

PUBLIC NOTICE
TOWN OF LYNDEBOROUGH
Proposed Zoning Amendments for the
2023 Town Meeting

Amendment 1

Amend Sections 200.28, Wetlands, 403.00, Sanitary Protection, Section 1302.00, Lots of Record, and Section 411.00, Accessory Dwelling Units, to correct various references to state statutes and codes.

Existing Section 200.28 reads as follows:

200.29 *Wetland.* Areas delineated as poorly or very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995.

Amend Section 200.28 reads as follows (language to be added shown in *bold italics*):

200.29 *Wetland.* Areas delineated as poorly or very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 ***including supplements and amendments***, in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995.

Existing Section 403.00 reads as follows:

403.00 Sanitary Protection

All sanitary systems shall be constructed and maintained in accordance with the standards set and enforced by the New Hampshire Department of Environmental Services Water Supply and Pollution Control Division and other Town of Lyndeborough regulations.

Amend Section 403.00 reads as follows (language to be removed shown in ~~bold-strikeout~~):

403.00 Sanitary Protection

All sanitary systems shall be constructed and maintained in accordance with the standards set and enforced by the New Hampshire Department of Environmental Services ~~Water Supply and Pollution Control Division~~ and other Town of Lyndeborough regulations.

1302.00 Lots of Record:

Existing Section 1302.00 reads as follows:

Where a lot of record at the time of the effective date of this Ordinance has less area and/or frontage than herein required in the District in which it is located:

- 1) The lot may be used for a single family dwelling if permitted in that district subject to New Hampshire Water Supply and Pollution Control Division approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.
- 2) The lot may be used for any non-residential use permitted in the District in which it is located subject to New Hampshire Water Supply and Pollution Control Division approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.

Amend Section 1302.00 to read as follows (language to be added shown in *bold italics*, language to be removed shown in **bold strikeout**):

Where a lot of record at the time of the effective date of this Ordinance has less area and/or frontage than herein required in the District in which it is located:

- 1) The lot may be used for a single-family dwelling if permitted in that district subject to New Hampshire *Department of Environmental Services* ~~Water Supply and Pollution Control Division~~ approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.
- 2) The lot may be used for any non-residential use permitted in the District in which it is located subject to New Hampshire *Department of Environmental Services* ~~Water Supply and Pollution Control Division~~ approval and subject to all district regulations applicable to lots within the District wherein the lot is located with the exception of lot size and/or frontage.

Existing Section 411.00 Accessory Dwelling Units, in relevant part, reads as follows:

411.00 Accessory Dwelling Units (*Deleted 3/13/18*) (*Recodify 3/16/19*) (*Updated 9/22/21*)

- 1) **An Accessory Dwelling Unit** shall be allowed as a matter of right by the Building Inspector pursuant to RSA 674:21 in all zoning districts that permit single family dwellings.

Amend Section 411.00 to read as follows (language to be added shown in *bold italics*, language to be removed shown in **bold strikeout**):

411.00 Accessory Dwelling Units (*Deleted 3/13/18*) (*Recodify 3/16/19*) (*Updated 9/22/21*)

- 1) **An Accessory Dwelling Unit** shall be allowed as a matter of right by the Building Inspector pursuant to RSA ~~674:21~~ *674.71 and 674.72* in all zoning districts that permit single family dwellings.

Amendment 2

Amend Section 200, Definitions, to include definitions for Campgrounds, Child Day Care, Building Height, and Schools.

New sections 200.30, 200.31, 200.32 and 200.33 to read as follows:

- 200.30** **Campground** means and includes but is not limited to a travel trailer camp, recreation camp, family campground, camping resort, camping community, or any other area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted in conjunction with other recreational activities, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping resort, or camping community. "Campground" does not include a recreation camp as defined in RSA 170-E:55 I.
- 200.31** **Child Day Care:** All childcare facilities shall comply with the requirements of this Section as well as the provisions of RSA 170-E, Child Day Care, Residential Care, and Child-placing Agencies, whether a principal stand-alone facility or accessory to a residence or business.
- 200.32** **Height:** The height of a building or structure shall mean the vertical distance from the lowest ground elevation adjacent to the building to the highest point of the building or structure, excluding chimneys, antennas, cupolas or other such appurtenances.
- 200.33** **School** means any public, nonpublic or public charter elementary, secondary, or secondary vocational-technical school in New Hampshire. It shall not include home schools under RSA 193-A.

