

XXIX. SHORELAND PROTECTION DISTRICT (OVERLAY) (Added March 2003)

AUTHORITY

This Section is enacted in accordance with the provisions of RSA 674:16-17 and RSA 674:20-21.

I. PURPOSE

Pursuant to RSA 674:16-21 the Town of Newton hereby adopts the Shoreland Protection District and accompanying regulations in order to protect and promote public health, resource conservation and the general welfare and to:

- a) Protect, maintain and enhance the water quality of ponds, rivers and their tributaries in the Town of Newton, and to ensure their continued availability as a resource and potential use as a public water supply;
- b) Conserve and protect aquatic and terrestrial habitat associated with pond and river areas;
- c) Preserve and enhance those recreational and aesthetic values associated with the natural shoreline and river environment;
- d) Encourage those uses that can be appropriately located adjacent to shorelines.

II. DISTRICT BOUNDARIES

The Newton Shoreland Protection District is defined to include all of the following:

- a) The areas of land within 150 feet horizontal distance of the shoreline of Country Pond.
- b) The areas of land within 100 feet horizontal distance of the seasonal high water level of all brooks and streams within the Town which appear on U.S.G.S. 7.5" (scale 1:24000) quadrangle maps for the Town of Newton, as revised.

III. PERMITTED USES

The following uses are permitted under this Section:

- a) Any use otherwise permitted by the Zoning Ordinance and by State and Federal laws that does not involve the erection of a structure, and does not alter the surface configuration of the land by the addition of fill or by dredging, except as a common treatment associated with a permitted use, and provided that a buffer strip of natural vegetation 75 feet in width along Country Pond, and 50 feet in width elsewhere, be maintained between the area of use and the shoreline.
- b) Agriculture, including grazing, hay production, truck gardening, and silage production, provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion and stream sedimentation.

- c) Forestry and tree farming to include the construction of access roads for said purpose. Within the Shoreland Protection District the cutting of trees shall be limited to fifty percent (50%) of live trees in a 20-year period.
- d) Wildlife habitat development and management.
- e) Recreational uses consistent with the purpose and intent of this Section.
- f) Conservation areas and nature trails.
- g) Water impoundment and the construction of well water supplies.
- h) Drainage ways to include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.
- i) The construction of fences, footbridges, catwalks, and wharves only, provided:
 - 1) Said structures are constructed on posts or pilings so as to permit the unobstructed flow of water;
 - 2) Structures do not obstruct navigation on tidal creeks;
 - 3) The natural contour of the shoreline is preserved;
 - 4) The Planning Board has reviewed and approved the proposed construction.

Conflicting Provisions. In the event that the provisions of the Shoreland Protection District are found to conflict with other provisions of the Newton Zoning and Land Use Ordinance, the more restrictive shall apply.

Effect on Lot Size. Areas within the Shoreland Protection District may be considered as part of a minimum lot size normally required by the Zoning Ordinance and Subdivision Regulations of the Town of Newton.

Special Exception for Lots of Record. Upon application of the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Shoreland Protection District provided that all of the following conditions are found to exist.

- a) The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town.
- b) The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Shoreland Protection District.
- c) Due to the provisions of the Shoreland Protection District, no reasonable and economically viable use of the lot can be made without the exception.
- d) The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.

IV. CONDITIONAL USES

A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction of roads and other access ways, and for pipelines, power lines, and other transmission lines 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 Shoreland Protection District.
- b) Design and construction methods will be such as to minimize detrimental impact upon the Shoreland Protection District.
- c) The proposed construction design of power lines, pipelines, or other transmission lines includes provisions for restoration of the site as nearly as possible to its original grade and condition.
- d) No alternative route which does not cross a Shoreland Protection District nor has less detrimental impact on the Shoreland Protection District is feasible.
- e) Economic advantage alone is not reason for proposed construction.

Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to the Board of Selectmen. The Security shall be submitted in a form and amount, with surety and conditions satisfactory to the Selectmen and approved by Town Counsel to ensure that the construction has been carried out in accordance with the approved design. The Security shall be submitted and approved prior to issuance of any permit authorizing construction.

The Planning Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.