

## **SECTION 10 Center Harbor Water Resources Conservation Overlay District (WRCOD)**

### **10:1 Authority**

By the enabling authority granted in NH RSA 674:16 and 674:21, and as enacted, the Water Resources Conservation Overlay District is hereby established to guide land use in proximity to wetland, shoreland, and groundwater resources.

### **10:2 Purpose and Intent**

The guiding principles for this ordinance are two-fold: First, to help landowners develop and use their property for their desired purpose while protecting the water resources that drive Center Harbor's economy and wellbeing. This will be achieved through clear, concise and simple common sense regulations based on sound environmental principles. Second, to establish a practical set of standard guidelines that ensure the town and citizens of Center Harbor maintain local control over their water resources. To achieve this, the following purposes and intents apply to this ordinance:

- 1) To prevent the degradation of surface and ground water quality;
- 2) To support water resources protection recommendations in the Center Harbor Master Plan and Natural Resource Inventory;
- 3) To provide floodwater storage, groundwater recharge, and terrestrial retention of sediments, nutrients and other pollutants;
- 4) To prevent the destruction of habitats for rare, threatened or endangered flora and fauna;
- 5) To prevent the development of structures and land uses in areas adjacent to surface and groundwater resources that could contribute to the degradation of water quality;
- 6) To preserve and enhance the aesthetic and recreational values associated with surface waters and wetlands;
- 7) To protect fish and wildlife habitat, maintain ecological balances, and enhance the ecological values such as those cited in RSA 483-A:1; and
- 8) Prevent unnecessary or excessive expenditures of municipal funds for the purposes of providing and/or maintaining essential service and utilities which might be required as a result of misuse or abuse of wetlands.

### 10:3 Definitions

10:3:1 Groundwater: water occurring beneath the surface of the ground.

10:3:2 Impervious: preventing or not readily permitting the infiltration of water.

10:3:3 Infiltration: the slow passage of a liquid through a filtering medium, such as the percolation of rainwater through the soil.

10:3:4 Natural Ground Cover: any herbaceous plant, woody seedling or shrub generally less than 3 feet in height. Ground cover shall not include lawns, landscaped areas, gardens, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.

10:3:5 Non-Conforming: any structure, alteration, or land use that does not meet the requirements of this Section or any other Section of the Center Harbor Zoning Ordinance.

10:3:6 Primary Structure: a structure that accommodates the primary use of the site or parcel.

10:3:7 Protective Buffer: an upland area adjacent to a wetland or stream, more specifically defined as the area within a specified distance from the edge of a wetland or stream.

10:3:8 Reference Line: for lakes and ponds greater than ten acres means the surface elevation as determined by NH Department of Environmental Services; for streams, reference line means the ordinary high water mark.

10:3:9 Regulated Substance: petroleum, petroleum products, and substances listed under 40 CFR 302, excluding the following substances: ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, potassium permanganate, and propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

10:3:10 Snow Dump: a location where snow cleared from roadways or parking lots is placed for disposal.

10:3:11 Stormwater Management Plan: a plan certified by a licensed engineer designed to promote stormwater infiltration, minimize erosion and minimize the concentration of stormwater.

10:3:12 Stratified Drift Aquifer: a subsurface, rock, sand or gravel formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for public and private water supplies.

10:3:13 Unaltered State: means native vegetation is allowed to grow without cutting, limbing, trimming, pruning, mowing, or other similar activities.

10:3:14 Wetland: include those areas that are inundated or saturated by surface or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soils conditions.

#### 10:4 Water Resources Conservation Overlay District Boundaries

The Water Resources Conservation Overlay District places additional land use controls on existing Zoning Districts in Center Harbor based on identified water resources. This District consists of all surface and groundwater resources described in the *Natural Resources Inventory of Center Harbor December 2014*, and as shown on the *Center Harbor Water Resources Map*, as approved at the Center Harbor Town Meeting on March 11, 2014. Further, the District is defined by the following:

Table 1: Summary of Water Resources and Their Protective Buffers

Water Resource	Upland Protective Buffer
Lakes and Great Ponds	250 feet
Prime Wetland	125 feet
Designated Wetland	75 feet
Non-Designated Wetland	50 feet
Designated Stream	75 feet *
Non-Designated Stream	50 feet
Stratified Drift Aquifers	Land use restrictions only

\* determination required for septic set back see 10:8:1

10:4:1 **Lakes and Great Ponds** (greater than 10 acres in size)

1. Squam Lake
2. Lake Winnepesaukee
3. Winona Lake
4. Lake Waukewan
5. Hawkins Pond
6. Bear Pond
7. Otter Pond

10:4:1:1 The **Shoreland Zone** surrounding each lake and great pond is specifically defined as the following:

1. Protected Shoreland – all lands within 250 feet of the Reference Line.
2. Natural Woodland Buffer – all lands within 150 feet of the Reference Line.
3. Waterfront Buffer – all lands within 50 feet of the Reference Line.