Amendment 3

Amend Sections 502.00, 602.00, 702.00, 802.00 & 902.00 and create a new Section 301.00 to consolidate the relevant uses into a new Table of Dimensional Requirements.

New section 301.00 to read as follows:

301.00 Table of Minimum Dimensional Requirements

	Village District (V)	Light Industrial District (LI) ^b	Rural Lands One District (RL1) ^b	Rural Lands Two District (RL2)	Rural Lands Three District (RL3)
Area (Acres)	2 ^c	2 ^c	2 ^c	5 ^c	10 ^c
Continuous Frontage (ft)	150	250	250	500	500
Setbacks (ft)					
Front	35	50	50	50	50
Side	35	50	50	50	50
Rear	35	50	50	50	50
Setbacks – lots less than 5 acres (ft) ^a					
Front			50		
Side			35		
Rear			35		

Notes:

a - Applies to Rural Lands One District (RL1) only

b - See Section 408.00 Soil Based Zoning Requirements (Overlay District) (3/18/00) (3/16/19) for additional acreage and frontage requirements.

c - Minimum of 2 acres contiguous dry land undivided by wetland, pond, or drainage way.

Amendment 4

Amend Section 1000.00, Wetland Districts, to include a 50-foot buffer requirement.

Existing Section 1000.00 reads as follows:

1000.00 WETLANDS DISTRICT

The purpose of the Wetlands District is to guide the use of areas of land with extended periods of high water tables to:

- a. prevent development of structures and land uses on naturally occurring wetlands which would contribute to the pollution of surface and ground water by sewage;
- b. prevent the destruction of natural wetlands which provide flood protection, recharge groundwater supplies and augment stream flows during dry periods;
- c. prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.

1000.01 District Boundaries.

The Wetland District encompasses all areas identified and delineated as poorly and very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, and any areas delineated as wetlands on a site specific basis using the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995. The Wetland District is show on the Town of Lyndeborough Wetlands District Map on file with the Town Clerk and the Planning Board. In the event that an area is incorrectly designated as being poorly or very poorly drained soil on the Wetland District Map and evidence to that effect is satisfactorily presented to the Building Inspector, the restrictions in this section shall not apply. All on site wetland delineation shall be conducted by a certified soil scientist.

The Wetland District is an overlay district. In all cases where the Wetland District is superimposed over another district in the Town of Lyndeborough, the more restrictive regulations shall apply.

1001.00 Permitted Uses. (3/16/19)

Any of the following uses that require a permit by NH DES are also permitted by this Ordinance.

- a. Forestry operations and management in accordance with best management practices;
- b. Agriculture in accordance with agricultural best management practices;
- c. Water impoundments and wells;
- d. Drainage ways - streams, ditches or other paths of normal water runoff;
- e. Wildlife refuges;
- f. Parks and recreation uses consistent with the purpose and intent of this Ordinance;
- g. Conservation areas and nature trails; and

- h. Open space as permitted by the Subdivision Regulations and other sections of this ordinance.

1002.00 Special Exceptions.

The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. Prior to the granting of a special exception, the Zoning Board shall refer the application to the Planning Board, the Health Officer and the Conservation Commission for review and comment prior to the public hearing. Lack of response from any of these parties within 30 days implies consent to the application. Construction of any uses permitted by special exception shall minimize the detrimental impact of the use on the wetland.

- a. Streets, roads and other access ways;
- b. Utility right-of-way easements including power lines and pipelines if essential to the productive use of land not in the Wetland District;
- c. A use not otherwise permitted in the Wetland District, including the erection of a structure, dredging, draining or otherwise altering the configuration of the land, if it can be shown that the proposed use is not in conflict with the purpose and intent of this section and if the proposed use is otherwise permitted by the Zoning Ordinance. Proper evidence of this shall be submitted in writing to the Zoning Board and is subject to review by the Hillsborough County Conservation District to determine the effect of the proposed use on the wetlands in question.

Amend Section 1000.00 to read as follows (language to be added shown in *bold italics*, language to be removed shown in **bold strikeout**):

1000.00 WETLANDS DISTRICT

The purpose of the Wetlands District is to guide the use of areas of land with extended periods of high-water tables to:

- a. prevent development of structures and land uses on naturally occurring wetlands which would contribute to the pollution of surface and ground water by sewage;
- b. prevent the destruction of natural wetlands which provide flood protection, recharge groundwater supplies and augment stream flows during dry periods;
- c. prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.

