

1. Purpose and Authority

a. Purpose

Pursuant to the most current iteration of RSA 674: 21, the Town of Bradford adopts a Surface Water Protection Overlay District (SWOD) and accompanying requirements to ensure the protection and preservation of surface waters from the effects of point and non-point source pollution or sedimentation. The establishment of the SWOD by the adoption of this Article is intended:

- i. To implement the resource and environmental protection elements of the most current iteration of the Bradford Master Plan;
- ii. To protect public health;
- iii. To protect surface waters and wetlands contiguous to surface waters;
- iv. To mitigate the impacts of stormwater runoff;
- v. To minimize the potential for the contamination of groundwater and surface water;
- vi. To protect the natural areas and wildlife habitats within the SWOD by maintaining ecological balances; and,
- vii. To prevent the degradation of the water quality through the regulation of land uses and development within the SWOD.

b. Authority

- i. The Planning Board is authorized to administer this Article in accordance with the Authority of the most current iteration of RSA 674: 21, via Conditional Use Permits (CUP) issued in accordance with the provisions of this Article.
- ii. The Planning Board is authorized to consider waiver requests only for the specific application materials required in accordance with the provisions of this Article.
- iii. An application for a CUP will be considered at a public hearing in accordance with the provisions of the most recent iteration of RSA 676:4.

c. Definitions: The following terms will apply to this Article. Other terms not defined below that occur in the Town of Bradford Zoning Ordinance, Town of Bradford Site Plan Regulations, and Town of Bradford Subdivision Regulations are adopted by reference.

- i. SWOD Buffer: Will mean all land located within the overlay district as described in in Boundaries of the Surface Water Overlay District below.
- ii. Reference Line is as defined in RSA 483-B:4 XVI:
 1. For Lake Massasecum, Lake Todd, and Ayers Pond, the reference line is the surface elevation listed in the Consolidated List of Water Bodies maintained by the NH Department of Environmental Services.
 2. For other rivers, brooks, and streams it will be the ordinary high water mark.

2. Boundaries of the Surface Water Overlay District: The SWOD, referred in this Article as the “SWOD Buffer”, will be an overlay district as described below and as shown on a map entitled "Surface Water Overlay District, Town of Bradford, as created by Central New Hampshire Regional Planning Commission and dated March 2025.
 - a. The boundaries of the SWOD Buffer are:
 - i. A 250’ buffer from:
 1. the reference line of Lake Massasecum, Lake Todd, and Ayers Pond;
 2. the top of the stream bank of the Warner River from Lake Todd to the Warner Town Line, and of Melvin Brook from Lake Massasecum to the Warner River.
 - ii. A 75’ buffer from the ordinary high water marks of Hoyt Brook from West Road to the Warner River, and of West Branch Brook from Box Corner to the Warner River.
 - iii. A 50’ buffer from the ordinary high water mark of all other streams included in the SWOD as shown on a map entitled "Surface Water Overlay District, Town of Bradford, as created by Central New Hampshire Regional Planning Commission and dated March 2025.
3. District Standards: The following will apply to all land within the SWOD Buffer:
 - a. Dimensional Standards. The Planning Board may not waive these standards, in whole or in part, as part of a Conditional Use Permit application:
 - i. Buildings will not cover more than 20% of the area of any lot within the SWOD Buffer. No more than 20% of the portion of the lot within the SWOD Buffer may be impervious.
 - ii. Any increase in impervious surface of a footprint which is nonconforming with these dimensional standards within the SWOD Buffer must be offset with new native vegetative plantings, rain gardens, or other natural features that are a minimum of 10% of the size of the existing impervious surface area.
 - iii. Excluding water-dependent structures as defined as a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp or other similar structure, or any part thereof, built over, on, or in the waters of the state, any new building or structure or any enlargement or modification of an existing building, new septic system, leach field, or other sewage disposal system within the SWOD Buffer will be set back from the reference line of the waterbody as follows:
 1. Lake Massasecum, Lake Todd, Melvin Brook, Warner River: 125 feet.
 2. All other water bodies on the map in the district: 75 feet.
 - iv. The replacement of an existing septic system, leach field, or other sewage disposal system that is located within the SWOD Buffer will comply with the required setback. In the event there is no physical space to meet this requirement, replacement septic systems or leach fields shall be placed as

far back from the waterbody as possible without requiring any additional permitting by the Town than is normally required.