Figure 1: Illustration of Shoreland Zone



10:4:2 **Wetlands**, specifically defined by the following and as referenced on the Center Harbor Water Resources Map:

10:4:2:1 **Prime Wetlands** approved by Center Harbor Voters in 2006, 2011, 2013 and 2014 as follows:

1. Paquette Wetland Complex (#52)
2. Hale Swamp (#54-55)
3. Leroux Wetland Complex (#58)
4. Hawkins Pond (#79-80)
5. Johnson-Perkins Wetland Complex (#87-88)
6. Snake River (#70)
7. Chamberlain-Reynolds / Heron Cove (#41)
8. Newman Trust Wetland (#15)
9. Fogg Hill Bog Complex (#71-72)
10. Otter Pond (#68-69)
11. Sturtevant Bay (#6)
12. Belknap Woods Beaver Ponds (#43)

10:4:2:1:1 Prime Wetland Protective Buffer – all lands within 125 feet of the edge of the prime wetland.

10:4:2:2 **Designated Wetlands** – moderate to high value wetlands approved at the Center Harbor Town Meeting held on March 11, 2014.

10:4:2:2:1 Designated Wetland Protective Buffer – all lands within 75 feet of the edge of the designated wetland.

10:4:2:3 **Non-Designated Wetlands** – meaning all other wetlands identified and mapped in the *Natural Resources Inventory of Center Harbor December 2014*.

10:4:2:3:1 Non-Designated Wetland Protective Buffer – all lands within 50 feet of the edge of a non-designated wetland.

10:4:2:4 **Boundary Disputes** – In accordance with the Center Harbor Town Ordinance where it is determined that an area has been incorrectly delineated as a wetland; or that an area not so designated was subsequently found to meet the criteria for wetlands designation, the Planning Board shall determine whether the regulations contained herein have applications. An area claimed to be incorrectly delineated as a wetland must be accompanied by a High Intensity Soil Survey to a minimum scale of one (1) inch equals one hundred (100) feet. The planning board shall make their judgment under this section only upon determination by a Certified Soil Scientist on the basis of additional on-site investigation or other suitable research that the information contained on the Center Harbor Water Resources Map is incorrect. This evidence shall be acceptable only when presented in written form to the municipality. Costs involved in the foregoing shall be borne by the appellant.

10:4:3 **Rivers and Streams**, specifically all bodies of water having a channelized flow for some or all of the year, further defined as the following:

10:4:3:1 Designated/ Perennial Streams, as approved at Town Meeting held on March 11, 2014:

1. Winnipесаaukee North
2. Dane Road Pond Outflow
3. Swainey Brook
4. Otter Pond Outflow
5. Hawkins Pond West
6. Lands Brook
7. Hawkins Brook
8. Golf Course Drainage
9. Hawkins Pond Outflow
10. Dog Cove South
11. Belknap Woods Brook
12. Swainey Brook – Upper Segments
13. Bear Pond Outflow
14. Winona Lake Inflow

10:4:3:2 Non-Designated Streams – all intermittent or short-term perennial streams identified and mapped in the *Natural Resources Inventory of Center Harbor December 2014*.

10:4:3:2:1 Non-Designated Stream Protective Buffer – all lands within 50 feet of the ordinary high water mark or edge of channel of a non-designated stream.

10:4:4 **Stratified Drift Aquifers** – as defined in the *Natural Resources Inventory of Center Harbor December 2014* and shown on the *Center Harbor Water Resources Map*; all areas of land underlain by stratified drift aquifers shall be known as the Groundwater Protection District.

10:4:4:1 **Groundwater Protection District Boundaries Verification**

Where it is determined that a stratified drift aquifer area has been incorrectly delineated the Planning Board shall determine whether the regulations contained herein have applications.

The Planning Board shall make their judgment under this section only upon the determination of a professional engineer or geologist at the expense of the owner of a parcel of land where the boundaries are in question. This evidence shall be acceptable only when presented in written form to the municipality.

