

Proposed Amendments to  
Chapter 175 Zoning Relative to the  
Wetland Conservation Overlay District

Proposed additions to the May 10, 2004 Ordinance are underlined;  
Proposed deletions are ~~struck through~~.

1. Amend Section 175-7. Definitions by revising the following definition in  
Sub-section A. to read as shown:

WETLANDS – An area that is inundated or saturated by surface or ground water at a frequency  
and duration sufficient to support, and that under normal circumstances does support, a  
prevalence of vegetation typically adapted for life in saturated soils. Wetlands include, but are  
not limited to, swamps, marshes, bogs, vernal pools, and similar areas.

~~Areas where soils, land types and the vegetational community consist of any of the following:~~

~~1. Poorly drained and very poorly drained soils. In addition to the definitions contained  
herein, soil scientists shall use the “Key to Soil Drainage Classes” found in the SSSNNE  
document High Intensity Soil Maps for N.H., 5/23/86.~~

~~a. POORLY DRAINED SOILS – Soils where water moves so slowly that the water table  
is at or within twelve (12) inches of the ground surface for six (6) to nine (9) months of  
the year.~~

~~b. VERY POORLY DRAINED SOILS – Soils in the area where water is removed so  
slowly from the soil that the water table is at or within twelve (12) inches of the ground  
surface for nine (9) to ten (10) months of the year. Wherever reference is made to "very  
poorly drained soils," this shall also include:~~

~~2. Wetlands associated with saltwater, defined as lands:~~

~~a. Subject to tidal action or which border on, are connected to or were formerly connected  
to tidal waters, whose elevation does not exceed three and one-half (3 1/2) feet above  
local mean high tide; and~~

~~b. Which are capable of, or do support any of the vegetation listed in RSA 483-A:1 a.~~

1 ~~3. Surface waters, defined as salt or freshwater ponds, lakes, creeks and bays and perennial~~  
2 ~~rivers or streams, the boundaries of which are the local mean high tide or mean seasonal~~  
3 ~~high water level, or for dammed streams, the height of the dam.~~  
4  
5

6 2. Amend Section 175-7. Definitions by adding the following definitions in  
7 proper alphabetical order in Sub-section A:  
8

9 BOG – A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor  
10 drainage, and/or highly acidic soil and/or water conditions.  
11

12 RARE AND EXEMPLARY COMMUNITY – A natural community that has been identified by  
13 the New Hampshire Natural Heritage Bureau as being an exemplary example of a particular type  
14 of community and/or location of rare plants or animals.  
15

16 SOIL, POORLY DRAINED – Any soil type having a soil drainage classification of poorly  
17 drained when classified in accordance with the most recent definitions, standards, and procedures  
18 of the Society of Soil Scientists of Northern New England.  
19

20 SOIL, SOMEWHAT POORLY DRAINED – Any soil type having a soil drainage classification  
21 of somewhat poorly drained when classified in accordance with the most recent definitions,  
22 standards, and procedures of the Society of Soil Scientists of Northern New England.  
23

24 SOIL, VERY POORLY DRAINED – Any soil type having a soil drainage classification of very  
25 poorly drained when classified in accordance with the most recent definitions, standards, and  
26 procedures of the Society of Soil Scientists of Northern New England.  
27

28 VERNAL POOL – A confined basin depression which, at least in most years, holds water for a  
29 minimum of two continuous months during the spring and/or summer, provides essential  
30 breeding habitat for certain amphibians and invertebrates, and is free of adult fish populations.  
31

32 WETLAND, NON-TIDAL – A wetland that is not subject to periodic inundation by tidal waters.  
33

34 WETLAND, PRIME – A wetland designated by the Town Council in accordance with RSA 482-  
35 A:15 as having one or more of the values set forth in RSA 482-A:1 and that, because of its size,  
36 unspoiled character, fragile condition or other relevant factors, makes it of substantial  
37 significance.  
38

