

*Introduced: 03/26/01*  
*Second Read/Pub. Hrg.: 04/23/01*  
*Adopted: 04/23/01*

*Ordinance 2001-02*  
*AN AMENDMENT TO THE ZONING ORDINANCE*  
*RELATING TO CONSERVATION OVERLAY DISTRICT*

---


*WHEREAS* the Londonderry Planning Board voted on March 14, 2001 to recommend certain revisions to the Conservation District section of the Zoning Ordinance; and,

*WHEREAS* the Londonderry Town Council is desirous of amending the Zoning Ordinance, Section VIII- Conservation District, to include revisions to said Ordinance; and,


*WHEREAS* the Londonderry Town Council is vested with the power to effect such changes to the Zoning Ordinance; and,

*WHEREAS* the Town Council recognizes that such change will promote the orderly maintenance and update of the Zoning Ordinance;

*NOW THEREFORE BE IT ORDAINED* by the Town Council of the Town of Londonderry that Section VIII - Conservation District Ordinance, is revised as heretofore attached.

  
Mark G. Oswald  
Chairman - Londonderry Town Council

*A TRUE COPY ATTEST:*  
*04/23/01*

  
Marguerite Seymour - Town Clerk

**TOWN OF LONDONDERRY, N.H.**  
**ZONING REGULATIONS**  
**REVISED 2001**

**Section VIII - (801 -802.A.1)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO)**

**801 OBJECTIVES AND CHARACTERISTICS**

Wetlands, ponds, and streams are significant natural resources of the Town because of their size or functional values, such as flood storage, wildlife habitat, and the enhancement of water quality and/or quantity. The preservation of these water resources promotes the general public health, safety, welfare and convenience in our community. In particular the regulations of the Conservation Overlay District (CO) are intended to:

- A. Maintain and enhance the quality and quantity of surface waters and groundwater by preserving the ability of wetlands to filter pollution, trap sediment, retain and absorb chemicals and nutrients, and produce oxygen;
- B. Minimize expense to the Town and the public in providing and maintaining essential services and utilities, such as wastewater collection and treatment, drainage facilities, and public water supply, which may arise because of the inappropriate use of land within the CO District;
- C. Minimize impacts to existing land uses and lots (see Section 806 and 807);
- D. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection; protect persons and property against the hazards of flood inundation by assuring the continuation of the natural flow patterns of streams and other watercourses; and provide for nutrient attenuation and augmentation of stream flow during dry periods;
- E. Encourage those uses that can be appropriately and safely located within the CO District.
- F. Protect native wildlife habitat and natural vegetation upon which a variety of upland and aquatic species are dependent for purposes of breeding or sustenance.

**802 DISTRICT DEFINED**

- A. Definitions:
  - 1. The term “wetland” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas. Wetland conditions resulting from the following are specifically exempt from this ordinance: constructed drainage structures including, but not limited to: swales, ditches, and basins; actively maintained agricultural/irrigation ponds; septage lagoons.

**TOWN OF LONDONDERRY, N.H.**  
**ZONING REGULATIONS**  
**REVISED 2001**

**Section VIII - (802.A.2 -802.D)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**802 DISTRICT DEFINED (Cont'd)**

**A. Definitions: (Cont'd)**

2. The term “buffer” means the upland areas adjacent to wetlands and surface waters in the Conservation Overlay District other than the wetlands themselves.
3. The term “overlay district” means a zoning district superimposed on one or more established zoning districts to impose supplemental restrictions on uses in these districts.

