
WATER RESOURCES PROTECTION DISTRICT ORDINANCE
ADOPTED MARCH 8, 1994
AMENDED MARCH 11, 2003

SECTION I. AUTHORITY AND PURPOSE

By the authority granted in New Hampshire RSA 674:16-17 and 674:20-21, and in the interest of public health, safety and general welfare, the Troy Water Resources Protection District (WRPD) is hereby established to regulate the use of land that abuts surface waters and/or land that is subject to extended periods of high water table, herein defined as "wetlands". The purpose of this ordinance is to:

1. Prevent the development on naturally-occurring wetlands of structures and land uses which will contribute to the pollution of surface and ground water by sewage or toxic substances.
2. Prevent the destruction of, or significant changes to, natural wetlands which provide: flood protection; groundwater recharge; pollution abatement; the augmentation of stream flow during dry periods; or are important for such reasons as cited in RSA 483-A (Fill and Dredge in Wetlands).
3. Protect unique and natural areas.
4. Protect wildlife habitats and maintain ecological balances.
5. Protect existing aquifers, aquifer recharge areas and potential water supplies.
6. Prevent expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.

SECTION II. THE FUNCTION OF WETLANDS

Wetlands remove pollution from waters that flow through them. Wetlands often communicate directly with the groundwater in aquifers. This protects the town's water supply. They store water during the wettest part of the year, and release it as a constant rate to maintain regular stream flows, thus preventing serious flooding. Wetlands provide critical breeding and nesting habitats for a wide variety of fish and wildlife, including migratory birds. Wetlands, because of the gases they emit and absorb, such as methane, nitrogen, and carbon dioxide, help to maintain the planet's atmospheric balance.

SECTION III. DEFINITIONS

- A. **Wetlands** are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by water. For the purposes of this classification, wetlands must have one or more of the following three attributes:
- at least periodically, the land predominantly supports hydrophytes;

- the substrate is predominantly undrained hydric soils;
- the substrate is nonsoil and is saturated with water or covered by shallow water for at least thirty (30) consecutive days during the growing season of each year.

1. **Bogs** are peat or muck deposits of significant depths, which usually develop in undrained glacial depressions. The water in bogs is acidic with little oxygen and nutrients. The characteristic vegetation has adapted to the conditions present in bogs. Typical vegetation includes:

Sphagnum Moss	Leather-leaf	Sheep-laurel
Cranberries	Pitcher Plant	Cotton Grass
Sweet Gale	Black Spruce	Larch

2. **Bottomland Forests** are lowlands along streams and rivers which are periodically flooded. These are often forested and are sometimes called bottomland hardwood forests. Typical vegetation includes:

Cottonwood	Silver Maple	Black Willow
Sycamore	Wood Nettle	Red Maple

3. **Hydric Soils** are soils which are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. Hydric soils are either organic (muck and peat) or mineral soil. Hydric mineral soils will have a seasonal high water table generally within 12 inches of the surface, and the dominant soil color is of low chroma (e.g. gray) within 18 inches if the surface.

4. **Marshes** are 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 may occur. Marshes range from the wet meadow variety to deep marshes which can be covered by several feet of water. Typical vegetation includes:

Cattail	Reed	Bulrush
Willow	Button bush	Wild Rice
Purple Loosestrife	Pickerelweed	Smartweed
Soft Rush	Beak-Rush	Tussock
Sedge	Blue Flag	Sweet Flag
Joe-Pye Weed		

5. **Swamps** are areas where the water table is at or near the ground surface for a significant part of the year. The vegetative growth consists mostly of trees and woody shrubs. In some areas reed grass-dominated wetlands are also called swamps. Typical vegetation includes:

Red Maple	Viburnum	Highbush Blueberry
Sensitive Fern	American Elm	Swamp White Oak
Yellow Birch	White Ash	Green Ash
White Cedar	Skunk Cabbage	Silky Dogwood
Arrow Wood	Speckled Alder	Eastern Hemlock

- B. **Hydrophytes** are macrophytic plant life growing in water, soil, or on a substrate that is at least periodically saturated with water.

SECTION IV. DISTRICT BOUNDARIES

- A. For the purposes of this ordinance, the Water Resources Protection District is comprised of the following:

- All wetlands as defined in Section III above, including those identified on the Troy Wetlands Map.
- All surface waters, such as lakes, ponds, streams, or intermittent streams.
- Any land subject to flooding.

B. **Boundary Appeals**

In the event that there is a question as to the validity of the boundaries of a wetland area which cannot be resolved satisfactorily by either the Planning Board, the Conservation Commission, the Selectmen or the applicant, the Board may call upon the services of a qualified soil scientist to examine the area in question and report the findings to the Board. Any costs incurred for such testing shall be borne by the landowner or developer.

