

FREQUENTLY ASKED QUESTIONS

1. What does Prime wetland designation mean?

Prime wetland designation is a way for individual towns to provide additional protection to wetlands that are particularly unique, fragile and/or unspoiled. These wetlands protect and purify our drinking water, buffer us from floods, and harbor a diverse community of plants and animals. Prime wetlands are designated by a municipality according to the requirements of RSA 482-A:15 and Chapter Env-Wt 700 of the State administrative rules. A town can vote to have certain high value wetlands be designated as 'Prime'. If the local vote passes, a map and description of the wetlands is submitted to the NH Department of Environmental Services (DES) for approval. Once approved by the state, any filling or dredging proposed for a prime wetland would require a public hearing at the NH Department of Environmental Services in Concord prior to approval.

2. Have other New Hampshire towns designated prime wetlands?

There are currently about thirty-three (33) towns in New Hampshire that have designated Prime wetland areas, including New Ipswich, Hillsboro, and Weare.

3. Which wetlands are proposed to be designated as prime wetlands?

The following wetlands were identified through a mapping and assessment process that is summarized in documents on the town’s web site at: <http://fitzwilliam-nh.gov/>. Basically, all wetlands in Fitzwilliam were mapped and assessed using two different methods, the results of which concluded that at least 16 wetlands were of high enough value to warrant consideration as *prime wetlands*. Of these, the Prime Wetlands Task Force chose the following six:

CANDIDATE PRIME WETLANDS - FITZWILLIAM 2016-2017		
Id	WEU_name	Size (Ac.)*
1	Sip Pond Peatland Complex	352.51
2	Sportsman Pond Complex	300.18
3	Scott Pond Complex	299.48
24	Pierce Road Marsh	42.32
31	Martin Rd Marsh East	29.35
48	North Boyce Brook Marsh	19.40
	SUM ALL	1043.24
	SUM - FITZWILLIAM ONLY	904.80
* Size includes all waters & great ponds associated with wetland		

4. How much land is being protected by the new 100-foot buffer to these six prime wetlands?

The existing wetlands ordinance defines the Wetland Protective Overlay District (WPOD) as any wetland (as defined by the state and the ordinance) and all lands within 75 feet of any wetland. For the six candidate prime wetlands, this upland buffer would be increased to **100 feet** in order to further protect water quality and wildlife habitat. The following chart summarizes the amount of area within the existing 75-foot buffer versus the additional area within the 100-foot buffer for these six wetlands:

WEU_name	Size	ACRES w/in 75-ft	# of Lots Affected	ACRES w/in 100-ft	# of Lots Affected
Sip Pond Peatland Complex	352.51	51.64	88	67.71	99
Sportsman Pond Complex	300.18	79.24	27	103.16	27
Scott Pond Complex	299.48	132.60	71	169.11	73
Pierce Road Marsh	42.32	30.16	8	39.31	8
Martin Rd Marsh East	29.35	21.28	4	27.42	4
North Boyce Brook Marsh	19.40	18.42	3	24.12	3
SUM ALL	1043.24	333.34	201	430.82	214
SUM - FITZWILLIAM ONLY	904.80	262.00		339.5	

Table 2. Comparison of existing versus proposed wetland setback, showing an increase of 77.5 acres, 13 lots

5. What can I do on my land within the 100-foot setback?

All activities that are currently happening within the 100-foot setback are *grandfathered*. This includes any structures (homes, barns, garages, boathouses, sheds, etc.), as well as septic systems, access roads, trails, gardens, tree farms, etc. It also includes any forestry or agriculture that is or will take place inside the 100-foot setback. What will *not* be allowed in the future is any new structure or land use that may impair the water quality or wildlife habitat of the prime wetland. For example, if someone wanted to build a new house within the 100-foot setback, they could not do so without first going through the Conservation Commission, Planning Board, and Zoning Board of Adjustment (ZBA). If the landowner wished or needed to replace the house, shed, septic system, etc., then they could do so without such approval if they did it *in-kind*, that is, within the same footprint. Please keep in mind the following

Exemptions:

