

Revised 12/28/2025

## **WSOD Public Comments Summary by Section**

For review by Conservation Commission to revise WSOD

### **175-58. Definitions and Acronyms**

Add or clarify the following terms

- Accessory Structures
- Banks (this term is used once in 175-59 F.: "...to stabilize banks..."
- Buffer
- Fences not detrimental to wildlife (J.Lawson email)
- Limit of Jurisdiction
- Overlay District
- Open waterbodies vs waterbodies
- Practical
- Reasonable
- Setback
- Shoreland
- Shoreline
- Tidal
- Vegetation
- Wetland vs shoreland
- Wildlife Corridor (should refer to Fish&Game maps);

### **175-59. Purpose of the Wetland and Shoreland Overlay District**

- Have not told us the "why" of the need to replace the SPOD and WCOD
- What is the driving need to replace them?
- If neighboring communities don't follow us, how will this improve the health of the bay?
- The health of the bay is already improving. How can we prove this ordinance will help?
- If you want to protect wildlife, create a wildlife corridor and protected habitat overlay district based on state district.

### **175-60 A. Applicability**

- Need to quantify environmental impact and dollar cost to property valuncorporate by es.
- Lower property values on affected properties will result in lower property tgaxes for them, raising taxes on other Durham homeowners.
- This ordinance is overreach. What are the benefits to homeowners in coming years?
- A better approach than combining the ordinances would be to maintain two separate sections and incorporate by reference the applicable state statutes, then increase or decrease buffers based on individual property-specific requirements.
- The ordinance cannot apply to "waterbodies", only the buffer around them. This language is misleading.

### 175-60 A3. Buffers

- The second sentence suggests that a buffer could end with respect to one property and start up again on a neighboring property
- 330 foot buffer on 200 feet of shoreline is 1.5 acres of restricted land
- What science supports such a wide buffer and dramatic increase
- We don't need to worry about wildlife corridors near the shoreline when we don't anywhere else in Town.
- There are no wildlife corridors in Durham according to NH F&G
- The BOB report says buffers near the shoreline only protect water quality, not against sea level rise or wildlife.
- The Town discharges wastewater into tidal waters, resulting in much more pollution than all homeowners combined.
- Nature Conservancy recommends 50' to 160' is adequate to protect water quality.
- What does NHDES recommend?
- Focus on Performance not Distance. Science shows that managing immediate shoreline/near-shore zones and stormwater entry points yields the best gains for water protection.
- Use a tiered buffer system: 0-100 foot Protection Zone"; 100-150 feet "Moderate acceptable practices; Beyond 150 feet Standard zoning. Add a "resilience and restoration exemption
- Need to consider elevation, not one size fits all. Need to consider the relationship between elevation and impact, not to all properties in the RC zone
- Accounting for sea level rise is unnecessary
- Extended buffers combined with restricted mowing highly impacts the right to use and enjoy property
- Can a site specific approach be implemented given the varied topography of properties?
- Why are restrictions not imposed on properties that border non-tidal waterways?
- (d) "All tidal waters...and wetlands located adjacent to tidal waters". A stream running down to a river is adjacent to the tidal water, so where does the 330 foot buffer start and end? 330 feet all the way up the stream?
- Align with state and regional science: set core buffer limits within 100 - 150 feet consistent with NH DES and Great Bay studies.

### 175-60 B

- How are we to identify wetlands on neighboring properties? With permission ? Trespassing?
- What does "to the extent possible" mean? This is a vague term.

