

Article II Wetlands Conservation Overlay District

§ 175-10.Special uses.

A. All activities in the Wetlands Conservation Overlay District not listed in § 175-8, Permitted uses, above are presumed to impair the wetlands functions and values unless proven otherwise by the applicant as provided below. The following uses may be granted a special use permit by the Planning Board, provided the design is in accordance with best management practices and consistent with the requirements of the Wetlands Conservation Overlay District:

(1) The Planning Board has created a tiered system in an effort to accommodate reasonable use of preexisting nonconforming lots of record (lots created prior to March 2003) while providing protection to the wetlands.

(2) To this end, the construction of a single-family dwelling, including additions, shall be permitted but limited to a maximum allowed footprint of 1,800 square feet within or partially within the setback and/or buffer zone, provided the lot is less than three acres and created prior to March 2003 or reconfigured lots, either through boundary line adjustment or lot merger, provided the lot(s) was originally created prior to March 2003 and the reconfiguration does not increase the nonconformity to the wetlands setback and/or buffer, said dwelling shall be limited to a maximum allowed footprint of 1,800 square feet; and subject to the following.

(a) No alternative location outside the wetlands setback or buffer exists for a dwelling with a maximum allowed footprint of 1,800 square feet.

(b) No alternative location on the parcel exists which has less detrimental impact on a wetland. Detrimental impact on the wetlands shall include:

1. Increased stormwater run-off into the wetlands.
2. The removal or lessening of the function of filtration strips between the wetlands and the proposed development.

(c) In accordance with best management practices, design, construction and maintenance methods will be such as to minimize detrimental impact upon the wetlands. Where a wetlands buffer does not exist or there is intrusion into an existing wetlands buffer, best management practices, such as rain gardens, natural vegetative buffers and filter strips, shall be implemented to mitigate the impact created by the proposed impervious areas.

(3) A special use permit application for the development of a single-family home on a lot which requires no State Wetlands Bureau dredge and fill permit for house placement, driveway crossings, site grading and/or septic and well placement shall be processed by the Technical Review Committee in accordance with § 175-184, Minor site plan review.

B. Lot redevelopment is permitted within the wetlands setback, wetlands buffer and wetlands when no alternative location on the parcel exists which has less detrimental impact on a wetland. Less detrimental impact on the wetlands shall include at least one of the following:

(1) Development that is down gradient from the jurisdictional wetlands.

(2) Development and/or redevelopment within a previously disturbed area and where the previously disturbed area provides no protection to the wetlands.

C. The following uses may be granted by a special use permit by the Planning Board, provided that the design is in accordance with best management practices:

(1) Streets, utilities and recreational areas. Under the provisions of RSA 674:21, Subsection II, the Planning Board may grant approval for the construction of streets, roads and other accessways and utilities, including pipelines, powerlines and other transmission lines and recreational areas, provided that all of the following conditions are found to exist:

(a) No alternative location outside the wetlands setback or buffer zone or which has less detrimental impact on a wetland is feasible.

(b) The proposed construction is essential to the productive use of other land which is not within the Wetlands Conservation Overlay District.

(c) Design, construction and maintenance methods will be such as to avoid or minimize detrimental impact upon the wetlands.

(2) The undertaking of a use not otherwise permitted in the Wetlands Conservation Overlay District, if it can be shown that such proposed use is in accordance with all of Subsection **B(1), (2) and (3)** and findings listed in § **175-5**.

(3) The construction, repair, or maintenance of streets, roads, and other accessways, including driveways, footpaths, bridges, and utility right-of-way easements, including powerlines and pipelines, if essential to the productive use of land adjacent to the Wetlands Conservation Overlay District. These uses shall be located and constructed in such a way as to avoid or minimize any detrimental impact upon the wetlands and consistent with state-recommended design standards (see Fish and Game Department 2008), and only if no viable alternative location outside the wetlands setback or buffer zone or which has less detrimental impact on a wetland is feasible.

(4) Agricultural activities consistent with best management practices as published by the NH Department of Agriculture, Markets and Food.

(5) Forestry activities consistent with best management practices as published by the NH Department of Resources and Economic Development and NH Cooperative Extension. As specified in Logging Operations (Env-Wt 304.05), all skid trails, truck roads and log landings shall be designed using appropriate erosion control devices. Stream and wetlands crossings shall be kept to a minimum in size and number.

- (6)** Water impoundments for the purpose of creating a water body for wildlife, fire safety, or recreational uses. Special use permits may be granted for impoundments for on-site detention of stormwater runoff in buffers only.
- (7)** Disposal of snow and ice in upland buffers collected from roadways and parking areas.
- (8)** Septic systems on nonconforming lots that cannot comply must obtain an approval pursuant to Subsection **A** (pre-2003 lots).
- (9)** A failed septic system within 75 feet of any very poorly drained soils and 50 feet from poorly drained soils must be replaced on land outside the buffer zone, unless the NHDES and the Code Enforcement Officer make a determination that such placement is not physically possible. A special use permit shall be required to place a new or failed system within the setback zone.