- v. Land within the SWOD Buffer may be used to meet the minimum lot area, minimum lot size, or maximum density provisions of the underlying zoning district.
- vi. A minimum of one hundred feet of shoreland frontage is required on all newly created lots on lakes as well as third and fourth order streams.
- vii. Undersized lots that add land resulting in an overall 2.25 buildable acres in size may reduce their setback from the road to 25 feet.

b. Performance Standards. The Planning Board may not waive these standards, in whole or in part, as part of a Conditional Use Permit application:

- i. Within 25' of the reference line, a naturally vegetated buffer will be reserved. Within this buffer strip, naturally occurring vegetation will be maintained and encouraged. No new lawn, garden, or landscape areas will be created within the buffer strip.
- ii. Selective cutting of trees and other vegetation other than ground cover will be permitted within the SWOD Buffer, provided that a healthy, well distributed stand of trees and other vegetation is maintained. Not more than fifty (50) percent of the basal area of trees will be removed in any twenty (20) year period in accordance with the current iteration of RSA 227-J:9. Tree cutting and forestry activity will be in conformance with the latest editions of:
 - 1. *New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations*, NH Division of Forests and Lands and UNH Cooperative Extension, and
 - 2. *Good Forestry in the Granite State*, UNH Cooperation Extension, Durham NH.
- iii. To protect the banks from erosion, stumps and their root systems which are located within 25' feet of the reference line will be left intact.
- iv. Runoff and Erosion Control: All activities and the use of buildings, structures, and land within the SWOD will be designed and operated to minimize the volume and rate of stormwater runoff, the amount of erosion, and the export of sediment from the site, and to prevent the release of surface runoff across exposed mineral soils. All activities will be carried out in accordance with a stormwater management and erosion control requirements as found in the Bradford Planning Board's most current version of the Site Plan Regulations.
- v. One point of non-paved access to the shorefront may be developed on any lot in accordance with 483:B-9.
- vi. If otherwise permitted in the District, a maximum of ten (10) percent of the frontage of the lot on the waterbody, but no greater than fifty (50) feet of frontage, may be used for any boat dock or ramp (including the nonpaved access point described above). Access to the facility will be located on soils

suitable for such use and will be designed, constructed, and maintained to minimize erosion. The facility will comply with all applicable federal, state, and local requirements.

- vii. During construction on any parcel that includes land within the SWOD Buffer, the boundaries of the SWOD Buffer areas will be marked on the site with stakes and flagging along the buffer perimeter. Such markings will remain in place until all construction is complete and has been inspected and approved.
- viii. Wetlands within the SWOD will comply with the elements of Article VIII, Wetlands Ordinance in addition to all applicable elements of this Article.
- ix. Any pier or dock, including the replacement or expansion of an existing pier or dock, will be approved by the appropriate state agency, and is subject to this Article.

