



TOWN OF BELMONT

NEW HAMPSHIRE

WETLANDS ORDINANCE

ENACTED: MARCH 08, 1983

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**WETLANDS CONSERVATION ORDINANCE
Town of Belmont, New Hampshire**

Adopted: March 8, 1983	Amended: March 13, 1990	Amended: March 10, 1998
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	Amended: March 11, 1997	

ARTICLE 1: PURPOSE AND AUTHORITY

By the authority granted in New Hampshire RSA 674:16-17, this Wetlands Conservation District Ordinance is hereby established to regulate the uses of lands subject to standing water flooding, or high water tables for extended periods of time. The purpose 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 for extended periods of time.

It is intended that this ordinance shall:

- A. Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage or toxic substances.
- B. Prevent the destruction of, or significant changes to natural wetlands which provide flood protection, groundwater recharge, pollution abatement and the augmentation of stream flow during dry periods, and which are important for such reasons as cited in RSA 482-A:1-6.
- C. Protect unique and unusual natural areas.
- D. Protect wildlife habitats and maintain ecological balances.
- E. Protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas.
- F. Prevent expenditure of municipal 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.
- G. Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in wetlands.

ARTICLE 2. DISTRICT BOUNDARIES

A. Wetlands Conservation District Defined

The Wetlands Conservation District is defined as all areas, regardless of size, that fall under the definition of freshwater wetlands (wetlands).

B. Establishment of a District

The limits of the Wetlands Conservation District are hereby determined to be:

1. areas delineated as wetlands on the current Belmont Wetlands Map and Prime Wetlands Map, as amended;
2. areas meeting the definition of Wetlands.

C. Wetlands Incorrectly Delineated

Where it is alleged that an area has been incorrectly delineated as a wetland, or that an area not so designated meets the criteria for wetlands designation, the Planning Board, after review and comment by the Conservation Commission, shall determine whether the regulations contained herein have application.

The Planning Board may base their judgement upon the determination of the Belknap County Soil Conservation Service, a N.H. Certified soil scientist or N.H. Certified Wetland Scientist, which may be made on the basis of on-site investigation. Such evidence may be presented in written form to the Planning Board.

In the event that it is alleged that a Prime Wetlands Candidate as shown on the Town Wetlands Map incorrectly defines the limits of a prime wetland and evidence in a form acceptable to the Planning Board is presented, the Planning Board shall determine the designation of the disputed area.

ARTICLE 3. PERMITTED USES WITHIN THE WETLANDS CONSERVATION DISTRICT

- A. Permitted uses are those which will not require the erection or construction of any structure or building and will not significantly alter the natural surface configuration by the addition of fill or by dredging. Uses permitted under these Regulations, but for which other agency permits are necessary, such as NH DES Wetlands Bureau approval, must obtain such other permits prior to proceeding. The permitted uses are:
1. Forestry-tree farming, using best management practices in order to protect streams from damage and to prevent 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. Wildlife refuges;
 4. Parks and recreational uses consistent with the purpose and intent of this ordinance;
 5. Conservation areas and nature trails;
 6. Open spaces as permitted or required by the Belmont Subdivision Regulations;
 7. Docking facilities and other shoreline structures properly permitted by the NH DES Wetlands Bureau;
 8. Maintenance of existing drainage facilities properly permitted by the NH DES Wetlands Bureau;
 9. Construction and maintenance of public roads, property and facilities by the Town of Belmont or its representative;
 10. All other Major, Minor and Minimum impact projects properly permitted by the NH DES Wetlands Bureau.

ARTICLE 4. DIMENSIONAL REQUIREMENTS

The following dimensions establish buffer zone setbacks for Water Bodies and Wetland Areas.

Use	Public Waters and Prime Wetlands	Ponds, Rivers Brooks, Streams	Seasonal Streams	Wetlands (any size)
Principle Structure	50'	50'	35'	35'
Accessory Structure	50'	50'	35'	35'
Septic System Components	*****IN ACCORDANCE WITH STATE REQUIREMENTS*****			
Above Ground Storage Tanks In excess of 300 gal. ¹	250'	250'	250'	250'
Above Ground Storage Tanks 300 gal. or less ¹	50'	50'	50'	50'
Commercial Earth Excavation	75'	25'	25'	25'
Below Ground Storage Tanks	250'	250'	250'	250'
Parking lots and Parking Areas	35'	35'	25'	25'
All fill materials associated w/roads, drives, parking facilities and structures of any size ²	25'	25'	15'	15'

¹All above ground (non-buried) storage tanks shall be constructed and installed in accordance with State and Federal requirements and include a catch basin of at least 100% of the total tank volume. For above ground tanks installed between 50' and 250' in any of the above noted buffer zones, a maximum of three tanks, not exceeding 300 gallons each, for a total per lot volume not to exceed 900 gallons, is allowed.

²Filling and dredging within the Wetlands Conservation District and/or reductions of the above setbacks for same may be allowed only after properly permitted by the N.H. DES Wetlands Bureau.