**B. The Conservation Overlay District comprises:**

1. The wetlands listed in the table in Section 809 and the land within 100 feet of the edge of wet of said wetlands as generally shown on National Wetlands Inventory maps, supplemented by Londonderry Wetlands Study Committee field verification which is on file in the offices of the Planning Board and Town Clerk. For the purpose of this ordinance, the wetlands listed here were evaluated by procedures described in Method for the Comparative Evaluation of Non-Tidal Wetlands in New Hampshire, published by the New Hampshire Department of Environmental Services (1991)
2. Horsetrail Brook and adjoining land within 150 feet of the centerline of the brook as shown on the map entitled “Recommended Preservation Areas and Corridors,” prepared by State of New Hampshire Department of Transportation (Portions of Tax Map 14, Lots 34, 35, 37, 38, 39 and 44).
3. The perennial streams and adjoining land within 100 feet of the centerline of these streams identified in the Water Resource Management and Protection Plan, prepared by Southern New Hampshire Planning Commission, dated February 1991 and on file in the office of the Planning Board, as listed in Section 810.
4. All other wetlands and land within 50 feet of the edge of wet of said wetlands except that there shall be exemption of all wetlands less than one-half acre in size, as established by a NH certified wetlands scientist.
5. The precise location of a wetland boundary in any particular case must be determined by on-site inspection by a NH certified wetland scientist.

**C. The edge of wet of these wetlands shall be determined by the delineation process set forth in the Corps of Engineers Wetlands Delineation Manual, 1987 and Field Indicators of Hydric Soils in New England, version 2; on file with this ordinance with the Town Clerk.**

**D. Any question as to whether a wetland area constitutes a continuation or extension of another wetland area shall be determined by the methods described in Method for the Comparative Evaluation of Non-Tidal Wetlands in New Hampshire, 1991; on file with this ordinance with the Town Clerk.**

**TOWN OF LONDONDERRY, N.H.**  
**ZONING REGULATIONS**  
**REVISED 2001**

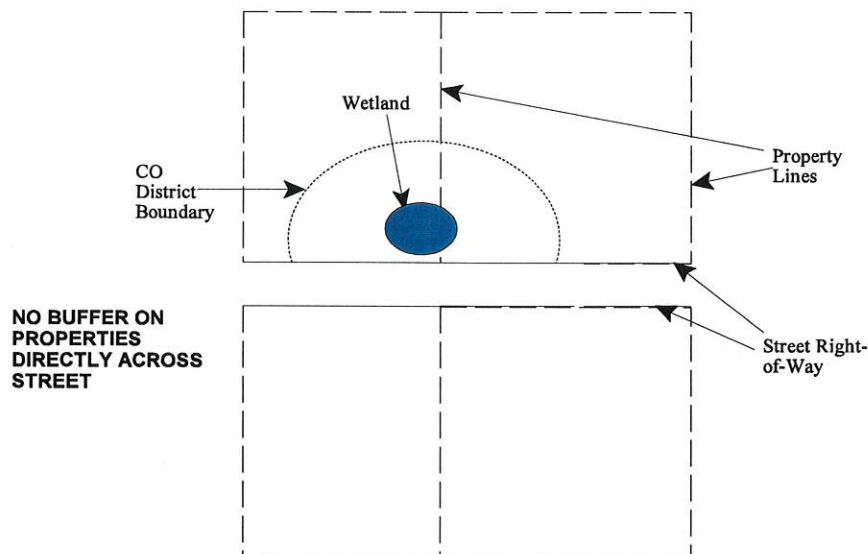
**Section VIII - (802.E - 803.B.2)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**802 DISTRICT DEFINED (Cont'd)**

- E. If a landowner chooses to question the boundaries of a given wetland, the landowner shall submit documentation prepared by a certified wetlands scientist in accordance with Section 802C. The Planning Board shall consider the documentation at a public hearing, and may require review of said documentation by an independent NH certified wetland scientist, the expense for which is to be paid by the applicant.
- F. Buffers are applied irrespective of lot lines and municipal boundaries except (**as shown in the below diagram**) that when a wetland is bounded by Town Class V or better roadway, or a State or Federal highway, existing at the time of passage of Section VIII, buffers are not applied to properties directly across the right of way.



**803 USES PERMITTED**

- A. The CO District is an overlay district. Where the provisions of this Section conflict with those of the underlying zoning district, the more restrictive standards shall apply.
- B. The following uses are permitted in this District:
1. Wildlife habitat development and management.
  2. Conservation areas and nature trails, provided that the Planning Board, in consultation with the Conservation Commission, reviews and approves plans for such areas and trails prior to their development.