39 WETLAND, TIDAL – A wetland whose vegetation, hydrology, or soils are influenced by  
40 periodic inundation of tidal waters.  
41  
42  
43

1 3. Amend Article XIII Wetland Conservation Overlay District as follows:  
2  
3

4 **ARTICLE XIII**  
5 **WETLAND CONSERVATION OVERLAY DISTRICT**  
6

7  
8 **175-58. Description. Purpose of the Wetland Conservation Overlay District.**  
9

10 The Wetland Conservation Overlay (WCO) District is an overlay district intended to protect  
11 the quality and functioning of wetlands throughout the Town by managing the use of the  
12 wetland and the upland buffer adjacent to the wetland in coordination with the state dredge  
13 and fill permit system. The provisions of this article are intended to:  
14

15 A. Protect the water quality of wetlands by appropriately managing stormwater  
16 runoff, siltation and sedimentation, and the construction or alteration of allowed or  
17 pre-existing buildings and structures;  
18

19 B. Minimize flooding and flood damage by preserving the flood storage capacity of  
20 wetlands;  
21

22 C. Protect wildlife and fisheries habitats and wetlands vegetation;  
23

24 D. Maintain stream flow and groundwater recharge;  
25

26 E. Conserve natural beauty and scenic quality; and  
27

28 F. Limit uses of the wetland and upland buffer to those that are consistent with the  
29 objectives listed in A.-E.  
30

31 ~~A. The Wetland Conservation Overlay District (see "wetlands" definition in Section 175-7) is~~  
32 ~~hereby determined to be those areas identified as poorly drained or very poorly drained soils,~~  
33 ~~defined in the publication Key to Soil Drainage Classes, found in the Society of Soil~~  
34 ~~Scientists of Northern New England document High Intensity Soil Maps For New~~  
35 ~~Hampshire, May 23, 1986; surface waters; and wetlands associated with saltwater, and~~  
36 ~~including the buffer requirements of Section 175-65. The Wetland Conservation Overlay~~  
37 ~~District, as herein defined (see "wetlands" definition in Section 175-7) is shown on a map or~~  
38 ~~maps designated as the "Town of Durham Wetland Conservation Overlay District Map" and~~  
39 ~~is a supplement to the Zoning Map of the Town of Durham, New Hampshire. The Wetland~~  
40 ~~Conservation Overlay District Map is to be used as a guide only. The precise location of a~~  
41 ~~wetland boundary in any particular case must be determined by on-site inspection of soil~~  
42 ~~types and vegetation by a state-certified soil scientist.~~

1 ~~B. In all cases where the Wetland Conservation Overlay District is superimposed over another~~  
2 ~~zoning district in the Town of Durham, the regulations of both districts shall apply, but any~~  
3 ~~conflict between such regulations shall be resolved by applying the more restrictive~~  
4 ~~regulation.~~

5  
6 **175-59. Purpose: Applicability.**

7  
8 A. The provisions of the WCO District shall apply to the following areas of the Town of  
9 Durham:

10  
11 1. All wetlands except:

12  
13 a. isolated, non-tidal wetlands with a contiguous surface area of less than three  
14 thousand (3,000) square feet that are not vernal pools and are not associated  
15 with any surface water, natural drainage way, or other wetland, and

16  
17 b. wetlands associated with currently functioning and maintained, non-  
18 abandoned, manmade:

19  
20 - ditches and swales,

21 - sedimentation and/or detention basins or ponds,

22 - agricultural and irrigation ponds and swales, and

23 - fire ponds, cisterns, and related facilities.

