

# Mason Zoning DRAFT of Proposed Buffer Amendments

## ARTICLE XVI: WETLANDS CONSERVATION DISTRICT ORDINANCE

### A. Purpose and Intent

In the interest of public health, safety, and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high-water tables:

1. To prevent the development of structures and land uses on naturally occurring wetlands which would contribute to pollution of surface and groundwater.
2. To prevent the destruction of natural wetlands which provide flood protection, recharge groundwater supply, and augmentation of stream flow during dry periods.
3. To protect potential water supplies and existing aquifers (water-bearing strata) and aquifer recharge areas.
4. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities.
5. To encourage those uses that can safely and appropriately be located in wetland areas.

### B. Definitions

1. Wetlands - means an area that is inundated or saturated by surface water 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.
2. Surface Waters – perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial (RSA 485-A:2 XIV).
3. Perennial Stream – A perennial stream (Env-Wt 101.68) is a watercourse that is in the groundwater table for most of the year and so has groundwater as its primary source of water for stream flow, with runoff from rainfall and snowmelt as a supplemental source of water, so that it contains flowing water year-round during a typical year.
4. Mean High-Water Level - the line on the shore, running parallel to the water body, that defines the high level of the water body, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter or debris, or other appropriate means that consider the characteristics of the surrounding areas.
5. Wetland Conservation District Buffer - an upland area adjacent to a wetland or surface water, where construction is not permitted, and the natural woodland vegetation shall be retained if existing. The buffer shall extend a distance of fifty (50) feet as measured on a horizontal plane away from the delineated edge of a wetland or the Mean High-Water Level of a surface water.

### C. District Boundaries

1. The Wetlands Conservation District comprises all surface waters, wetlands, and the associated buffers as determined by the following criteria:
  - a. The edge of the wetland shall be defined by NH RSA 482-A:2, X as established and

defined by the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987:

- b. The edge of surface waters shall be defined as the Mean High-Water Level. Where the mean high-water level is not easily discernable, the mean high-water level may be determined by the NH Department of Environmental Services.

#### **D. Performance Standards**

##### **1. Setbacks**

- a. Buildings must be set back fifty (50) feet from delineated wetlands and the Mean High-Water Level of water bodies.
- b. No septic tank or leach field may be constructed or enlarged closer than seventy-five (75) feet to any wetland.

##### **2. Wetlands Conservation District Buffer**

- a. No fertilizer shall be applied to the vegetation or soils located within 50 feet of the delineated wetlands or water bodies. Between 25 and 50 feet from the delineated wetland or water body, slow or controlled release fertilizer, as defined by the NH Department of Environmental Services, may be used. No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf or established vegetation within 50 feet of the delineated wetland or water body, except if applied by a licensed horticultural professional.

3. In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Mason, the more restrictive regulations shall apply.

4. Wetland areas may be used to satisfy minimum lot areas provided that at least one and one-half acres per lot exist that can fulfill all state standards for sewage disposal and water supply. For on-site septic tank and leach field systems, this shall include both a primary and secondary leach field location.

5. There shall be no net increase in peak flow or overall volume of stormwater runoff in the Wetland Conservation District as a result of any development, in accordance with "Stormwater Management and Erosion and Sediment Control for Urban and Developing Areas in New Hampshire", DES, RCCD, 1992, and Chapter ENV-Ws 415 of the "NH Code of Administrative Rules. Calculations shall be based on 25-year storm events.

#### **E. Delineation of Wetlands**

Wetlands in the Town of Mason shall be determined in accordance with NH RSA 482-A and the criteria referenced under Article XVI.B.1 through site specific delineation conducted by a soil or wetland scientist certified by the State of New Hampshire. A certified soil or wetlands scientist determination is not required for minimum impact projects unless they are part of a subdivision.

#### **F. Wetlands Incorrectly Delineated**

In the event that the Planning Board or the Zoning Board of Adjustment disputes the delineation of an area as determined by the applicant's certified soil or wetland scientist, the Planning Board or Zoning Board of Adjustment may, at the expense of the applicant, retain its own soil or wetland scientist certified by the State of New Hampshire to delineate the area in question.

#### **G. Wetlands Exempt**

The regulations and restrictions set forth in this District shall not apply to the following wetland areas or their buffer zones:

1. an isolated wetland or surface water of 3000 s.f. or less which does not meet the definition of a

- bog or vernal pool.
- 2. manmade ditches and swales
- 3. sedimentation/detention basins or ponds
- 4. manmade agricultural/irrigation ponds and swales
- 5. fire ponds, drafting basins and cisterns

## **H. Permitted Uses**

Any use that does not result in the erection of any structure or alter the surface configuration by the addition of fill and that is otherwise permitted by the zoning ordinance:

1. Forestry, tree farming, using best management practices to protect streams from damage and to prevent erosion and sedimentation.
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.
3. Water impoundments and construction of wells for water supply.
4. Maintenance of existing drainage ways - streams, creeks, or other paths of normal runoff water.
5. Wildlife habitat management.
6. Parks and such recreational uses as are consistent with the purposes and intent of this ordinance.
7. Conservation areas and nature trails.
8. Open space as permitted by subdivision regulations or zoning ordinance.

## **I. Special Exceptions**

Special exceptions may be granted by the Board of Adjustment for the following uses within the Wetland Conservation District. The Mason Conservation Commission will be requested to comment on applications requiring special exception.

1. Streets, roads, and other access ways and utility rights of way easements including power lines and pipelines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetlands.
2. The undertaking of a use not otherwise permitted in the Wetland Conservation District, which may include the erection of a structure, dredging, filling, draining, or otherwise altering the surface configuration of the land if it can be shown that such proposed use will not conflict with the purpose and intentions of this ordinance and if such proposed use is otherwise permitted by the zoning ordinance. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a soil scientist certified by the New Hampshire Board of Natural Scientists selected by the Zoning Board of Adjustment and/or the Planning Board.
3. Pre-existing Uses. This Ordinance shall not prohibit the continuation of a legally pre-existing use in the Wetland Conservation District. The use may be expanded without a special exception if the expansion is in the direction away from the delineated wetlands and surface waters; however, a special exception granted by the ZBA is required for all other expansions of legally pre-existing uses.