#### 10:5 Applicability

10:5:1 Standards and requirements established herein shall be superimposed over all other zoning districts, or portions thereof, within the Town of Center Harbor.

10:5:2 As deemed appropriate by the Code Enforcement Officer, the edge and extent of the water resource and its protective buffer may require field verification by a licensed or certified professional. The expense for such verification, if not satisfactorily supplied in the application for a building permit, septic system, subdivision, or site plan, shall be borne by the applicant.

#### 10:6 Permitted Uses

The following describes the land uses that are permissible within the Water Resource Conservation Overlay District provided such uses:

1. do not involve a structure (except as expressly referenced);
2. do not alter the surface configuration of the land by the addition of fill, or by excavation or dredging;
3. do not alter the ground or surface water level of any portion of the water resource by the construction of dams, ditching, draining, channelizing, diversion or other means; and
4. are compatible with the Purpose and Intent specified in Section 10:2.

##### 10:6:1 Permitted Uses within the Water Resource

10:6:1:1 Forestry, tree farming and logging operations which utilize Best Management Practices as described in *Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire*, NH Department of Resources and Economic Development, 2004 (as amended) and *Best Management Practices for Forestry, Protecting New Hampshire's Water Quality*, UNH Cooperative Extension, 2005 (as amended) and comply with all related state and local laws.

10:6:1:2 Agricultural activities and operations as defined in RSA 21:34-a and governed by RSA 430 which utilize Best Management Practices as described in *Best Management Wetland Practices For Agriculture*, NH Department of Agriculture, January 2001 (as amended) and *Manual of Best Management Practices for Agri-*

culture in New Hampshire, NH Department of Agriculture, 1998 (as amended) and comply with all related state and local laws.

10:6:1:3 Water supply wells as permitted by the NH Department of Environmental Services.

10:6:1:4 Outdoor recreation activities including but not limited to hunting, hiking, fishing, swimming, boating, biking and skiing.

10:6:1:5 Nature trails and minor crossings for footbridges, snowmobile bridges, temporary timber harvesting crossings, and boardwalks for educational or scientific purposes that do not significantly alter the banks, channels, edges or underwater topography of the water resource.

10:6:1:6 Wildlife or fisheries management activities.

10: 6:1:7 Educational activities and scientific research consistent with Section 10.2 – Purpose and Intent of this ordinance.

10:6:1:8 Open space and/or conservation.

10:6:1:9 Water resource enhancement and/or restoration.

10:6:1:10 Docks, breakwaters, moorings, and beach maintenance, as permitted by the NH Department of Environmental Services and subject to Section 11:6.

10:6:1:11 All other uses otherwise permitted by the Center Harbor Zoning Ordinance and the laws of the state of New Hampshire subject to the limitations cited in Section 10:4 Applicability and Section 10:2 Purpose and Intent.

#### 10:6:2 Permitted Uses within the Protective Buffer

Protective buffers consisting of upland adjacent to the edge of a water resource are required as specified in Table 1 and Section 10:4. The following general land uses are permitted within the protective buffer:

10:6:2:1 All of the uses listed in Section 10:6:1.

10:6:2:2 Minor accessory structures as defined and restricted in Section 5:3:1.

10:6:2:3 Fences, as regulated by Section 5 of this ordinance, as long as their installation does not alter the natural surface configuration of the buffer area, does not result in surface or groundwater contamination, and conforms to Best Management Practices as cited in Sections 10:6:1:1 and 10:6:1:2.

### 10:6:3 Permitted Uses and Standards within the Shoreland Zone

The standards in this section are designed to protect public waters by minimizing shoreland disturbance while accommodating reasonable levels of development in the protected shoreland. The following restrictions apply to the Shoreland Zone as defined in Section 10:4:1:1.

**10:6:3:1 Protected Shoreland Improvement Standards-** the following standards apply to the Protected Shoreland; defined as the area within 250 feet of the Reference Line:

- 1) Impervious surfaces in excess of 20 percent require implementing a stormwater management plan to increase infiltration of stormwater from the development.
- 2) Not more than 30 percent of the area of a lot may be comprised of impervious surfaces.
- 3) Salt storage yards, auto junkyards, solid waste and hazardous waste facilities shall not be established or expanded.
- 4) All new lots are subject to soils based minimum lot size standards by the NH Department of Environmental Services as outlined in NH RSA 485-A.
- 5) When selling a developed waterfront property, a site assessment study as defined by RSA 485-A:39 is required for all properties with on-site septic that are contiguous to or within 200 feet of water bodies.
- 6) An Alteration of Terrain permit is required for any project that proposes to disturb more than 50,000 square feet of contiguous terrain if any portion of the project is within the Protected Shoreland or disturbs an area having a grade of 25 percent or greater within 50 feet of any lake or pond.

