditions, based on characteristics of the receiving soil as they relate to U.S. Department of Agriculture Natural Resources 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 (2) minutes per inch, the setback shall be at least one hundred twenty-five (125) feet from a Wetlands Resource;
2. For soils with restrictive layers within eighteen (18) inches of the natural soil surface, the setback shall be at least one hundred (100) feet from a Wetlands Resource; and
3. For all other soil conditions, the setback shall be at least seventy-five (75) feet from a Wetlands Resource.

H. Non-Conforming Structures and Uses in the WC District

Structures or uses that became non-conforming on or after January 6, 1990, as a result of the adoption of this Section, shall be subject to Article 11, Non-Conforming Lots, Uses, and Structures, of this Ordinance.