1000.01 District Boundaries.

The Wetland District encompasses all areas identified and delineated ~~as poorly and very poorly drained soils by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Hillsborough County New Hampshire, Western Part, dated October 1985, on the National Wetlands Inventory (NWI) layer available on the NHGRANIT website~~, and any areas delineated as wetlands on a site specific basis using the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987 in conjunction with the Field Indicators for Identifying Hydric Soils in New England, New England Interstate Water Pollution Control Commission, May 1995, *as amended*. ~~The Wetland District is shown on the Town of~~

~~Lyndeborough Wetlands District Map on file with the Town Clerk and the Planning Board. In the event that an area is incorrectly designated as being poorly or very poorly drained soil on the Wetland District Map and evidence to that effect is satisfactorily presented to the Building Inspector, the restrictions in this section shall not apply.~~ All on site wetland delineation shall be conducted by a certified ~~soil wetland~~ scientist.

The Wetland District is an overlay district. In all cases where the Wetland District is superimposed over another district in the Town of Lyndeborough, the more restrictive regulations shall apply.

1000.02 Buffers Required

- a. *A vegetated wetlands buffer shall be maintained within 50' beyond the wetlands district as defined in 1000.01.*
- b. *Permitted uses are defined in 1001.00.*
- c. *Structures existing within the buffer prior to March 12, 2022 may be replaced and or rebuilt providing there is no additional impact to the wetland buffer, except as allowed under 1002.00.*

1001.00 Permitted Uses. (3/16/19)

Any of the following uses that require a permit by NH DES are also permitted by this Ordinance.

- a. Forestry operations and management in accordance with best management practices;
- b. Agriculture in accordance with agricultural best management practices;
- c. Water impoundments and wells;
- d. Drainage ways - streams, ditches or other paths of normal water runoff;
- e. Wildlife refuges;
- f. Parks and recreation uses consistent with the purpose and intent of this Ordinance;
- g. Conservation areas and nature trails; and
- h. Open space as permitted by the Subdivision Regulations and other sections of this Ordinance.

1002.00 Special Exceptions.

The following uses may be permitted as special exceptions by the Zoning Board of Adjustment. Prior to the granting of a special exception, the Zoning Board shall refer the application to the Planning Board, the Health Officer and the Conservation Commission for review and comment prior to the public hearing. Lack of response from any of these parties within 30 days implies consent to the application.

Construction of any uses permitted by special exception shall minimize the detrimental impact of the use on the wetland.

- a. Streets, roads and other access ways;
- b. Utility right-of-way easements including power lines and pipelines if essential to the productive use of land not in the Wetland District;

- c. A use not otherwise permitted in the Wetland District, including the erection of a structure, dredging, draining or otherwise altering the configuration of the land, if it can be shown that the proposed use is not in conflict with the purpose and intent of this section and if the proposed use is otherwise permitted by the by the Zoning Ordinance. Proper evidence of this shall be submitted in writing to the Zoning Board and is subject to review by the Hillsborough County Conservation District to determine the effect of the proposed use on the wetlands in question.
- d. *Accessory uses within the Wetlands Buffer District as defined in 200.04.*
- e. *Expansion of an existing structure built prior to March 12, 2022, where there is no reasonable option to expand outside of the wetland buffer district.*
- f. *Erection of a structure partially or fully within the wetland buffer district on a wetlands district non-conforming vacant lot, provided the lot was on record at the Hillsborough County Registry of Deeds as of March 12, 2022, and that the structure cannot feasibly be built on a portion of the lot which is outside of the buffer district. In any case, no part of the structure shall be built within 25 feet of a wetland.*

Amendment 5

Create a new Subsection 302.00 to summarize relevant uses into a new Table of Permitted Uses to read as follows:

