

Article VIII- Chapter 300 of City Ordinance

WETLANDS

[HISTORY: Adopted by the City Council of the City of Franklin 5-5-1986 as Title Three, Ch. II of the 1986 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Conservation Commission -- See Ch. 11.

Planning Board -- See Ch. 77.

Floodplain management -- See Ch. 170.

Sewers -- See Ch. 245.

Water -- See Ch. 289.

Zoning -- See Ch. 305.

Site plan review -- See Ch. 402.

Subdivision of land -- See Ch. 403.

~ 300-1. Purpose and intent.

- A. The purpose of this chapter 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.
- B. It is intended that this chapter shall:
 - (1) 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.
 - (2) Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection.
 - (3) Protect unique and unusual natural areas.
 - (4) Protect wildlife habitats and maintain ecological balances.
 - (5) Protect potential water supplies and existing aquifers (water-bearing stratum) and aquifer recharge areas.
 - (6) 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.
 - (7) Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in wetlands.

~ 300-2. Wetlands defined.

- A. Wetlands include areas where the soil series are classified as "very poorly drained" by the Merrimack County Soil Survey dated June 1965. "Very poorly drained" soils include:
 - (1) Marsh (Mh).
 - (2) Mixed alluvial land (Mn).
 - (3) Muck and peat (Mp).
 - (4) Saco silt loam (Sa).
 - (5) Scarboro fine sandy loam (Sc).
- B. [Added 8-3-1987] Wetlands also include areas where the soil series are classified as "poorly drained" by the Merrimack County Soil Survey dated June 1965. "Poorly drained" soils include:
 - (1) AuGres series.
 - (2) Limerick silty loam.
 - (3) Ridgebury series.
 - (4) Rumney fine sandy loam.

~ 300-3. Wetlands Conservation District.

- A. Wetlands Conservation District defined. The Wetlands Conservation District is defined as those areas delineated as very poorly drained soils by the United States Department of Agriculture, Soil Conservation Service, in the Soil Survey of Merrimack County, New Hampshire, dated June 1965. The Wetlands Conservation District includes those areas, such as swamps, marshes and bogs, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation adapted for life in saturated soil conditions.
- B. Establishment of a district. The limits of the Wetlands Conservation District are hereby determined to be areas of one acre or more in size, or of any size if contiguous to surface waters such as lakes, ponds and streams, subjected to high water tables for extended periods of time and include, but are not necessarily limited to, all such areas delineated as wetlands on the current Franklin Wetlands Map, which is on file in the office of the Franklin City Clerk.
- C. Wetlands incorrectly delineated. Where it is alleged that an area has been incorrectly delineated as wetlands or an area not so designated meets the criteria for wetlands designation, the Planning Board shall determine whether the

regulations contained herein have application. The Planning Board shall make its judgment under this section only upon the determination by a qualified soil scientist(s) and/or plant scientist(s), on the basis of additional on-site investigation or other suitable research, that the information contained on the Wetlands Map is incorrect. This evidence shall be acceptable only when presented in written form by said scientist(s) to the Planning Board. Any necessary soil testing procedures shall be conducted at the expense of the landowner or developer.

~ 300-4. Relation to other districts.

Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

~ 300-5. Permitted uses.

Permitted uses are those which will not require the erection or construction of any structures or buildings, will not alter the natural surface configuration by the addition of fill or by dredging and uses that otherwise are permitted by Chapter 305, Zoning. Such uses may include the following:

- A. Forestry-tree farming, using best management practices in order to protect streams from damage and to prevent sedimentation.
- B. 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.
- C. Wildlife refuges.
- D. Parks and recreation uses consistent with the purpose and intent of this chapter.
- E. Conservation areas and natural trails.
- F. Open spaces as permitted or required by Chapter 403, Subdivision of Land, or Chapter 305, Zoning.

~ 300-6. Special exceptions.

Special exceptions may be granted by the Board of Adjustment, after proper public notice and public hearing, for undertaking the following uses in the Wetlands Conservation District when the application has been referred to the Planning Board, the Conservation Commission and to the Health Officer for review and comment at least 20 days prior to the hearing:

- A. Streets, roads and other accessways and utility right-of-way easements, including power lines and pipelines if so located and constructed as to minimize any detrimental impact of such uses upon the wetland.
- B. Water impoundments.

- C. The undertaking of a use not otherwise permitted in the Wetlands Conservation District, if it can be shown that such proposed use is not in conflict with any and all of the purposes and intentions listed in ~ 300-1 of this chapter.

~ 300-7. Special provisions.

- A. No septic tank or leach field may be constructed or enlarged closer than 75 feet to any wetland.
- B. Where the minimum size requirement for a lot is one acre or less, no part of that minimum acreage may include wetlands. Lots over one acre in size may include wetlands, provided that at least one acre is comprised of nonwetland soils.
- C. All land included in the Wetlands Conservation District shall be appraised for tax purposes at its full and true value in money, based on its market value as underdevelopable land required to remain in open space.

~ 300-8. Conflict with other regulations.

Where any provision of this chapter is in conflict with state law or other local ordinance, the more stringent provision shall apply.