4. Uses

- a. Prohibited Uses: The following uses and their initial establishment or expansion thereof will be considered Prohibited Uses within the SWOD Buffer:
 - i. The establishment or expansion of salt storage yards.
 - ii. Automotive junk or salvage yards.
 - iii. The storage, processing, or handling of hazardous wastes, solid waste, or regulated substances of five gallons or more.
 - iv. The bulk storage of chemicals, petroleum products, or hazardous materials.
 - v. Within the SWOD, no fertilizer, pesticides, herbicides, manure or other animal waste will be applied or stored or used, except as specified in the most current versions of the *Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire* and *Best Management Wetland Practices (BMWPs) for Agriculture* published by the NH Department of Agriculture, Markets, and Food.
 - vi. The processing of excavated materials, which is regulated by the most current version of RSA 155-E.
 - vii. Animal pens, grazing areas, or feedlots.
 - viii. Construction on upland slopes which exceed 15% gradient.
 - ix. Dumping, spreading or any other application or use of treated soils or sludge from a sewage treatment plant.
 - x. Aquaculture.
 - xi. Water impoundments, unless required by state or federal governments and properly permitted.
 - xii. Parking areas other than those serving an on-site residential use.
- b. Conditional Uses: The following uses and their initial establishment or expansion thereof, will be considered Conditional Uses within the SWOD Buffer:
 - i. Construction of any principal or accessory use in the SWOD Buffer, as may be permitted by right, Variance, or Special Exception in the underlying zone(s) that is not a Prohibited Use as described in this Article.

- ii. Uses described as a Prohibited Use in accordance with this Article will require a Conditional Use Permit if granted a Variance by the Bradford Zoning Board of Adjustment.
- iii. The construction of streets, roads, driveways, access ways (excluding any parking areas other than those serving an on-site residential use), bridge crossings, and utilities including pipelines, power lines, and transmission lines.
- iv. Agriculture and plant nurseries.
- v. The construction or expansion of a non-residential or multi-unit building or structure, including on-site parking and other required accessory site elements.
- vi. Accessory buildings and structures other than those allowed as permitted uses, including but not limited to structures such as sheds or garages.
- vii. Outdoor recreational facilities that do not require the construction of buildings or other structures, such as athletic fields (baseball, soccer, etc).
- viii. The installation of private water supply wells serving a use on the same lot.
- ix. The installation of culverts or rock fords for existing driveways or woods roads in uplands.
- x. Temporary crossings for the maintenance of utility pipes or lines or for other utility structures.
- xi. Temporary cofferdams associated with the repair or replacement of existing structures.
- xii. The repair or replacement of existing retaining walls.
- xiii. The control of land-based exotic weeds in accordance with RSA 487:17.
- xiv. The construction of a recreational walkway or pathway open for public use.
- xv. Grading of the site where grading within the SWOD Buffer is necessary to accommodate an allowed structure located outside of the SWOD Buffer.
- xvi. Geothermal heating and cooling systems, including but not limited to related groundwater wells and subsurface heat exchange installations.
- xvii. Repair, repaving, replacement or reconstruction of existing roads, bridges, culverts, drainage systems and utilities on private property.
- xviii. Construction of compensatory flood storage, including its excavation on private property.

5. Conditional Use Permit Requirements

a. Conditional Use Permit Application Submittal:

Completed Conditional Use Permit Applications will include the following unless waived by the Planning Board:

i. Application Materials:

- 1. A completed application form;
- 2. A detailed project narrative describing the existing and proposed conditions and specifically addressing all Conditional Use Permit Standards as described in this Article;

3. A plan, prepared by a professional engineer, architect, or surveyor, depicting the existing conditions, slope of the land, distances to the reference line and other natural features as well as a clear delineation of all of the proposed improvements with dimensions and calculations;
 4. A tax card;
 5. A tax map;
 6. Copies of any state or federal permits or applications, or Bradford Zoning Board of Adjustment applications or notices of decision;
 7. An abutters list not less than 5 days old;
 8. Appropriate fees, including any third party escrow fees;
 9. Current photographs of the site; and,
 10. Any other materials requested by the Board.
- ii. The Planning Board is authorized to solicit third party review by outside engineers, hydrologists, planners, attorneys, or other professionals in processing CUP applications. Such consultation will be paid for by the Applicant.
 - iii. Application materials will be submitted no less than 21 days before the date of the public hearing.
- b. Waiver of Conditional Use Permit Application Materials:
The Planning Board has the authority to waive the inclusion of one or more items required by this Article to be submitted with a Conditional Use Permit Application when, in the opinion of the Board, specific circumstances surrounding the proposal or the condition of the land indicate that such waiver or modifications will properly carry out the purpose and intent of this Article. Any request for a waiver must be submitted in writing with the application.
- c. Standards for granting Conditional Use Permit Applications: The Conditional Use Permit may be granted, with or without conditions, provided that a majority of the Board determines that all of the following have been demonstrated by the applicant:
- i. The proposed use or improvement is permitted in the underlying zoning district or has received a Variance or Special Exception as may be required, from the Bradford Zoning Board of Adjustment;
 - ii. If the proposed use or improvement is described as prohibited by this Article, it has received a Variance from the Bradford Zoning Board of Adjustment;
 - iii. The proposed use or improvement complies with all setbacks and site dimensional standards in the underlying zone, or has obtained a Variance or Special Exception as may be required, from the Bradford Zoning Board of Adjustment;
 - iv. Appropriate erosion control measures will be used;
 - v. There is no alternative location on the parcel outside of the SWOD Buffer that is practical for the proposed use;

