

ARTICLE #5
AMENDMENT #4

Hampton Zoning Ordinance Amendment

Article II – Districts, Section 2.3.2 E Definitions – Buffer; Section 2.3.3 Permitted Uses D, E; Section 2.3.4 Use Restrictions and Prohibited Uses B, D and F; and Appendix.

~~Strikethrough~~ = Proposed Deletion

Underline = Proposed Addition

Highlighting = All Proposed Changes

E. “**Buffer**” is the area extending:

1. fifty feet (50 ft.) out from the boundary line of ~~1) the any tidal or inland wetland, boundary line, and/or 2) the boundary line of~~ areas of very poorly drained soils or poorly drained soils, and/or vernal pools or
2. one hundred feet (100 ft.) out from the edge of any of the following 1st through 4th order streams* or rivers: Ash Brook, Drakes River, Little River, Nilus Brook, Old River, Taylor River, and Winnicut River. *(Appendix 7 – Strahler, 1957)

The buffer is intended to provide a natural vegetative zone between the upland and ~~the wetland~~ any tidal or inland wetland, area of very poorly and poorly drained soils, and vernal pool for water filtration, storm water retention, flood protection and wildlife.

2.3.3 PERMITTED USES.

A. The following uses are permitted in tidal wetlands and their buffers as defined in subsection 2.3.2 A except for the 1st through 4th order streams (as identified in Section 2.3.2 E), whose permitted uses are set forth in Section 2.3.3 D below:(Amended March 2012)

B. The following uses are permitted in inland wetlands and their buffers except for the 1st through 4th order streams (as identified in Section 2.3.2 E), whose permitted uses are set forth in Section 2.3.3 D below:

D. The following uses are permitted in the one hundred foot (100 ft.) buffer of the following 1st through 4th order streams or rivers: Ash Brook, Drakes River, Little River, Nilus Brook, Old River, Taylor River, and Winnicut River:

1. In the first twenty-five feet (25 ft.) from the nearest edge of the stream or river (known as the Vegetated Buffer Strip):
 - a. the cutting of invasive species only with hand tools,
 - b. the application of limestone, and

- c. the permitted uses listed below in #4 through 12.
2. Between twenty-five feet (25 ft.) and seventy-five feet (75 ft.) from the nearest edge of the stream or river (known as the Limited Cut Area):
 - a. the cutting of live trees (not related to forestry) with a diameter of four and one-half inches (4 ½ inches) or less, measured four and one-half feet (4 ½ ft.) above ground level.
 - b. cutting of invasive species.
 - c. the application of limestone, and
 - d. the permitted uses listed below in #4 through #12.
3. Between seventy-five feet (75 ft.) and one hundred feet (100 ft.) from the nearest edge of the stream or river:
 - a. the application of low phosphate, slow release nitrogen fertilizers.
 - b. cutting of invasive species, and
 - c. the permitted uses listed below in #4 through #12.
4. Forestry and tree farming may be performed provided that best management practices, including leaving all stumps intact, are used to minimize siltation and protect wildlife habitat.
5. Removal of dead, diseased or unsafe trees is permitted. Stumps and their root systems shall be left intact in the ground.
6. Agriculture, provided that best management practices are used.
7. Construction of wells for water supply and water impoundments constructed pursuant to a plan approved by the Rockingham County Conservation District.
8. By Wetlands Permit only, drainage ways as paths for normal runoff provided that they are constructed according to drainage plans, consistent with the purposes of the Wetlands Conservation District ordinance and approved by the Planning Board, in consultation with the Conservation Commission.
9. Wildlife habitat management, conservation areas and nature trails.
10. Parks and passive recreation uses consistent with the purposes set forth in Section 2.3.1.
11. By Wetlands Permit only, roads, driveways, access ways, utilities and power lines may be constructed in the Wetlands Conservation District, provided that the following conditions exist:
 - a. Proposed construction is essential to the productive use of upland outside the Wetlands Conservation District;
 - b. Design and construction methods will be such as to minimize any impact upon the site, and will include restoration of the site as nearly as possible to its original grade and vegetative condition;
 - c. An alternative with less impact, which does not cross a wetland or buffer, is not feasible;

- d. The crossing will be at the point of least impact to the Wetlands Conservation District;
- e. Applications for all necessary permits shall be made concurrently.

