

Amendment #1: Amend Article XI-A Shoreland Protection District

ARTICLE XI-A SHORELAND PROTECTION DISTRICT

(Adopted March 11, 2003. Amended March 9, 2021; March 8, 2022; *and March 14, 2023*)

A. AUTHORITY

Pursuant to the authority granted by RSA 674:16 this ordinance is adopted by the town of Antrim in order to protect the public health, safety, and general welfare.

B. PURPOSE

This ordinance establishes standards for the subdivision, use and development of shorelands adjacent to public waters, as defined herein, for the purpose of minimizing degradation of shorelands and assuring retention of the benefits provided by such shorelands. These benefits include: maintenance of safe and healthy conditions; prevention and/or control of water pollution; protection of important fish, bird and wildlife habitat; reduction or elimination of flooding and accelerated erosion; protection of wetlands and their important natural functions; maintenance of water quantity and related stream flows during low flow periods; protection of shoreland cover as a means of maintaining water quality; and the conservation and protection of natural beauty and the scenic qualities which are critical attributes of the State.

C. PERMIT REQUIRED

1. Before any structure is constructed or any land within the protected shoreland is disturbed or altered, permits from both the NH Department of Environmental Services (DES) and the Town of Antrim are required.
2. If a building permit is not required for the project, a zoning permit issued by the Antrim Building Official is nevertheless required in order to do work within the protected shoreland.
3. The property owner/applicant must first receive the DES approval before a Town Building and/or Shoreland Permit is issued.
4. A building or zoning permit from the Town assumes compliance with any and all conditions imposed by DES as part of its approval process. The Antrim Building Official will ensure that DES requirements are being met during construction.

D. DEFINITIONS. In addition to the following, definitions in Article III and RSA 483-B apply to this ordinance.

1. "Accessory structure" means a structure detached from any primary structure that is customarily incidental and subordinate to the primary structures, such as, including but not limited to: pump houses, gazebos, woodsheds, storage sheds, patios, tennis courts, detached decks, garages or carports, art studios, animal pens and shelters, or any other outbuilding, paths, paved or gravel driveways or other improved surface, and retaining walls.
2. "DES" means the New Hampshire Department of Environmental Services.
3. "Disturbed area," means an area in which natural vegetation is removed, exposing the underlying soil.
4. "Ground cover" means any herbaceous plant which normally grows to a mature height of 4 feet or less.
5. "Natural woodland buffer" means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

6. "Near Shore Buffer Zone" means the zone from the reference line to 20 feet away from the reference line.
7. "Open Porch" means a porch that is supported by pilings or post supports but that does not have permanent foundation walls, insulation or a heat source. The term includes a porch that is screened but does not include a porch that is enclosed in whole or in part with glass or any other material designed or intended to provide a weather-proof barrier.
8. "Primary structure" means a structure that is central to the fundamental use of the property and includes additions, attached decks, attached porches, and all structures that provide living space.
9. "Protected shoreland" means for natural fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies and rivers, and all land located within 250 feet of the reference line of public waters.
10. "Public waters" means
 - a. all lakes, ponds, and artificial impoundments greater than 10 acres in size;
 - b. all fourth order or higher rivers and river segments.
11. "Reference line" means
 - a. For natural fresh water bodies without artificial impoundments, the natural mean high-water mark as determined by DES.
 - b. For artificially impounded fresh water bodies with established flowage rights, the limit of the flowage rights, and for water bodies without flowage rights, the waterline at full pond as determined by the elevation of the spillway crest.
 - c. For rivers, the ordinary high-water mark.
12. "Removal or removed" means cut, sawed, pruned, girdled, felled, pushed over, buried, burned, killed, or otherwise destructively altered.
13. "Sapling" means any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4 feet above the ground.
14. "Shoreline Frontage" means the average of the actual natural navigable shoreline footage and a straight line drawn between property lines, both of which are measured at the reference line.
15. "Shrub" means any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.
16. "Tree" means any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4 feet above the ground.
17. "Water Dependent Structure" means a structure that is a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, swimming float, or boat or launching ramp.