**TOWN OF LONDONDERRY, N.H.**  
**ZONING REGULATIONS**  
**REVISED 2001**

**Section VIII - (803.B.3 - 804.A.1.a)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**803 USES PERMITTED (Cont'd)**

- B. The following uses are permitted in this District: (Cont'd)
3. Recreation including open-air recreational uses consistent with the purpose and intent of Section VIII, such as cross-country skiing, ice skating, hiking, and photography.
  4. Education including natural and environmental sciences walks, wildlife and botanical studies and similar activities.
  5. Seasonally permitted hunting and fishing, as regulated by New Hampshire Fish and Game Department.
  6. Forestry, including both logging operations and tree farming subject to RSA § 227-J:9. Logging and any associated road building and/or skid trail construction shall be conducted in accordance with the then-current Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire published by the UNH Cooperative Extension and NH Department of Resources and Economic Development and the NH Division of Forests and Lands; on file with this ordinance with the Town Clerk;
  7. Production, cultivation, growing, and harvesting of any fruit, vegetable, floricultural or horticultural crops, except turf grasses, conducted in accordance with Best Management Wetlands Practices for Agriculture (July 1993, amended September 1998; (on file with this ordinance with the Town Clerk) but not within 25 feet of the edge of wet of the adjacent wetland. Fertilization shall be limited to lime and woodash.
  8. Removal of hazardous trees
  9. Removal of "invasive" vegetation (see Notes on Native Trees and Shrubs and Their Use in Landscaping, by the Londonderry Conservation Commission, on file with this ordinance with the Town Clerk).
  10. Minor accessory structures of 200 square feet or less (in which there is no storage of petroleum products, hazardous chemicals or materials). Such accessory structures cannot be constructed with any of the following materials: asphalt shingles, pressure treated or chemically treated/preserved wood.
  11. CO District Mitigation (as outlined in 805B)
  12. Any uses not listed in this section are prohibited in the CO District.

**804 CONDITIONAL USE PERMITS**

- A. Uses permitted by conditional use permit:
1. The following uses may be permitted by conditional use permit: roads and other access ways; drainage ways; pipelines, power lines and other transmission lines; docks, boat launches, and piers; domestic water wells (and associated ancillary pipes and equipment); replacement septic tanks and leach fields where evidence is submitted that no alternative location is available on the property; provided that all of the following conditions are found to exist:
    - a. The proposed construction is essential to the productive use of land not within the CO District.



**TOWN OF LONDONDERRY, N.H.**  
**ZONING REGULATIONS**  
**REVISED 2001**

**Section VIII - (804.A.1.b - 804.B.2.e)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**804 CONDITIONAL USE PERMITS (Cont'd)**

- A. Uses permitted by conditional use permit: (Cont'd)
  - 1. The following uses may be permitted by conditional use permit (Cont'd)
    - b. Design and construction methods will be such as to minimize impact upon the wetlands and will include restoration of the site consistent with the permitted use.
    - c. There is no feasible alternative route on land controlled by the applicant that does not cross the CO District nor has less detrimental impact on the wetlands. Nothing in this section shall limit the applicant from exploring alternatives with abutting property owners.
    - d. Economic advantage is not the sole reason for the proposed location of the construction.
- B. Buffer reductions by conditional use permit.
  - 1. On lots in the CO District lawfully existing at the time of adoption of Section VIII, buffer reductions may be permitted by conditional use permit, subject to all applicable provisions of the Zoning Ordinance in the CO District and the following:
  - 2. The following buffer reductions may be permitted by conditional use permit: expansion of existing structures permitted in Sections 602A, 602B1a, 602B1b, 602Bc, 602B1g, 602B2, 702A, 702B1a, 702B1f, and 702c to within no less than 50 feet of any wetland; construction of a new structure permitted in Sections 602A, 602B1a, 602B1b, 602Bc, 602B1g, 602B2, 702A, 702B1a, 702B1f, and 702c to within 50 feet of any wetland; provided all of the following conditions are met:
    - a. The structure for which the exception is sought cannot feasibly, after consideration of all reasonable alternatives, be constructed on a portion or portions of the lot which lie outside the CO district OR the application of the CO district eliminates greater than 50% of the buildable area located on the parcel.
    - b. The proposed structure and use must be consistent with the intent of the CO district, and provisions must be made to ensure the structure's drainage will not adversely impact any wetlands and be consistent with the purpose and intent of Section VIII.
    - c. There shall be no construction of parking areas within the area for which the conditional use permit is sought.
    - d. The maximum building coverage in the outer-50 feet of the buffer area shall be no greater than 50%.
    - e. Best management practices must be demonstrated to the satisfaction of the Planning Board.