24  
25 2. An upland buffer strip adjacent to each wetland subject to the provisions of this  
26 district as identified in 1. above. The width of the upland buffer strip from the  
27 reference line of the wetland shall vary with the type of wetland as follows:

28  
29 a. bogs, prime wetlands, and rare and  
30 exemplary wetland communities

150 feet

31 b. all other tidal wetlands

100 feet

32 c. vernal pools

100 feet

33 d. all other non-tidal wetlands

34 - in the R and RC Zones

100 feet

35 - in all other zones

75 feet

36  
37 B. Wetlands are defined in 175-7 and shall be delineated by a state certified wetlands scientist  
38 on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology, in  
39 accordance with the techniques outlined in the Army Corps of Engineers Wetlands  
40 Delineation Manual, Technical Report Y-87-1 (January 1987). The hydric soils  
41 component of the delineation shall be determined in accordance with Field Indicators for  
42 Identifying Hydric Soils in New England (Version 2, July 1998), published by the New  
43 England Water Pollution Control Commission.  
44

1 C. The provisions of this article apply in addition to any state requirements for a dredge and  
2 fill permit or other state approval or permit. It is the intention of the Town that these  
3 provisions be coordinated with state requirements and standards but that these standards  
4 shall govern if they are more stringent than state standards.  
5

6 ~~In the interest of wise land use, public health, safety and welfare, the regulations of this district~~  
7 ~~are intended to guide the use of areas of land with extended periods of high water tables. The~~  
8 ~~regulations are intended to:~~

9 ~~A. Control and regulate the development of structures and of land use on naturally occurring~~  
10 ~~wetlands which could contribute, if uncontrolled, to pollution of surface and ground water by~~  
11 ~~sewage or septic systems or toxic substances.~~

12 ~~B. Prevent unnecessary or excessive expense to the town in providing and maintaining essential~~  
13 ~~services and utilities as a result of inharmonious use of wetlands.~~

14 ~~C. Prevent the destruction of natural wetlands which provide flood protection and water storage,~~  
15 ~~provide recharge of groundwater supply and provide augmentation of stream flow during dry~~  
16 ~~periods.~~

17 ~~D. Encourage those uses that can be appropriately and safely located in wetland areas.~~

18 ~~E. Protect presently existing natural wetland wildlife habitats.~~

19 ~~F. Prevent damage to abutters' structures and properties.~~

20  
21 **175-60. Permitted Uses in the WCO District.**  
22

23 A. Notwithstanding the uses permitted in the underlying zoning district, the following uses  
24 shall be allowed without a permit in the WCO District provided that they do not alter the  
25 surface condition or configuration of the land by the addition of fill, do not obstruct or  
26 alter the natural flow or infiltration of surface water, and comply with the regulations of  
27 WCO district:  
28

29 1. The planting of native or naturalized species and wetland vegetation as identified in  
30 “The United States Fish and Wildlife Service National List of Plant Species that  
31 Occur in Wetlands: New Hampshire” within a wetland and native or non-native, non-  
32 invasive vegetation in the upland buffer in conjunction with the landscaping of lot

33 2. The installation and observation of monitoring wells

34 3. Conservation activities

35 4. Accessory agriculture subject to the performance standards of 175-65 C.

36 5. The removal of dead, diseased, unsafe, or fallen trees

37 6. The maintenance of existing vegetation including shrubs, lawns, and fields except  
38 as provided in 175-65.A.  
39

40 B. The following uses or activities shall be permitted in the WCO District if they are  
41 permitted in the underlying zoning district provided that the Zoning Administrator issues a

1 permit for the activity after the Planning Board, with the advice of the Conservation  
2 Commission, determines that appropriate erosion control measures will be used, any  
3 disturbed area will be restored, and the activity will be conducted in a manner that  
4 minimizes any impact on the wetland:  
5