### 175-60 C

This section should be moved to the definition of "wetland". Otherwise it is unclear if only a certified wetland scientist can determine what a wetland is, The two sections can be confusing as they are inconsistent

## 175-61 A General Requirement for the Buffer

### Native and Naturalized Species

- If existing lawns and fields are not mowed it will be detrimental to pollinators, wildlife and will revert back to forest.
- No new lawns, gardens or landscaping in the 330 foot buffer except within 15 feet of the house highly impacts the right to enjoy property. What is the anticipated environmental value? How does elevation with respect to the reference line come into consideration?
- Mowing of fields should be explicitly permitted.
- Current ordinances allow for maintenance of existing vegetation including shrubs, lawns, fields
- Restricting gardens, tree cutting, fertilizers, stumps and fence are all overreach
- More restrictive than other towns in the area
- As lawns cannot be mowed within 30 feet of the reference line, what is the proposed alternative to invasive species management, which will result?
- Performance standards consistently applied could serve the goals of the Town and ConCom without punitive zoning restrictions. Example: Periodic inspection of septic systems.
- Burdensome to require prior consultation with Tree Warden in all circumstances including the removal of small trees and dangerous or diseased trees. 175-61A5 and A6 permit removal of certain sized trees, yet **175-61A7** does not permit the removal of individual trees except in certain circumstances.
- Definition of “small trees” does not comport with State definitions.
- Restricting removal of trees is too much control
- Not allowing pesticides exposes children to tick bites
- DPW applies herbicides - are these running off into the Bay?
- Runoff from private properties is not a large source of nitrogen in the Bay.
- Why is Durham alone trying to limit nitrogen runoff?
- Look at Exeter ordinance for nutrient use.
- **175-61 A 10 Reestablishment of the Buffer**
- Ordinance would allow the Planning Board to require all or portions of the buffer to be re-planted with native or naturalized species. This could amount to 1.5 acres. Without strict requirements or limits, this could be punitive, extreme, an undue burden and subject to broad interpretation

## 175-61B Sedimentation and Erosion Control

- Need to define “Best Management Practices” consistently and include a flexible appendix of examples as these may change from time to time.

## 175-61 C Agricultural Activity

- Need to define “Best Management Practices” consistently and include flexible appendix of examples as these may change from time to time

- This seems targeted toward commercial agriculture, not home gardeners. Home gardeners should be able to use fertilizer, pesticides and herbicides for their own food supply for gardens in the buffer. Minimal application as necessary should be permitted.
- Is it necessary to get the Code Administrators permission to plant non-native species (ex: Rosemary) in my garden every year?

#### **175-61 D Septic Systems**

- The language reads like a Permitted Use A. The language requires a setback and is allowed in the buffer. Then why are septic lines a Conditional Use? This needs clarification.
- Can users of the Town sewer service participate in protecting Great Bay with a surcharge commensurate with the economic impact of the WSOD?

#### **175-61 E Salt Use and Snow Storage**

- Need to define "Best Management Practices" consistently and include flexible appendix of examples as these may change from time to time

#### **175-62 Permitted Use A**

- (7) (8) and 175-63 4 do not deal consistently with repairs, replacement and/or maintenance of existing structures

#### **175-63 Permitted Use B**

- (7) Certain decks are in Permitted Use B while all decks are in Conditional Use 175-64-4. Why?
- (10) Restricting fence types is "hysterical". ^Does this mean hysterical as funny or as ridiculous?
- Why was the expansion and replacement of docks moved to B from A? Docks and pier work is already governed by NHDES, NH Executive Council, and Army Corps of Engineers, what does Durham gain by this oversight?
- Where ConCom review is required, regarding its interface with the Planning Board (also under Conditional Use), there is no provision for an applicant's next steps if the ConCom declines to comment. Is this by design as a method for stonewalling an application?
- Does the ConCom intend to continue to require on-site visits as part of the application process? Practice should be clarified to reduce timing uncertainty for landowners.

#### **175-64 Conditional Uses in the WSOD**

- Why are free standing solar arrays restricted here but not in other parts of town?
- Why are telecommunications lines not listed but other types of utilities are?
- Why are septic lines a CU while septic systems are allowed under General Requirements?
- Did the ConCom consult NHDES to learn about Best Practices for the proposals in the WSOD?
- "Single family homes" designation is inconsistent with the State right to include ADUs without restriction.

