

To: Town of Canterbury
From: Brendan O'Donnell
Re: Draft Wetland Setback Ordinance
Date: December 1, 2025

Wetland Setback Ordinance (text in red is not proposed to be part of the ordinance and is for reference purposes only):

- I. Purpose: The purpose of this ordinance is to protect the functions of wetlands and water quality in Canterbury. Wetland buffers provide the following important functions:
1. Filter pollutants from runoff to keep them from reaching wetland;
 2. Prevent soil erosion with established root systems, leaf litter, and ground cover;
 3. Provide shade and temperature regulation for wetlands;
 4. Aid in flood control;
 5. Provide wildlife habitat; and
 6. Act as corridors to connect wildlife habitats

(Consider adding a reference to RSA 482-A:2, XI: “‘Wetland functions’ means the practical measurable values of wetlands. The 12 primary wetland functions are ecological integrity, wetland-dependent wildlife habitat, fish and aquatic life habitat, scenic quality, educational potential, wetland-based recreation, flood storage, groundwater recharge, sediment trapping, nutrient trapping/retention/transformation, shoreline anchoring, and noteworthiness.”)

II. Definition:

1. “Land Disturbing Activities” shall mean all alteration of terrain, as defined in RSA 485-A:17, as that statute may be amended, and as further defined below:
 - a. Land Disturbing Activities includes grading, filling, and stumping, but does not include cutting trees and other growth above ground.
 - b. Land Disturbing Activities does not include maintaining ditches, storm water retention systems, man-made detention basins, treatment swales, and manmade ponds (including fire ponds and farm ponds).
2. “Surface waters” shall have the meaning set forth RSA 485-A:2, XIV, as that statute may be amended.

(for reference: “‘Surface waters of the state’ means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.”).
3. “Vernal Pools” shall have the meaning set forth in New Hampshire Administrative Rules, Rule Env-Wt 104.44, as that rule may be amended.

(for reference: “‘Vernal pool’ means a surface water or wetland, including an area intentionally created for purposes of compensatory mitigation, that

provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and that:

- (a) Is not the result of on-going anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to:
 - (1) Gravel pit operations in a pit that has been mined at least every other year; and
 - (2) Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules; and
- (b) Typically has the following characteristics:
 - (1) Cycles annually from flooded to dry conditions, although the hydroperiod, size, and shape of the pool might vary from year to year;
 - (2) Forms in a shallow depression or basin;
 - (3) Has no permanently flowing outlet;
 - (4) Holds water for at least 2 continuous months following spring ice-out;
 - (5) Lacks a viable fish population; and
 - (6) Supports one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.).

- 4. "Wetlands" shall have the meaning set forth in RSA 482-A:2, X, as that statute may be amended.

(for reference: "'Wetlands' means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.")).

- III. Setback: No new structures may be erected within 25 feet of, and no land disturbing activity may be conducted within 15 feet of: (i) wetlands that are larger than 2,000 square feet; (ii) vernal pools that are larger than 2,000 square feet; or (iii) surface waters. The setback distance is measured from the edge of the wetland, vernal pool, or surface water to the edge of soil disturbance or foundation of structure.

IV. Exceptions:

- a. Lawful preexisting uses: All structures and uses that exist as of the effective date of this ordinance are grandfathered.
- b. Ditches, storm water retention systems, man-made detention basins, treatment swales, and manmade ponds (including fire ponds and farm ponds) do not constitute wetlands, vernal pools, or surface waters within the meaning of this setback ordinance.
- c. If a person obtains a New Hampshire Department of Environmental Services permit to erect a structure or alter terrain within a wetland, vernal pool, or surface water, that person is exempt from this ordinance's setback requirements with respect to that DES-approved activity.