- 6 1. The installation of private water supply wells serving a use on the lot
- 7 2. Water impoundments with a surface area of less than ten thousand (10,000) square  
8 feet
- 9 3. The installation of culverts or rock fords for existing driveways or woods roads in  
10 uplands and wetlands that are non-tidal, and are not vernal pools, prime wetlands, or  
11 rare and exemplary wetlands where the wetland impact is less than three thousand  
12 (3,000) square feet.
- 13 4. Temporary crossings for the maintenance of utility pipes or lines
- 14 5. Temporary coffer dams associated with the repair or replacement of existing  
15 structures
- 16 6. Seasonal docks
- 17 7. The repair or replacement of existing retaining walls
- 18 8. Decks with an area of less than two hundred square feet provided that they are  
19 raised above the ground in such a manner as to permit the natural flow of any surface  
20 water
- 21 9. The maintenance or replacement of existing docks or docking structures
- 22 10. The control of aquatic weeds by harvesting
- 23 11. The control of exotic weeds in accordance with NH RSA 487:17
- 24 12. The construction of nature trails and paths  
25

26 Permitted uses shall be as follows:

27 A. For very poorly drained soil group areas:

- 28 ~~1. Any use that does not involve the erection of a structure or does not alter the surface~~  
29 ~~configuration of the land by the addition of fill or dredging, except common agricultural~~  
30 ~~land drainage, provided that such use is otherwise permitted in the use district which this~~  
31 ~~district overlays.~~
- 32 ~~2. Forestry or tree farming.~~
- 33 ~~3. Agriculture, including grazing, farming, truck gardening and harvesting of crops.~~
- 34 ~~4. Water impoundments and the construction of well water supplies.~~
- 35 ~~5. Drainageways such as streams, creeks or other paths of normal runoff.~~
- 36 ~~6. Wildlife habitat development and management.~~
- 37 ~~7. Parks and recreation uses, excepting such as may be inconsistent with the purpose and~~  
38 ~~intent of Section 175-59.~~

1 ~~8. Conservation areas and nature trails.~~

2 ~~9. Open space in accordance with the Subdivision Regulations and other sections of this~~  
3 ~~chapter.~~

4  
5 B. ~~For poorly drained soil group areas:~~

6 ~~1. Any use permitted under Subsection A, with the addition of the construction of temporary~~  
7 ~~forestry-related, unpaved access roads when using management practices which protect~~  
8 ~~streams from damage and prevent sedimentation.~~

9  
10 **175-61. Conditional Uses in the WCO District.**

11  
12 A. The following uses shall be permitted as conditional uses in the WCO District provided  
13 that the use is allowed in the underling zoning district and a Conditional Use Permit is  
14 granted by the Planning Board in accordance with Article VII:

15  
16 1. The construction of streets, roads, access ways, bridge crossings, and utilities  
17 including pipelines, power lines, and transmission lines

18 2. Commercial agriculture and plant nurseries within the upland buffer strip subject to  
19 the performance standards of 175-65.C.

20 3. Timber harvesting within the upland buffer strip subject to the performance  
21 standards of 175-65.D.

22 4. The construction of a non-residential building within the upland buffer strip in a  
23 commercial or office-residential zoning district

24 5. Accessory structures and buildings other than those allowed as permitted uses

25 6. Outdoor recreational facilities not involving the construction of buildings or  
26 structures

27  
28 B. The Planning Board shall approve a Conditional Use Permit for a use in the WCO District  
29 only if it finds, with the advice of the Conservation Commission, that all of the following  
30 standards have been met in addition to the general standards for conditional uses and any  
31 performance standards for the particular use:

32  
33 1. There is no alternative location on the parcel that is outside of the WCO District  
34 that is feasible for the proposed use;

35 2. The amount of soil disturbance will be the minimum necessary for the construction  
36 and operation of the facilities as determined by the Planning Board;

37 3. The location, design, construction, and maintenance of the facilities will minimize  
38 any detrimental impact on the wetland, and mitigation activities will be undertaken to  
39 counterbalance any adverse impacts; and

40 4. Restoration activities will leave the site, as nearly as possible, in its existing  
41 condition and grade at the time of application for the Conditional Use Permit.