- What is the difference between decks in CU and those in Permitted Use B?
- Do I need to apply for a CU to repave my driveway in the 330 foot buffer? Paying a fee to resurface a driveway is gouging the taxpayer. Applying for a CU permit is time-consuming and burdensome.

#### **175-64 C Ecological Value**

#### **175-65 Special Exception for Single Family Residences in the WSOD**

- How is this section to be applied in coordination with the new policy in Permitted Use B allowing a single-family home in the buffer? Why is this section needed?

#### **175-66 Prohibited Uses in the WSOD**

- What is the difference between “Prohibited” and “specifically prohibited”?

#### **175-67 Compliance with Other Regulations**

- How does the WSOD work with or undermine state statutes and other town regulations (Flood Hazard, Standards for Agricultural Use, Septic Systems)
- RSA 483B Shoreland Water Quality Protection Act treats tidal and non tidal bodies of water similarly; WSOD treats tidal and non-tidal differently - does not square with SWQPA

#### **175-68 Challenge to the Classification of Wetlands**

#### **175-69 Application for Variances and Special Exceptions**

#### **175-70 Local Resources and Authority**

- Has there been any history of violations to current ordinances?
- How will the Town support landowners whose property is regulated with easements or covenants that require maintenance activities limited by the WSOD?

#### **175-71 Enforcement**

- How will the ordinance be enforced? What is the practical application?

#### **Other Suggestions and Comments**

- Zoning Ordinance 174-63 “For any new construction the applicant must show the impact of sea level rise on the structure for the following intervals: Next 5 years and 25 years”
- We should allow for land owner input
- How many residents will be impacted?
- Adopt a Tiered Buffer System (Julia Rogers)
  - 0-100 feet: Protection Zone. Native vegetation encouraged; no impervious expansion; allow restoration and resiliency work; enable existing land management practices to ensure green pervious soils, grasses, and natural vegetation

- 100-150 feet: Moderate (regulate?) acceptable practices. Allow and encourage landscape improvements, enable pervious sediment and vegetation, expansion, stormwater controls, and building upgrades within existing pervious square footage.
- Beyond 150 feet: Standard zoning applies - routine property improvements permitted. Encourage Best Practices for land management, wildlife restoration and resilience practices that encourage natural vegetation growth for flora and fauna
- Clearly allow and encourage living shorelines, rain gardens, permeable pavers, energy efficient retrofits.
- Require performance based standards, not fixed distances
  - Use runoff volume, impervious area and vegetation coverage as compliance measures rather than strict setbacks alone
  - Allow flexibility for sites that demonstrate equal ecological performance. Ensure elevation has been taken into account and allow acceptable practices for not increasing impervious area towards the shoreline.
- Integrate stormwater and septic Best Practices
  - Incentivize periodic septic inspection and reasonable (economically feasible) upgrade within 250 feet of tidal waters
  - Promote rainwater management systems on larger lots instead of blanket development bans.

### FAQ Questions

- Have not told us the “why” of the need for replacing the WCOD and SPOD.
- What is the driving need to replace them?
- If neighboring communities don’t follow us, how will this improve the health of the Bay?
- The health of the Bay is already improving. How can we prove this ordinance will help?
- If you want to protect wildlife, create a wildlife corridor and protected habitat overlay district for the Town based on state mapping.
- Are “open waterbodies” different than “waterbodies”? Imprecise language
- Need to quantify environmental impact and dollar cost to property.
- Lower property values on affected properties will result in lower taxes for them, thus increasing taxes on other Durham homeowners
- This ordinance is overreach. What are the benefits to homeowners in coming years?
- A better approach than combining the SPOD and WCOD would be to maintain two separate sections and incorporate by reference applicable state statutes, then increase or decrease buffers based on property-specific requirements.
- Why is the Town of Durham not restricted by the ordinance if the citizens are expected to adhere?
- A number of items moved from Permitted Use A to Conditional Use (see matrix). These are significant changes that must be explained