### 10:6:3:2 Natural Woodland Buffer Improvement and Maintenance Standards

The following improvement and maintenance standards apply to the Natural Woodland Buffer; defined as the area within 150 feet of the Reference Line:

#### 10:6:3:2:1 Natural Woodland Buffer Improvement Standards

- 1) Woodland buffers  $\frac{1}{2}$  acre or more in size must remain in an unaltered state excluding impervious surfaces.

- 2) Lots that contain less than ½ acre between the reference line and landward 150' from the reference line, at least 25 percent of the area between 50 feet and 150 feet from the reference line must remain in an unaltered state.

**10:6:3:3 Waterfront Buffer Improvement and Maintenance Standards** - The following improvement and maintenance standards apply to the Waterfront Buffer; defined as the area within 50 feet of the Reference Line:

**10:6:3:3:1 Waterfront Buffer Improvement Standards**

- 1) No primary structures are allowed within the Waterfront Buffer.
- 2) Within the Waterfront Buffer, tree coverage is managed with a 50 foot by 50 foot grid and point system. Trees and saplings may be cut, provided the sum score of the remaining trees and saplings within the grid segment is at least 50 points.
- 3) No natural ground cover shall be removed except for a footpath to the water that does not exceed six feet in width and does not concentrate stormwater or contribute to erosion.
- 4) Natural ground cover must remain intact; no cutting or removal of vegetation below three feet in height (excluding previously existing lawns and landscaped areas). Stumps, roots, and rocks must remain intact in and on the ground.
- 5) Pesticide and herbicide applications can be applied by a licensed applicator only.
- 6) Only low phosphorous, slow release nitrogen fertilizer can be used beyond 25 feet of the reference line. Only limestone may be used within 25 feet of the reference line.

**10:6:3:3:2 Maintenance of a Waterfront Buffer** - Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 foot by 50 foot segments. Within each segment a minimum combined tree and sapling score of at least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in that partial segment shall be proportional to that required of a full segment.

- 1) Tree and sapling diameters shall be measured at 4 ½ feet above ground and are scored as follows:

Diameter (measured in inches)	Score
1" - 6"	1 point
greater than 6" less than 12"	5 points
greater than 12"	10 points

- 2) Dead, diseased, or unsafe trees or saplings shall not be included in scoring.
- 3) If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees and saplings may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than 50 points.
- 4) Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views is permitted. Trimming, pruning, and thinning of trees and saplings for the purpose of providing views shall be limited to the bottom ½ of the trees and saplings.
- 5) When necessary for the completion of construction activities, a 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted within 14 days with native vegetation upon completion of construction.

**10:6:4 Permitted Uses within the Stratified Drift Aquifer Protection Zones**

All uses permitted by right or allowed by special exception in the underlying district that are also located within Groundwater Protection District remain permitted by right or special exception, as applicable, unless they are identified as prohibited in Section 10:8:3:1. All uses must comply with the Performance Standards unless specifically exempted.

**10:7 Special Exceptions**

Special Exceptions shall be administered by the Zoning Board of Adjustment in accordance with Section 8:1:1. Table 2 defines the uses allowable by Special Exception.

Table 2: Uses Permitted by Special Exception

**Designated Wetlands**

- a. The construction of a wetland crossing for purposes of access or utilities, such as a road, driveway, or sewer line.
- b. The construction of a water storage basin or impoundment.

**Non-Designated Wetlands**

In addition to a and b above:

- c. The placement of fill for lot development purposes, in conjunction with a Mitigation Plan that addresses: restoration, replacement, enhancement and/or preservation.

**Designated and Non-Designated Streams**

- d. The construction of a stream crossing for purposes of access or utilities, such as a road, driveway, or sewer line.
- e. The construction of a water storage or impoundment.
- f. Streambank alteration for the purposes of forestry or agriculture

**Protective Buffers (Section 10:4:2)**

In addition to the above uses:

- g. The undertaking of a use otherwise not permitted within a Protective Buffer, provided it can be shown that such proposed use is consistent with the intent of the provisions of Section 10:2 Purpose and Intent.