1  
2 A. ~~Under the provisions of RSA 674:21, Subdivision II, the Planning Board may grant approval~~  
3 ~~for the construction of streets, roads and other accessways and utilities, including pipelines,~~  
4 ~~power lines and other transmission lines, provided that all of the following conditions are~~  
5 ~~found to exist:~~

6 1. ~~No alternative location outside the wetland, or which has less detrimental impact on a~~  
7 ~~wetland, is feasible.~~

8 2. ~~The proposed construction is essential to the productive use of other land which is not~~  
9 ~~within the Wetland Conservation Overlay District.~~

10 3. ~~Design, construction and maintenance methods will be such as to minimize detrimental~~  
11 ~~impact upon the wetland and will include restoration of the site as nearly as possible to its~~  
12 ~~original grade and condition.~~

13 4. ~~Economic advantage is not the sole reason for the proposed location of the construction.~~

14 B. ~~Structures may be erected on poorly drained soils as a common treatment of land associated~~  
15 ~~with a permitted use under Section 175-60.B, if determined by the Planning Board to have no~~  
16 ~~adverse impact on the wetland. The conditions in Subsection A(1) and (3) above must be met~~  
17 ~~in order to receive Planning Board approval for such uses. Structures erected in association~~  
18 ~~with permitted uses shall not include residential structures.~~

19  
20 **175-62. Special exceptions for existing lots Prohibited Uses in the WCO District.**

21  
22 Any use that is not identified as a permitted use in 175-60 or a conditional use in 175-61 shall  
23 be a prohibited use.

24  
25 A. ~~Notwithstanding this limitation, On an existing lot, the erection of a structure or septic system on~~  
26 ~~an existing lot within the Wetlands Conservation Overlay District may be permitted by special~~  
27 ~~exception in accordance with the provisions and standards of 175-29.B. if the Zoning Board of~~  
28 ~~Adjustment, after due public notice and public hearing, finds that such exception complies with~~  
29 ~~all other applicable requirements set forth in this Article and with each of the following:~~

30 — 1. ~~The lot upon which the exception is sought was an official lot of record, as recorded in the~~  
31 ~~Stafford County Registry of Deeds, prior to the date on which this Article was posted and~~  
32 ~~published in the town.~~

33 — 2. ~~The use for which the exception is sought cannot be carried out on a portion or portions of~~  
34 ~~the lot which are outside the Wetland Conservation Overlay District without undue~~  
35 ~~hardship.~~

36 — 3. ~~Due to the provisions of the Wetland Conservation Overlay District, no reasonable and~~  
37 ~~economically viable use of the lot can be made without the exception.~~

- 1 ~~4. The design and construction of the proposed septic system will, to the extent practical, be~~  
2 ~~consistent with the purpose and intent of this Article.~~
- 3 ~~5. The proposed septic system will not create a threat to individual or public health, safety~~  
4 ~~and welfare, such as the degradation of ground or surface water, or damage to~~  
5 ~~surrounding properties.~~
- 6 ~~6. All other state, federal and local approvals required for the septic system have been~~  
7 ~~obtained.~~
- 8 ~~B. Prior approval shall be obtained from the Planning Board where site review is required. At~~  
9 ~~the time of submission to the Zoning Board of Adjustment, the Conservation Commission,~~  
10 ~~the Health Officer and the Planning Board shall be informed of the application for special~~  
11 ~~exception.~~

12  
13 **175-63. Provisions for Existing Uses Coordination with Other Districts**

14  
15 All land within the WCO District is also subject to the provisions of an underlying zone.  
16 Where there is conflict among the provisions of the WCO District, any other applicable  
17 overlay district, and the underlying district, the most stringent or restrictive provision shall  
18 apply.