ARTICLE 5. CONFLICT WITH OTHER REGULATIONS

Whenever the provisions of this Ordinance differ from those prescribed by any statute, other Ordinance or other Regulation or restriction, that provision which imposes the greater restriction or the higher standard shall apply.

ARTICLE 6. ADMINISTRATION, ENFORCEMENT AND PENALTY

- A. It shall be the duty of the Board of Selectmen to administer and to enforce the provisions of this Ordinance.
- B. Upon any well founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of same by seeking an injunction in the Superior Court, or by any other logical and appropriate action.
- C. Any person, firm, corporation or other entity who violates any provision of this Ordinance shall be subject to the civil penalty provided under NH RSA 676:17 as the same may be amended from time to time.

ARTICLE 7. DEFINITIONS

BANK - The transitional zone immediately adjacent to the edge of the water defined by shelving, erosion, or where a vegetation line may be defined that indicates a change from upland to wetland.

BOGS - consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants which are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants are:

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| Atlantic White Cedar | Pale Laurel |
| Black Spruce | Pitcher-plants |
| Bladderworts | Rhodora |
| Bog or Buckbean | Sedges |
| Bog-laurel | Sheep Laurel |
| Bog-rosemary | Spagnum Moss |
| Cotton Grass | Sundews |
| High-bush Blueberry | Sweet Gale |
| Leatherleaf | |

DRAINAGE SWALES - Vegetated areas where waters flow during runoff to such a limited extent as not to create a defined channel or maintain wetlands vegetation.

EXCAVATIONS - Digging of any kind.

HYDROPHYTIC VEGETATION - shall be defined as macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. Hydrophytic vegetation includes, but is not limited to those plant species listed in the "National List of Plant Species That Occur in Wetlands" with a wetland indicator status of obligate, facultative, and facultative wet.

HYDRIC SOILS - shall be defined as very poorly drained soils, poorly drained soils, and those somewhat poorly drained soils which meet the hydric soils criteria set forth in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands".

INTERMITTENT STREAMS - Streams that flow for sufficient times of year to develop and maintain defined channels but may not flow during dry portions of the year.

MAJOR PROJECT - A project of such size and scope that has the potential to create a significant impact on the wetlands or waters of the state.

MARSHES - Treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the

marsh is covered with year around, 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:

- | | |
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| Arums | Pickerel Weeds |
| Bladderworts | Rushes |
| Bur-reeds | Sedges, including Bulrushes, Cotton-grasses and wool grasses |
| Cat-tails | Duckweeds |
| Eelgrass | Smartweeds |
| Frog's-bits | Sweet Gale |
| Horsetails | Water-lilies |
| Hydrophylus Grasses | Water-Milfoil |
| Leather Leaf | |

MINIMUM IMPACT PROJECTS - Minor projects which by virtue of their size and nature are likely to have a negligible impact by themselves, or in the aggregate.

MINOR PROJECT - A project of small size and scope that has the potential of minor impact upon the wetlands or waters of the state.

PERMIT ACTION - The review of an application for a permit pursuant to RSA 482-A or the review of a petition for recommendation under RSA 482:41-e or RSA 488-A:2 (N.H. DES Wetlands Bureau).

PRIME WETLANDS - shall be defined as those areas designated Prime Wetlands within the scope of RSA 482-A, and N.H. Code of Administration Rules WT 700.

Evaluation. The following criteria shall be utilized in a thoughtful evaluation process to determine those wetlands that deserve special consideration, review, protection, and designation as "prime".

- A. **Soils.** All wetlands to be designated as prime shall have the wettest soils as identified under the National Cooperative Soil Survey performed by the U.S. Soil Conservation Service. These soils in New Hampshire which generally have a slope of 3% or less, are currently categorized as the very poorly drained mineral soils, the very poorly drained organic soils, and fresh water marsh, namely:
 1. **Very poorly drained mineral soils:** Example of soil series are: Biddeford, Saco, Scarboro, Whately and Whitman.
 2. **Very poorly drained organic soils:** Example of soil series are: Ossipee, Chocorua, and other muck and peat soils.

3. **Marsh:**
 - a. Borohemists (fresh water marsh)
- B. **Flora.** High value may be ascribed to a wetland that presents one or more of the following characteristics:
 1. High diversity of species ranging from water dwelling species to emergent species.
 2. Containing a native species at the extremity of its range.
 3. Containing rare and/or endangered native plants.
- C. **Fauna.** Prime wetlands may be wetlands that are used by a great variety or large numbers of animals and/or birds for feeding, shelter, and/or reproduction. Prime wetlands may also be frequented by rare native species, species at the limit of their ranges, or endangered species.
- D. **Food chain production.** Consideration of food chain values is complex and involves a larger number of intricate biological and physical processes. Some factors to be evaluated are:
 1. The relative productivity of different types of wetlands.
 2. The amount of primary production available to terrestrial and aquatic food chains.
 3. The amount of that food chain production which supports specific animal species or groups, such groups may contain species that are endangered or those that have commercial value such as oysters, lobsters and other shellfish.
 4. Other factors controlling wetland productivity.
- E. **Hydrology.** To be classified as prime under this criteria, a wetland shall significantly benefit the watershed by at least one of the following capacities:
 1. Store water and regulate flow in flashy watershed. The wetland size shall be at least one percent of the watershed.
 2. Filter out sediments and regulate flow of nutrients to maintain water quality in adjacent lakes and streams. The wetland size shall be at least one percent of the watershed.
 3. May be indicative of a significant aquifer.
- F. **Historical, archeological and/or scientific importance.** Significant areas of