Table of Permitted Uses					
Use	V	RL1	RL2	RL3	L1
Single Family dwelling	P	P	P	P	N
Two Family Dwelling	SE	SE	SE	N	N
Manufactured Housing	N	P ¹	P ¹	P ¹	N
Seasonal Dwellings such as hunting and fishing camps	N	P ²	P ²	P ²	N
Bed & Breakfast	SE	SE	SE	N	N
Home Occupation	P ³	P ³	P ³	P ³	N
Home Business	P ³	P ³	P ³	P ³	N
Agricultural operations	P	P	P	P	N
Forestry operations and management	N	P	P	P	N
Outdoor Recreation uses and facilities	N	P ⁴	P ⁴	P ⁴	N
Municipal, government or postal offices and facilities	P	P	P	P	P
Schools	SE	N	N	N	N
Daycare	SE	N	N	N	N
Utility structures	P ⁵	N	N	N	P ⁵
Houses of worship	P	P	P	P	SE
Public Assembly Halls	N	N	N	N	SE
Banks	P	N	N	N	P
Professional offices	P	N	N	N	P
Retail stores	P	N	N	N	P
Personal services	SE	N	N	N	P ⁶
Restaurants	P	N	N	N	N
Automobile Service Stations	SE	N	N	N	SE
Vehicular sales and repair facilities	N	N	N	N	SE
Contractor Yards	N	N	N	N	SE
Light manufacturing	N	N	N	N	P
Research and/or testing facilities	N	N	N	N	P
Newspaper and printing facilities	N	N	N	N	P
Warehouses	N	N	N	N	P

P - Permitted SE - Special Exception N- Not Permitted in District

Use Notes

1. Greater than 400 square feet in size on a masonry foundation with skirting.
2. Not including wheeled recreational vehicles, and not to be considered as a permanent residence.
3. In compliance with the requirements of Section 1200.00 of these regulations.
4. Including, but not limited to, golf courses, cross-country ski areas, riding stables, but excluding campgrounds.

To include a provision that no use allowed under this section shall:

- a. Adversely affect abutting property values; or
- b. Result in increased noise beyond property lines over and above that normally associated with residential uses allowed in the district; or
- c. Be a health hazard; or
- d. Be a nuisance to abutting properties.

Uses allowed under this section will be subject to site plan review and approval by the Planning Board.

5. Electric, Telecommunications facilities less than 200 square feet in area
6. Including, but not limited to, service or repair of jewelry, appliances or other personal or household items, photography studios, beauty/barber shops, and tailors.
7. An attached accessory dwelling unit (ADU) is allowed in all districts that permit single family dwellings.
8. In the event that any inconsistencies or ambiguities are found, the provisions in the text of each applicable section of the Zoning Ordinance shall take precedence over the Table of Permitted Uses.
9. The Planning Board is authorized to update the Table of Permitted Uses to reflect amendments to the uses permitted in each district as reflected in the text.

Amendment 6

Create a new Section 1401.00 to provide that Variances and Special Exceptions granted on or after August 19, 2013, shall be valid only if exercised within two (2) years from the date of final approval.

New Section 1401.00 to read as follows:

1401.00 Expiration of Variances and Special Exception

1) As authorized by State of NH RSA 674:33.I-a, Variances granted on or after August 19, 2013 shall be valid only if exercised within two (2) years from the date of final approval, or as further extended by local ordinance or the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning board application filed in reliance upon the variance. Variances granted before August 19, 2013, shall be valid only if exercised within two (2) years from March 20, 2024.

2) As authorized by State of NH RSA 674:33.IV, Special Exceptions granted on or after August 19, 2013, shall be valid only if exercised within two (2) years from the date of final approval. Special Exceptions granted before August 19, 2013 shall be valid only if exercised within two (2) years from March 20, 2024.

Amendment 7

Amend Sections 502.03, 702.03, 802.03 and 902.03 to provide that septic systems, wells, swimming pools, antennas, satellite dishes, solar panels, and other similar structures are not permitted within a setback area.

Existing Sections 502.03, 702.03, 802.03 and 902.03 read as follows:

Setbacks. All structures must be set back a minimum of [35 or 50] feet from the front, side and rear lot lines. No buildings requiring a building permit or associated uses, including but not limited to swimming pools, antennas and satellite dishes, are permitted in the setback.

Amend Sections 502.03, 702.03, 802.03 and 902.03 read as follows:

Setbacks. No buildings requiring a building permit and associated uses including but not limited to septic leach field/sand mound, distribution box, tank, 4k box, wells, swimming pools, antennas, satellite dishes, solar panels, temporary structures/buildings, and recreational vehicles are permitted in the setback. Well radii must be located entirely within the subject parcel.

Amendment 8

Create a new Section 412 to authorize the Planning Board to require preliminary review of subdivisions and site plans in accordance with NH RSA 674:35 I, 674:43 I and 674:44 II (j).

New Section 412.00 to read as follows:

The Planning Board may require preliminary review of major subdivisions and site plans in accordance with NH RSA 674:35 I, 674:43 I and 674:44 II (j).