E. SHORELAND PROTECTION DISTRICT

The Shoreland Protection District is an overlay which is superimposed over the existing zoning and includes within its boundary the protected shorelands adjacent to all public waters within the municipality.

F. APPLICABILITY

In addition to the standards contained herein, all provisions of RSA 483-B shall apply to any application to construct or disturb land within the protected shoreland.

G. PROHIBITED USES

1. Establishment or expansion of:
 - a. Salt storage yards
 - b. Automobile junk yards
 - c. Solid or hazardous waste facilities
2. No fertilizer, except limestone shall be used within 50 feet of the reference line.
3. Bulk storage of chemicals.
4. Bulk storage of petroleum products or hazardous materials.
5. Excavations as defined in RSA 155-E.
6. Processing of excavated materials.
7. Dumping or disposal of snow and ice collected from roadways or parking areas.
8. There shall be no disturbance of ground cover within the Near Shore Buffer Zone.
9. Dredging lake bottoms and placing sand in water for beach construction.

H. ALLOWED USES. *The uses described in this section, along with the applicable setback distances from the shoreland, are presented visually in Figures #1 and #2 at the end of this section. The setback for primary structures and permitted uses is 100 feet from the reference line, but may be less than 100 feet if otherwise allowed pursuant to the requirements of this ordinance or the provisions of Paragraph 3.e.*

1. The following uses are allowed within 0 – 250 of the reference line (the protected shoreland):
 - a. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations and disinfectant stations.
 - b. Public water and sewage treatment facilities.
 - c. Hydroelectric facilities, including, but not limited to dams, dikes, penstocks, and powerhouses.
 - d. Public utility lines and associated structures and facilities
 - e. An existing solid waste facility may continue to operate.
 - f. Individual sewage disposal systems.
2. The following uses are allowed between 100 and 250 feet of the reference line:
 - a. Accessory structures of any size.
 - b. Primary structures.
3. The following uses are allowed between 50 and 100 feet of the reference line:
 - a. New water access structures that use no more than 20% of the contiguous shoreline up to a maximum of 50 feet of the shoreline.
 - b. Decks totaling no more than 200 square feet, and stairs or ramps for access not greater than 50 square feet.
 - c. Accessory structures totaling no more than 200 square feet.
 - d. Low phosphate, slow-release nitrogen fertilizer or limestone.

- e. Primary structures and accessory structures over 200 square feet, provided a stormwater management plan prepared by a NH licensed qualified professional is submitted with the building permit application. The *stormwater management* plan must demonstrate that it reduces or eliminates runoff to the water body; minimizes pollutants in stormwater runoff; and otherwise documents actions being proposed to protect the water quality and associated ecological resources. ***A Building Permit submitted pursuant to this section must also comply with the following:***
 - i. ***The stormwater management plan will include procedures for ongoing inspections and maintenance.***
 - ii. ***As part of the review, the Building Inspector may request an opinion on the plan from the Conservation Commission.***
 - iii. ***Upon approval, the stormwater management plan will be filed with the Registry of Deeds.***
 - iv. ***A status report on the inspections and maintenance plans shall be filed every ten (10) years with the Planning Department on forms provided by that office.***
 - v. ***The Town reserves the right to engage a third party to review the decennial report and determine compliance with the approved stormwater management plan.***
4. The following uses are allowed between 20 and 50 feet of the reference line:
 - a. Decks totaling no more than 100 square feet, inclusive of stairs.
 - b. Accessory structures totaling no more than 100 square feet.
5. The following uses are allowed within 20 feet of the reference line:
 - a. Water dependent structures as allowed by DES.
 - b. Water access structures as allowed by DES.
- I. General Standards for Allowed Uses:
 1. New paths, walkways and patios must use pervious surfaces in accordance with the most current best management practices, made available by NH Department of Environmental Services.
 2. Beaches must be flat, while other water access structures must be sloped away from the adjacent surface water and must incorporate methods for diverting surface runoff immediately upslope of the structures, such as swales and planted berms to protect the water quality.
 3. Beaches must be designed and constructed in a way that will not contribute sand or sediment to the adjacent surface water. They must be built in a “perched” position on the waterfront: flat and located entirely out of the water; and landward and above a hardened shoreline.
 4. Accessory structures that are proposed to be located between 20 and 100 feet from the reference line, must demonstrate that:
 - a. All existing natural ground covers remain intact, except for invasive species which shall be removed and replaced with native species, with the exception of those being displaced by a structure;
 - b. Shrubs are trimmed or pruned to no less than three feet in height; and
 - c. The point score as defined in RSA 483-B:9 for trees and saplings is maintained.