Additionally, the following shall apply:

- 1) Applications for Special Exception shall include written comments and/or recommendations from the Conservation Commission or an authorized subcommittee of the Conservation Commission, Planning Board, and Health Officer. Where the application has been referred to the Conservation Commission, Planning Board, and Health Officer by the Zoning Board of Adjustment for review and comment at least 45 days prior to a hearing.
- 2) Applications for Special Exception impacting a Prime Wetland Buffer, a Designated Wetland or its Buffer, a Designated Stream or its Buffer shall be accompanied by a wetland assessment report prepared by a Certified Wetland Scientist along with the credentials of the individual preparing the report. The assessment report shall include: a) an assessment of the functions and values of the water resource; b) an assessment of the anticipated impacts resulting directly and indirectly from the proposed activities; and c) demonstrated compliance with conditions set forth in Item 3) a-d below.
- 3) In granting a Special Exception, the Zoning Board of Adjustment must determine that each of the following conditions has been met:

- a. The proposal is consistent with Section 10:2 Purpose and Intent and with all applicable State of New Hampshire regulations including applicable Best Management Practices as referenced in Section 10:6:1; and
- b. Alternative proposals have been considered, and that the submitted proposal represents the minimum amount of reasonable, unavoidable environmental impact to the water resource and/or associated buffer areas; and
- c. Environmental impacts to abutting or downstream properties and natural resources have been considered and minimized, and the proposed use will not create a hazard to public health or safety; and
- d. The proposed construction and design shall include provisions for restoration of the disturbed site as closely as possible to its original grade and topography.

10:8 Special Provisions

The Water Resource Conservation Overlay is an overlay district. If any provision of the Water Resource Conservation Overlay District conflicts with any other zoning requirement, the more restrictive standard shall apply.

10:8:1 Septic Leach fields

Minimum setbacks for subsurface waste water systems shall be established from the edge of water resource to the edge of leach bed as specified in Table 3. The setback for Prime Wetlands shall be measured from the outermost limit of the wetland regardless of soil drainage class. For all streams, setbacks shall be measured from the top of the defined stream channel. In the event that two setbacks are in conflict with each other, the more restrictive shall apply.

Table 3: Subsurface Wastewater Leach Field Setback

Water Resource	Wetland and Stream Setback Requirements
Designated Prime Wetland	125 feet
Designated Wetland	75 feet
Non-Designated Wetland	75 feet
Designated Stream	75 - 125 feet (see below)
Non-Designated Stream	75 feet

10:8:1:1 Setbacks to Designated Streams

Setback requirements to Designated Streams for all new septic systems are determined by soil characteristics. The following setbacks are measured from the reference line:

- 1) Percolation rates of greater than two minutes (areas with no restrictive layer and the soil down gradient is not porous sand and gravel): 75 feet.
- 2) For soils with a restrictive layer within 18 inches of the natural surface: 100 feet.
- 3) Percolation rates equal to or greater than two minutes per inch (where the soil down gradient of the leach field is porous sand and gravel): 125 feet.

10:8:2 Prime Wetlands – the following uses are prohibited in Prime Wetlands:

- 1) Forestry and Agriculture
- 2) Water wells
- 3) Motorized recreation of any type
- 4) Docks, breakwaters, moorings or beaches

10:8:3 Groundwater Protection District - the following applies to all Stratified Drift Aquifers as referenced on the Center Harbor Water Resource Map:

10:8:3:1 Prohibited in the Groundwater Protection District are as follows:

- 1) The development or operation of a hazardous waste disposal facility as defined under RSA 147-A;
- 2) The development or operation of a solid waste landfill;
- 3) The outdoor storage of road salt or other deicing chemicals in bulk;
- 4) The development or operation of a junkyard;
- 5) The development or operation of a snow dump;
- 6) The development or operation of a petroleum bulk plant or terminal;
- 7) The development or operation of gasoline stations;

- 8) Storage of animal manure unless covered or contained in accordance with the specifications of the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;
- 9) Facilities that generate, treat, store, or dispose of hazardous waste subject to Env-Hw 500-900 except for:
  - a. household hazardous waste centers and events regulated under Env-Hw 401.03(b)(1) and Env-Hw 501.01(b); and
  - b. water remediation treatment works approved by NH Department of Environmental Services for the treatment of contaminated ground or surface waters.
- 10) Storage of regulated substances in quantities greater than five gallons, unless in a free-standing container within a building or above ground with covered secondary containment adequate to contain 110 percent of the largest container's total storage capacity;
- 11) Storage of fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff.