wetlands which have historical or archeological importance may be considered for designation as prime wetlands. Wetlands which have an on-going research value may also be designated.

- G. **Outstanding or uncommon geomorphological features.** Unique or unusual physical forms of wetlands which reflect geologic processes are worthy of preservation such as unique or regional examples of geological history. Such forms may occur in either estuarine or fresh water environments.
- H. **Aesthetics.** Prime wetlands, in addition to supporting diverse flora and fauna, may also contain distinctive landscape features which can gratify the aesthetic senses through intrinsic appreciation of natural beauty.
 - 1. Evaluation, however, of aesthetic values is difficult to quantify and, at best, is entirely subjective. Although several scenarios can be developed to "positively" evaluate aesthetic values of wetland landscapes, a basic approach requiring much less knowledge in landscape principles is to analyze the "negative" aspect of the landscape. This approach is more appropriate since the positive features and their aesthetic implications are taken into account when the other functions and values of wetlands are evaluated. The approach, therefore, is to assign penalties to the negative elements or influences that already affect the overall appreciation of the wetlands such as adverse air quality, water quality, noise, non-conforming use, etc. However, a wetland can be extensively used by man and retain its aesthetic appeal. For example, there are many recreational activities, such as hunting, fishing, developing nature trails, etc., which would not conflict with the basic natural setting of an aesthetically prime wetland.
- I. **Size.** Although the size of a wetland is important in terms of its capacity to support significant and diverse types of flora and fauna, it is difficult to categorically define the importance of wetland relative to size alone. Wide diversity of wetland types requires that the importance of size be related to the individual characteristics and/or functions of the wetland in question. In general a wetland less than 5 acres, except when bordering open water, is expected to be short lived and of limited capacity to support significant flora and fauna, however, smaller areas may be considered prime with other values.
- J. **Other considerations.** Other selected and identified issues that are unique and important to the Town may be evaluated.

These wetlands are described as current Prime Wetlands candidates in the Belmont Wetlands Report dated April, 1989. Further investigation shall be required to determine the actual category of

same.

Wetland No.	Location	Tax Map Sheet No.
2	Route 3 and Union Road	10
4	Union Road and Juniper Drive	07
10	Ephram's Cove to Union and Jefferson Road	04
11	Union Road and Jefferson Road	04
13	Ephram's Cove	04
14	Ephram's to Union Road	04
15	Hurricane Road	04,05
16	Hurricane Road and Town Dump	05
17	Hurricane Road and Seavey Road	05,08
18	Route 140 at Tilton & Northfield boundary	01
19	Route 140, along Northfield boundary	01,02
20	Route 140, South Road almost to Shaker Road	02,05
26	Wareing Road to Old Route 106	03,06
28	Badger Reservoir, along Tioga River to	06,09
29	Between Farrarville Road & Bryant Rd.	08
30	Farrarville Road and Brown Hill Road	09
33	Brown Hill Road	09,12
37	Leavitt Hill Road and Unnamed Road	11
38	Tioga River, between Route 106 & 107	09,12
39	Federal Street and PSNH right-of-way	11,12
40	Route 107 and Unnamed Road	12
43	Upper Parish Settlement Drive to Brown Hill Road	09,12
44	Hoadley Road, Middle Route & Rogers Road	12,14
45	Route 106 and Wildlife Boulevard	05,08
46	Horne Road and Mile Hill Road	10,11

The topographic definition of each prime wetland candidate is included in separate maps correlated to the report. Both the aforementioned maps and report are incorporated in this ordinance by reference.

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

- | | |
|---------------------|---------------|
| Alders | Poison Sumac |
| Arrow-wood | Red Maple |
| Atlanta White Cedar | Rhodora |
| Black Ash | Sphagnum Moss |

Black Gum	Spicebush
Buttonbush	Sweet Pepperbush
Common Elder	Tamarack (Larch)
High-bush Blueberry	Winterberry

WETLAND HYDROLOGY - Permanent or periodic inundation, or soil saturation to the surface at least seasonally. See the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" for technical criteria to determine wetland hydrology.

WETLAND SCIENTIST - A person capable of delineating wetlands using the methodology defined in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" and so Certified by the State of NH.

WETLANDS - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to swamps, marshes, bogs and similar areas.