- 19  
20 ~~A. Structures and uses existing prior to the date on which this Article was enacted may be~~  
21 ~~continued, provided that such uses shall not be expanded further to encroach upon the~~  
22 ~~wetland or designated buffer zone.~~
- 23 ~~B. Notwithstanding other provisions of this Article, the construction of attached additions to~~  
24 ~~one and two family dwellings shall be permitted within the Wetland Conservation Overlay~~  
25 ~~District, provided that:~~
- 26 ~~1. The dwelling lawfully existed prior to the date on which this Article was enacted.~~
- 27 ~~2. The number of dwelling units is not increased.~~
- 28 ~~3. The proposed construction conforms to all other applicable ordinances and regulations of~~  
29 ~~the Town of Durham.~~
- 30 ~~C. Where an existing building within the wetland or buffer zone is destroyed or in need of~~  
31 ~~extensive repair, it may be rebuilt, provided that such rebuilding is completed within one (1)~~  
32 ~~year of the event causing destruction, the new or rebuilt structure shall not extend further into~~  
33 ~~the wetland or buffer zone than the original foundation and the result will not be a new or~~  
34 ~~increased threat to the wetland.~~

35  
36 **175-64. Use of Wetlands in Calculating Lot Area and Density Size Determination in**  
37 **Wetlands**

1 No areas of surface water, wetlands ~~associated with saltwater~~ or areas designated as very poorly  
2 drained, poorly drained, or somewhat poorly drained soil may be used to satisfy minimum lot  
3 sizes or the minimum usable area per dwelling unit requirement.

4  
5 **175-65. Buffer Zone Performance Standards in the WCO District.**

6  
7 All buildings and structures shall be erected, altered, enlarged, or moved and all land within  
8 the WCO District shall be used in accordance with the following performance standards:

9  
10 A. Naturally Vegetated Buffer Strip

11  
12 A naturally vegetated buffer strip meeting the requirements of 175-75.1 of the Shoreland  
13 Protection Overlay District shall be maintained from the reference line of each wetland to  
14 the upland limit of the WCO District. Where existing buildings or structures or other site  
15 considerations preclude the maintenance of a vegetated buffer for the full width of the  
16 upland portion of the WCO District, a buffer of the maximum possible width as set forth  
17 in 175-75.1 shall be provided. No soil disturbance shall occur within fifty (50) feet of the  
18 reference line. Existing lawns within the upland buffer may be allowed to remain  
19 provided that a twenty-five (25) foot wide strip adjacent to the reference line of the  
20 wetland is not mowed and is allowed to reestablish naturally occurring vegetation. The  
21 application of fertilizers, pesticides, or herbicides within the buffer strip shall be  
22 prohibited except in conjunction with allowed agricultural activities.

23  
24 B. Sedimentation and Erosion Control

25  
26 All activities and the use of buildings, structures, and land within the WCO District shall  
27 be designed and operated to minimize the volume and rate of stormwater runoff, the  
28 amount of erosion, and the export of sediment from the site. All activities shall be  
29 conducted in accordance with Town standards for stormwater management and Best  
30 Management Practices (BMPs) for stormwater management including but not limited to:

31  
32 1. Best Management Practices to Control Nonpoint Source Pollution: A Guide for  
33 Citizens and Town Officials, NHDES, January 2004

34  
35 2. Stormwater Management and Erosion and Sediment Control for Urban and  
36 Developing Areas in New Hampshire, NHDES, 1992

37  
38 3. Best Management Practice for Urban Stormwater Runoff, NHDES, 1996

39  
40 4. Innovative Stormwater Treatment Technologies Best Management Practices  
41 Manual, NHDES, 2002

42  
43 C. Agricultural Activity

1  
2 No soil disturbance, manure spreading, or mowing in conjunction with either commercial  
3 agriculture or accessory agricultural activities shall occur within the wetland or within  
4 seventy-five (75) feet of the reference line of the wetland. Commercial agriculture within  
5 the WCO District shall be conducted in accordance with a management plan approved by  
6 the Strafford County Resource Conservation District as demonstrating Best Management  
7 Practices as set forth in “Manual of Best Management Practices for Agriculture” (New  
8 Hampshire Department of Agriculture, 1993) and “Best Management Wetlands Practices  
9 for Agriculture” (New Hampshire Department of Agriculture, 1993).