10:8:3:2 Special Exceptions may be granted by the Zoning Board of Adjustment for a use in the Groundwater Protection District which is otherwise permitted, if the permitted use is involved in one or more of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate Spill Prevention, Control and Countermeasure (SPCC) Plan, is approved by the Center Harbor Code Enforcement Officer;
2. Any use that will render impervious more than 15 percent of any lot.

10:8:3:2:1 In granting a Special Exception the Center Harbor Zoning Board of Adjustment:

1. Must determine that the proposed use is not a prohibited use;
2. Must determine that the proposed complies with the Performance Standards in Section 10:8:3:3 as well as all applicable local, state and federal requirements; and
3. May require a performance or other surety bond, in an amount and with conditions satisfactory to the Board, to ensure completion of construction of any facilities required for compliance with the Performance Standards.
4. The Zoning Board may require that the applicant provide data or reports prepared by a NH licensed geologist or engineer to assess any potential damage to the aquifer that may result from the proposed use. The Zoning Board shall engage such professional assistance as it requires at the expense of the applicant.

10:8:3:3 The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under Section 10:8:4.

- 1) Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;
- 2) All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;
- 3) Facilities where regulated substances are stored must be secured against unauthorized entry;
- 4) Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be lo-

cated at least 125 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;

- 5) Secondary containment with a cover must be provided for outdoor storage of regulated substances if an aggregate of regulated substances exceeding 5 gallons are stored outdoors on any particular property;
- 6) Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;
- 7) Prior to any land disturbing activities, all inactive or abandoned wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules;
- 8) Any proposed development or construction activity that will increase the amount of impervious surfaces - including but not limited to roads, driveways, rooftops, sidewalks, parking areas, and other areas of compacted soils to a level above 10 percent of the affected lot(s) shall provide provisions for infiltration that meets or exceeds 2 inches per hour.

10:8:3:3:1 In addition, Special Exception applicants shall:

1. Develop and submit a stormwater management and pollution prevention plan that shall include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (US EPA 2009). The plan shall demonstrate that the use will:
  - a. minimize the release of regulated substances into stormwater through a source control plan that identifies pollution prevention measures;
  - b. demonstrate that stormwater systems are designed to treat expected contaminants sufficiently in order to ensure that groundwater quality will not be degraded and result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;
  - c. stipulate that expansion or redevelopment activities subject to subsequent Planning Board approval may require an amended stormwater plan; and
  - d. not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in

conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).

2. For any use that will render impervious more than 10 percent of any lot, a stormwater management plan shall also be consistent with the New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Sciences.
3. For any use of regulated substances, a spill control and countermeasure (SPCC) plan shall be submitted to the Code Enforcement Officer, who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. The SPCC plan shall include:
  - a. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;
  - b. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment;
  - c. A list of all regulated substances in use and locations of use and storage;
  - d. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure;
  - e. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

#### 10:8:4 Exemptions

The following uses are exempt from the specified provisions of this Section provided they comply with all other applicable local, state, and federal requirements:

- 1) A mobile fuel tank specifically manufactured for the purpose of being transported from site to site for the sole purpose of fueling motor vehicles and/or equipment, provided fuel transfers are conducted over an impervious area and utilize portable spill containment equipment with trained personnel present during transfers. Said tank, transportation and fueling shall comply with all other applicable Regulations.
- 2) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks (except for liquid propane) are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard 3;
- 3) Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 3 through 6.
- 4) Storage and use of office supplies is exempt from Performance Standards 3 through 6;
- 5) Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 3 through 6 if the construction materials are incorporated within the site development project within twelve months of their deposit on the site;
- 6) The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;
- 7) Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 3 through 6;
- 8) Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules.

#### 10:8:5 Maintenance and Inspection

- 1) For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards, shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Belknap County. The descrip-

tion so prepared shall comply with the requirements of RSA 478:4-a.

- 2) Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Center Harbor Code Enforcement Officer at reasonable times with prior notice to the landowner.
- 3) All properties within the Groundwater Protection area of jurisdiction known to the Center Harbor Code Enforcement Officer as using or storing regulated substances in containers with a capacity of five gallons or more shall be subject to inspections unless exempted by Section 10:8:4.
- 4) The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.

Adopted March 2016