**TOWN OF LONDONDERRY, N.H.**  
**ZONING REGULATIONS**  
**REVISED 2001**

**Section VIII - (804.B.3 - 805.A.2)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**804 CONDITIONAL USE PERMITS (Cont'd)**

**B. Buffer reductions by conditional use permit (Cont'd)**

3. Buffer reduction may also be obtained explicitly by issuance of a NH DES Dredge and Fill Permit, per section 805A.

**C. Administration of Conditional Use Permits.**

1. The Planning Board shall refer the application to the Conservation Commission for review and comment prior to the public hearing on the application. In acting on the application, the Board shall consider any report received from the Commission. The Board shall then vote either to approve the application as presented, approve it with conditions, or deny it.
2. Prior to the granting of any conditional use permit under 804A and 804B, the applicant may be required to submit a performance security in a form acceptable to the Planning Board, depending on the scale of the proposed use and potential threat to the wetlands. The security shall be submitted in a form and amount with surety and conditions satisfactory to the Planning Board to ensure that the construction will be carried out in accordance with the approved design. The security shall be submitted and approved prior to the issuance of any permit authorizing construction.
3. The Planning Board may require the applicant to submit a wetlands impact assessment when necessary to evaluate an application made under this part. The cost of this assessment shall be borne by the applicant.
4. As outlined in NH RSA § 676:4, Part I(g), the applicant may also be assessed reasonable fees to cover the cost of other special investigative studies and for the review of documents required by particular applications, reviews by the Town's legal counsel, and any third party wetlands consultant as may be required by the Planning Board.

**805 DREDGE & FILL PERMITS AND CO DISTRICT MITIGATION**

**A. Dredge and Fill Permits**

1. Prior to filing an application for a New Hampshire Department of Environmental Services (NHDES) dredge and fill permit, the applicant is strongly encouraged to meet with the Conservation Commission to ensure that the proposed dredge and fill is consistent with the intent of the ordinance
2. An approved NH DES dredge and fill permit, once acted upon, will change the CO District Boundary, which will be applied from the new edge of wetland.

**TOWN OF LONDONDERRY, N.H.**  
**ZONING REGULATIONS**  
**REVISED 2001**

**Section VIII - (805.B - 808)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**805 DREDGE & FILL PERMITS AND CO DISTRICT MITIGATION (Cont'd)**

- B. CO District Mitigation: CO District mitigation shall be provided, if required by the Planning Board, at their discretion, with consideration of recommendations by the Conservation Commission.
- C. Nothing in Section VIII is intended to prohibit inclusion of land in the CO District when determining minimum lot size requirements under other sections of this ordinance, provided however, that the land area outside of the CO District shall be sufficient to support all intended development in accordance with the then existing terms of the ordinance.

**806 PRE-EXISTING RESIDENTIAL STRUCTURES, USES, AND LOTS**

- A. Notwithstanding other provisions of Section VIII, the construction of additions and extensions to one and two family dwellings and accessory residential uses shall be permitted within the CO District provided that:
  - 1. The dwelling or residential use lawfully existed prior to the adoption of Section VIII by the Town Council;
  - 2. The proposed construction conforms to all other applicable ordinances and regulations of the Town of Londonderry;
  - 3. The dwelling or use continues in its present use.
- B. Buildable residential lots, existing at the time of passage of the Section VIII by the Town Council, shall be exempt from Section VIII.