10  
11 D. Timber Harvesting

12  
13 Timber harvesting within the WCO District shall be conducted in accordance with a  
14 forestry management plan prepared by a state licensed professional forester and Best  
15 Management Practices as set forth in “Best Management Practices for Erosion Control on  
16 Timber Harvesting Operations in New Hampshire” (DRED, 1991) and “Good Forestry  
17 for the Granite State” (DRED) and the Basal Area Law. In no case shall any harvesting  
18 or clearing, except for the removal of dead or diseased trees, occur within the wetland or  
19 within twenty-five (25) feet of the reference line of the wetland. If there is conflict  
20 among the standards, the most restrictive shall apply.

21  
22 E. Trails

23  
24 Trails within the WCO District shall be constructed and maintained in accordance with  
25 Best Management Practices as set forth in “Best Management Practices for Erosion  
26 Control During Trail Maintenance and Construction” (DRED 1994). The use of trails  
27 within the WCO shall be limited to non-motorized activities except when the trail is snow  
28 covered.

29  
30 ~~A. No septic system, leach field or other waste disposal facility shall be installed within seventy-~~  
31 ~~five (75) feet of the edge of any wetland. No other building activity, including but not limited~~  
32 ~~to structures, roads and parking areas, shall be permitted within fifty (50) feet of any poorly~~  
33 ~~drained soil, except as provided in Section 175-63., nor shall such building activity be~~  
34 ~~permitted within seventy five (75) feet of any very poorly drained soil or surface water.~~

35 ~~B. A failed septic system within seventy five (75) feet of any wetland must be replaced on land~~  
36 ~~outside the buffer zone, unless the Health Officer makes a determination that such placement~~  
37 ~~is not physically possible.~~

38  
39 **175-66. Challenge to the Classification of Wetlands Reclassification of soils.**

40  
41 ~~A. **Challenge of classification.** If the soil classification of an area as a wetland or not as a~~  
42 ~~wetland or the location of the reference line is challenged by the applicant, an abutter, a~~  
43 ~~landowner, the Code Enforcement Officer, the Conservation Commission, or the Planning Board,~~

1 petition shall be made, in writing, by the challenger to the Zoning Administrator. The Zoning  
2 Administrator shall engage determine whether a state certified wetlands scientist soil scientist to  
3 review the wetland delineation. If the wetlands scientist determines that there is uncertainty as to  
4 the classification of an area as a wetland or the location of the reference line, the Zoning  
5 Administrator may authorize the wetlands scientist to should conduct an on-site investigation and  
6 at whose expense. The soil scientist shall present evidence in written form to the Zoning  
7 Administrator, which evidence shall form the basis for the final decision. The cost for the review  
8 of the classification shall be born by the challenger unless the Planning Board determines that the  
9 review is in the greater public interest and the cost should therefore be born by the Town.

10  
11 **175-67. Responsibility for Restoration of Altered Wetlands Soils.**

12  
13 Any wetland altered in violation of this article chapter shall be restored at the expense of the  
14 violator(s), as provided by RSA 483-A:5.

15  
16 **175-68. Additional Information Local Authority.**

17  
18 No approval or waiver of permits by state or federal agencies shall preempt the ability of the  
19 Planning Board or the Zoning Board of Adjustment to seek additional information or to make an  
20 independent judgment as to the acceptability of a lot or alteration of land.

21 **~~175-69. Inharmonious Use of Wetlands.~~**

22 "~~Inharmonious uses of wetlands" shall be defined as those uses incompatible with the purposes~~  
23 ~~of this chapter, i.e., the regulations listed in Section 175-59.B, provided that, in cases of~~  
24 ~~uncertainty, the use shall be denied and determined upon appeal to the Zoning Board of~~  
25 ~~Adjustment in the usual manner provided by statute.~~