SECTION V. DIMENSIONAL REQUIREMENTS

- A. The following setback distances shall be observed for all proposals abutting the Water Resources Protection District:

- 1) No building or parking lot shall be located closer than 75 feet from any boundary of the WRPD.
- 2) No septic system, including leach fields, shall be located closer than 100 feet from any boundary of the WRPD.
- 3) No underground fuel storage tanks or tanks containing other hazardous materials shall be located closer than 125 feet from any boundary of the WRPD.
- 4) There shall be no use of pesticides, herbicides, fungicides or fertilizer within 25 feet of the WRPD.

- 5) A 25-foot buffer shall be maintained around all wetlands and streams, within which any alteration of terrain activities shall follow accepted erosion and sediment control techniques.
- 6) No salt storage yards, commercial junkyards, or solid or hazardous waste facilities as defined under RSA 147-A and RSA 149-M shall be located closer than 250 feet from any boundary of the WRPD.
- 7) No dumping of snow containing de-icing chemicals shall be located closer than 100 feet from any boundary of the WRPD.

B. Wetland areas, excluding bodies of water, may be used to satisfy minimum lot area and setback requirement, provided that the remaining lot area is sufficient in size and configuration to adequately accommodate all required utilities such as sewage disposal and water supply.

SECTION VI. PERMITTED AND CONDITIONAL USES

The following uses are permitted either by right in the WRPD or by conditional use permit of the Planning Board. In no case, however, does this relieve the landowner from any possible obligation to receive appropriate state and/or federal permits relative to activities in or around wetlands (RSA 482-A), groundwater (RSA 485-C), rivers (RSA 483), or shoreland (RSA 483-B).

A. PERMITTED USES:

- 1) Wildlife habitat development and management.
- 2) Recreational uses consistent with the purpose and intent of this Article.
- 3) Conservation areas and nature trails.
- 4) Water impoundments and the construction of well water supplies.
- 5) Drainage ways, including streams, creeks or other paths or normal run-off water and common agricultural land drainage. This does not include the creation of ditches.
- 6) Agricultural activities, provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion.

B. Conditional Uses

A Conditional Use Permit may be granted by the Planning Board, according to the procedure outlined in Section VIII below, for activities including but not limited to:

- 1) Construction of roads and other access ways not associated with agriculture, pipelines, powerlines, and other transmission lines; and
- 2) Forestry and tree farming, including the construction of access roads for said purpose, subject to the following conditions:
 - a) The proposed construction is essential to the productive use of land not within the Water Resources Protection District.
 - b) Design, construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.
 - c) No reasonable alternative exists which would avoid wetlands alteration or lessen the impacts.
 - d) The design and construction of the proposed use will, to the extent possible, be consistent with the purpose and intent of this ordinance.
 - e) The proposed use will not create a hazard to individual or public health, safety or welfare and will not diminish the wetlands values identified in this ordinance.

SECTION VII. EXEMPTION FOR RESIDENTIAL STRUCTURES

Notwithstanding other provisions of this Article, the construction of additions and extensions to one and two-family dwellings shall be permitted within the Water Resources Protection District provided that:

- 1) The dwelling lawfully existed prior to the effective date of this Article; and
- 2) That the proposed construction conforms to all other applicable ordinances and regulations of the Town of Troy.

SECTION VIII. APPLICATION PROCEDURE

- A. All applications for a building permit, subdivision or site plan review approval shall be required to locate and depict any wetland areas and/or surface waters on the plans for the parcel(s) of land.
- B. If the proposed activity is in or abuts the Water Resources Protection District, the application will be referred to the Troy Conservation Commission to determine whether or not any wetlands will be affected and if so, what the impact would be.
- C. The Conservation Commission will schedule a site inspection with the applicant within 14 days of receipt. If it is determined that there will be no affect, the application will be processed accordingly. In the event that wetlands will be

affected, the Conservation Commission will make written recommendation within 14 days of the site inspection to the Planning Board regarding the application.

- D. The Planning Board will review the application at a duly-noticed public hearing pursuant to RSA 675:7. At this time, the Planning shall either:
 - 1) Reject the application if it is determined not to be in compliance with the purpose and intent of this Article; or
 - 2) Issue conditional use approval, in conjunction with the criteria described in Section VI,B, above.
- E. The applicant and, where applicable, the Selectmen, will be notified of the Planning Board decision in writing within 72 hours of the decision.

SECTION IX. PERFORMANCE GUARANTEE

Prior to final approval pursuant to this Article, the applicant may be required to submit a security to the Selectmen, in a form and amount as determined by the Planning Board or the Selectmen, to ensure that all construction and/or reclamation is carried out in accordance with the approved design.

SECTION X. ENFORCEMENT

The enforcement of this Article is vested with the Selectmen. Upon any well-founded information that this Article is being violated, the Selectmen shall, within 14 days, undertake such steps as are legally available to them pursuant to RSA 676:15, 17, 17-a & 17-b.

SECTION XI. SEVERABILITY

The invalidity of any provision of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article.

SECTION XII. EFFECTIVE DATE

This Article shall take effect upon its passage, and as amended.