**807 PRE-EXISTING SUBDIVISIONS AND SITE PLANS:** Subdivisions and site plans approved by the Planning Board and existing at the time of passage of the Section VIII shall be exempt from Section VIII, as governed by the provisions of NH RSA § 674:39. This ordinance becomes applicable in the following situations:

- A. Non-Residential Site Plans for additions, expansions, or changes in use.
- B. Site Plans for new commercial, industrial, or multi-family development.
- C. New subdivisions.

**808 BOARD OF ADJUSTMENT NOTE.**

Any variance or appeal to the Zoning Board of Adjustment, shall be in accordance with NH RSA § 676:5 and Section X of this Ordinance. Prior to holding a public hearing on an appeal or variance, the Zoning Board shall forward a copy of the plan and application form to the Conservation Commission for review and comment. The Conservation Commission shall, after reviewing the plan and application, forward any appropriate recommendations to the Zoning Board of Adjustment for their consideration.



**TOWN OF LONDONDERRY, N.H.  
ZONING REGULATIONS  
REVISED 2001**

**Section VIII - (809)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**809 NAMED WETLANDS TABLE**

<b>Watershed Ref. #</b>	<b>Wetlands</b>	<b>Located on Tax Map(s):</b>
5	Adams Road	6
1	Auburn Swamp	18
10	Bass Pond	4, 7
7	Bear Meadow	6, 9
10	Beaver Brook North	4, 7
10	Beaver Brook South	1
1	Big Cohas Swamp	18
6	Boyd Road	2
1	Brickett Meadow	17
5	Colonial	5
8	Duck Pond	10
3	Hickory Hill North	8
4	Hickory Hill South	8
8	Indian Brook (incl. Cemetery)	7, 9, 10
2	Little Cohas Marsh	11, 12, 14, 15
7	Long Swamp	1, 3
5	Lower Nesenkeag	5
5	Lythia Springs	2
7	Mack's Swamp	6
2	Mammoth 1	12
8	Mammoth 2	9
4	Musquash North	8, 11
4	Musquash South	8, 11
6	Nashua Swamp aka Pine Swamp	3
9	Peat Bog	13, 16
9	Scobie Pond	13, 16
5	Shadow Ridge	5
9	Stonehenge	13
9	Wheeler Pond	10
5	Wiley Hill	5

**TOWN OF LONDONDERRY, N.H.  
ZONING REGULATIONS  
REVISED 2001**

**Section VIII - (810)**

**Chapter 1—ZONING ORDINANCE**

**SECTION VIII — CONSERVATION OVERLAY DISTRICT (CO) (Cont'd)**

**810 NAMED PERENNIAL STREAMS TABLE**

Watershed Stream Identification # (Name)		Run Thru Tax Map(s)
1	( Big Cohas Brook)	18
1-2		18
2-1	(Little Cohas Brook)	12, 14, 15, 28
2-2		15,17
2-3		15
3-1	(Watts Brook)	11
3-2		11
4-1	(Colby Brook)	8
5-1	(Nesenkeag Brook)	2, 3, 5, 6
5-2		5
5-3		5
5-4		5
6-1	(Chase Brook)	2, 3
6-2		3
7-1	(Black Brook)	3, 4, 6, 9
7-2		3, 6
7-3		6
7-4		6
7-5		1, 3
8-1	(Indian Brook)	7, 9, 10
8-2	(not numbered in study)	10
9-1	(Shields Brook)	13
9-2		13
9-3		13, 16
9-4		10
9-5		10
10-1	(Beaver Brook)	1, 4, 7
10-2		4, 7
4	(Horsetrail Brook) (subject to §802B2)	14

*~~~End of Section~~~*