J. GENERAL REQUIREMENTS

1. The minimum size for new lots in areas dependent upon on-site subsurface wastewater treatment systems shall be determined by DES, but in no circumstances be less than the minimum lot size prescribed in the underlying zoning district.
2. For projects in areas dependent upon on-site subsurface wastewater treatment systems, the total number of residential units in the protected shoreland shall not exceed one unit per 200 feet of shoreland frontage. All new lots within the Overlay District which abut a waterbody shall contain a minimum shoreland frontage of 200 feet.
3. Lot Coverage by impervious materials shall not exceed 20%.

K. CLUSTER OR OPEN SPACE DEVELOPMENTS

1. The grouping of residential units on a parcel within the Shoreland district is permitted and encouraged to the extent that valuable shoreland resources and open spaces are retained. Such developments should meet the requirements of Article XIV, Supplemental Regulations, Paragraph O.
2. A minimum of 60% of the total parcel shall remain as common open space for the use and enjoyment of the residents and/or the general public. It shall be permanently restricted for open space, agriculture, parks, public easements, recreation or conservation uses by means of an instrument satisfactory to the Planning Board and/or Town Counsel; and said document shall be recorded in the Hillsborough County Registry of Deeds.

L. LAND CLEARING FOR AGRICULTURE PURPOSES

All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this ordinance, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the Department of Agriculture. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

M. NONCONFORMING STRUCTURES

1. Except as otherwise prohibited by law or applicable municipal ordinance, nonconforming structures located within the protected shoreland may be repaired, replaced in kind, reconstructed in place, altered, or expanded. Repair, replacement-in kind, or reconstruction in place may alter or remodel the interior design or existing foundation of the nonconforming structure, but shall result in no expansion or relocation of the existing footprint within the waterfront buffer.
 - a. Alteration or expansion of a nonconforming structure may expand the existing footprint within the waterfront buffer, provided the structure is not extended closer to the reference line and the proposal or property is made more nearly conforming than the existing structure or the existing conditions of the property. This provision shall not allow for the enclosure, or conversion to living space, of any deck or open porch located between the primary structure and the reference line and within the waterfront buffer.
2. For the purposes of this section, a proposal that is "more nearly conforming" means alteration of the location or size of the existing footprints, or redevelopment of the existing conditions of

the property, such that the structures or the property are brought into greater conformity with the design standards of this chapter. Methods for achieving greater conformity include, without limitation, reducing the overall square footage of structural footprints, enhancing stormwater management, adding infiltration areas and landscaping, upgrading wastewater treatment, improving traffic management, or other enhancements that improve wildlife habitat or resource protection.

3. An expansion that increases the sewerage load to an onsite septic system, or changes or expands the use of a septic system, shall require a subsurface approval issued by DES.
4. Under paragraph 1, and except as otherwise prohibited by law or applicable municipal ordinance, primary nonconforming structures may be entirely demolished and reconstructed, with continued encroachment into the waterfront buffer, provided the replacement structure is located farther back from the reference line than the preexisting nonconforming structure.
5. Notwithstanding paragraphs 1 and 4, between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that a deck or open porch extending a maximum of 12 feet towards the reference line may be added to nonconforming structures erected prior to July 1, 1994.

N. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

Where both the State and the municipality have existing requirements the more stringent shall govern.

O. SAVING CLAUSE

Where any provision of this ordinance is found to be unenforceable it shall be considered savable and shall not be construed to invalidate the remainder of the ordinance.

P. EFFECTIVE DATE

This ordinance shall be effective upon adoption by the municipal governing body.