12. Landscaping: Providing that the Building Inspector determines that:

- f. The area to be landscaped has been previously disturbed or cleared or is maintained as a lawn or beach;
- g. The disturbed or cleared area is not being expanded;
- h. The Building Inspector is satisfied that the proposed landscaping will not be contrary to the spirit or intent of the Wetlands Conservation District Ordinance. (If the Building Inspector determines that the proposal is not consistent with the purposes of the Wetlands Conservation District, the proposed activity shall only be permitted if the landowner obtains a Wetlands Permit in accordance with the provisions spelled out in the Wetlands Conservation District Ordinance). (Amended March 2010, March 2012)

† E. Other low density uses in Wetlands Conservation District as defined in this Ordinance may be undertaken only by Wetlands Permit as provided in Section 2.3.5 of this Ordinance. (Amended 1998, Amended March 2012, Amended March 2015)

2.3.4 USE RESTRICTIONS AND PROHIBITED USES

B. Except as provided in Subsections C & D below, No structure, impervious surface, parking space or building activity including dredging, filling or regrading shall be permitted within fifty feet (50') of any tidal or inland wetlands, or any area of very poorly drained soils and poorly drained soils or vernal pool, or within seventy-five feet (75 ft.) of the 1st through 4th order streams (as identified in Section 2.3.2 E). ~~except as provided in Subsections C & D of this Section.~~ Any construction, forestry and agriculture activities within one hundred feet (100 ft.) of any wetland, or any area of very poorly drained soils and poorly drained soils, shall be undertaken with special care to avoid erosion and siltation into the wetlands, or any area of very poorly drained soils and poorly drained soils. The Building Department or the Planning Board, pursuant to its Site Plan Review and/or Subdivision authority, Section 1.5 of the Town of Hampton Zoning Ordinance, may require an erosion control plan using Best Management Practices (see Appendix Number 4). (Amended 2005, March 2015)

D. Where a variance is granted that enables ~~for~~ building on a pre-existing lot of record, the setback ~~may~~ shall be in line with the setback of existing buildings within 100' (one hundred feet) on either side. Where ~~adjacent~~ such buildings are set back varying distances, but closer than:

1. fifty feet (50 ft.) from the wetland the boundary of any tidal wetlands, inland wetlands, or boundary of areas of very poorly drained soils and poorly drained soils, or vernal pools; or
2. one hundred feet (100 ft.) from any 1st through 4th order streams (as identified in Section 2.3.2 E).

the greater furthest setback among such buildings shall ~~be observed~~ apply. (Amended 2005)

F. No application of fertilizers, pesticides, insecticides, or herbicides shall occur in any tidal or inland wetlands, areas of poorly or very poorly drained soils, vernal pool, the 1st through 4th order streams as identified in Section 2.3.2 E, or their buffers, except as set forth in Section 2.3.3 D. (Amended March 2012, March 2015)

APPENDIX

Detailed descriptive materials and maps of wetlands and wetland soils and flora in the Town of Hampton are found in the following reports or their more recent revisions, which are incorporated herein by reference. (Amended 1998)

1. IDENTIFICATION, DOCUMENTATION AND MAPPING OF PRIME TIDAL WETLANDS IN THE TOWN OF HAMPTON, NEW HAMPSHIRE, prepared for the Hampton Conservation Commission and the Office of State Planning by Frank D. Richardson, Department of Botany and Plant Pathology, University of New Hampshire, 30 December 1982.
2. SOIL SURVEY OF NEW HAMPSHIRE TIDAL MARSHES, by Charles H.J. Breeding and Frank D. Richardson, New Hampshire Agricultural Experiment Station, University of New Hampshire, Durham, NH in cooperation with the U.S. Department of Agriculture. Soil Conservation Service, Research Report Number 40, October, 1974.
3. SOILS INFORMATION FOR RESOURCE PLANNING, HAMPTON, NH, April 1982, U.S. Soil Conservation Service. Reference is made to the reports of Barry H. Keith submitted to the Hampton Conservation Commission in 1980 entitled THE WETLANDS OF HAMPTON, NEW HAMPSHIRE and RESULTS, HAMPTON, NH WETLANDS SURVEY.
4. STORM WATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL HANDBOOK FOR URBAN AND DEVELOPING AREAS IN NH, New Hampshire Department of Environmental Services, Rockingham County Conservation District, USDA Soil Conservation Service, August, 1992.
5. PRIME WETLAND INVENTORY REPORT TOWN-WIDE WETLANDS INVENTORY PHASE II HAMPTON AND HAMPTON FALLS, NH, Gove Environmental Services Inc. February 6, 2006. (Adopted March 2015)
6. IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE, New Hampshire Fish and Game, 2nd Ed., 2004 (Adopted March 2015)
7. QUANTITATIVE ANALYSIS OF WATERSHED GEOMORPHOLOGY, Strahler, A.N., American Geophysical Union Transactions 38:913-920. 1957.