- Altered wetland areas of less than 2,000 square feet (with other conditions met)
- Altered wetland areas of less than 5,000 square feet (if other conditions are not met)
- Maintaining or replacing any pre-existing structure or utility
- Emergency projects

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- Constructing a driveway as long as avoidance & minimization is followed
- Constructing fences, footbridges, catwalks, or nature trails
- Constructing additions or extensions to existing structures as long as they are not in a wetland
- Forestry or tree farming, using Best Management Practices
- Agriculture, using Best Management Practices

6. How does the Town's regulations relate to the State of NH?

The State of New Hampshire does not currently regulate any wetland buffer area except when it involves the **shoreland zone**. As it is currently written, the shoreland zone is comprised of all upland areas within 250 feet of a "Great Pond" (i.e. > 10 acres in size) or a 4th order or higher river. In Fitzwilliam, three of the proposed prime wetlands include Great Ponds, namely, Sip Pond, Scott Pond, and Sportsman Pond. For these areas there are already state regulations that include a 'no-build' setback of 50 feet. The current Town wetlands ordinance increases that to 75 feet. The prime wetland designation would increase it to 100 feet for those three ponds.

The State regulates any dredge or fill in wetlands so this would not change if any activity was proposed for a prime wetland. What would change is the requirement to attend a **public hearing in Concord** should an applicant wish to fill or dredge a prime wetland. On the local level, the same special exception permitting requirement would apply as it always has since 2005, both for activities within the wetland and activities within the buffer. The only difference would be the additional 25 feet of review area.

7. Does that extra 25 feet really make that much of a difference?

Hundreds of scientific papers and articles have been written that testify to the critical addition of another 25 feet of upland buffer to protect water quality. For example, one study found that an upland buffer of 50 feet removed an average of 66% of the amount of total nitrogen entering a riparian (riverine) wetland, whereas a buffer of 100 feet removed over 80% of the total. Another compendium of four studies across 30 sites in the Northeast found a difference of between 60 and 85% removal of nitrogen for similar water-flux upland soils.¹

12. So if I want to build something in a prime wetland or its 100-foot setback, how do I go about doing it?

The first step in the process is to figure out where the wetland is. This can be done informally by checking the Town's Wetland Map, but ultimately someone trained in wetland science will need to locate the wetland and put it on a map of your property. The Conservation Commission is a good starting point in this process as they are named as the first party to consult with in the wetland ordinance for any site plan review, subdivision, or construction permit. The NH Joint Board of Licensure

¹ Nieber, John. 2011. Evaluation of Buffer Width on Hydrologic Function, Water Quality, and Ecological Integrity of Wetlands. MN Dept. of Transportation; and Sweeney & Newbold. 2014. STREAMSIDE FOREST BUFFER WIDTH NEEDED TO PROTECT STREAM WATER QUALITY, HABITAT, AND ORGANISMS: A LITERATURE REVIEW. JAWRA Vol 50. No. 3.

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at <http://www.oplc.nh.gov/natural-scientists/index.htm> also maintains a list of Certified Wetland Scientists who are legally allowed to perform this work and can help you with local and state permitting.

The second step is to follow the guidelines in the wetlands ordinance to determine if you have met the conditions required for *avoidance and minimization* – for example, is there any place on your property where you can do the same thing without impacting a wetland or its buffer? If there isn't, have you minimized your proposed impact to the wetland or its buffer and thereby taken steps to protect the wetland to the greatest extent possible? This will help you meet the conditions set by the ordinance that might help you be exempt from needing to get Planning Board or Zoning Board of Adjustment approval.

If your impact will exceed the minimum amounts set by the ordinance (i.e. 2,000 s.f. with certain conditions met, or 5,000 s.f. for conditions not met), and you have determined that you are not exempt from obtaining a Special Exception, then you must appear before the Zoning Board of Adjustment and attend a public hearing to demonstrate that you have adhered to Section 5 (Special Exceptions) and Section 6 (Special Provisions) of the ordinance. Once you are approved for a local permit, you can go ahead with the project according to the conditions and specifications set by the Planning Board and/or ZBA.

[Don't forget you also need to get state approval as well for any direct impact to wetlands!!!]