- vi. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities;
- vii. The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream water bodies, and mitigation will be undertaken to counterbalance any adverse impacts;
- viii. Restoration will leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit;
- ix. If the proposal involves the use of regulated or hazardous materials in five gallons or more, a Spill Prevention Control and Countermeasure Plan (SPCC) in accordance with this Article shall be submitted for review and approval by the Bradford Fire Department;
- x. Stumps and their root systems which are located within fifty (50) feet of the reference line will be left intact; and,
- xi. Impacts to the SWOD buffer have been offset to the maximum extent reasonably possible.

6. Spill Prevention Control and Countermeasure Plan (SPCC) Standards: Proposals that, in accordance with this Article, require a Spill Prevention Control and Countermeasure Plan (SPCC) shall create a plan in accordance with the thresholds described in this Section. Further, the SPCC shall be recorded at the Merrimack County Registry of Deeds at the applicant's expense. All SPCCs shall comply with current United States Environmental Protection Agency (US EPA) and New Hampshire Department of Environmental Services (NHDES) requirements. In the event of conflict between the SPCC requirements described in this Article and US EPA and/or NHDES, the current US EPA and/or NHDES standards shall apply. Single family homes and duplexes which locate home heating oil tanks in basements shall not require an SPCC.

a. Types of, and Thresholds for SPCCs:

i. An EPA "Tier 1" facility not requiring a Professional Engineer-developed SPCC must demonstrate all of the following:

- 1. Facility near the water (i.e. in the District) with total above ground oil storage capacity of 10,000 OR LESS and no individual above ground oil container GREATER than 5,000 gallons; and,
- 2. No single oil spill larger than 1,000 gallons to the lake, tributaries, or wetlands; and,
- 3. No two spills within a 12-month period exceeding 42 gallons each to the lake, tributaries, or wetlands.

b. An EPA "Tier 2" facility not requiring a Professional Engineer-developed SPCC must demonstrate all of the following:

i. Facility near the water (i.e. in the District) with a total aboveground oil storage capacity of 10,000 gallons or less AND STORES oil or oil products in

- an individual above ground oil container with a capacity GREATER than 5,000 gallons; and,
- ii. No single oil spill larger than 1,000 gallons to lake, tributaries, or wetlands; and,
 - iii. No two spills within a 12-month period exceeding 42 gallons each to lake, tributaries, or wetlands.
- c. Developments that are neither an EPA Tier 1 or Tier 2 facility shall utilize a Professional Engineer licensed to do business in New Hampshire to develop the SPCC. The SPCC shall comply with current NHDES and US EPA requirements.
- d. Elements of SPCCs:
- i. Tier 1 and Tier 2 facilities shall use the US EPA recommended format. Templates may be found at: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/tier-i-qualified-facility-spcc-plan-template>. In the event the aforementioned web link changes it is the responsibility of the applicant to locate the current template as promoted by US EPA.
 - ii. Developments requiring a Professional Engineer-developed SPCC shall contract with a Professional Engineer, at the applicant's expense, to develop the SPCC. The final SPCC shall reflect current US EPA and NHDES standards and shall be stamped by the Professional Engineer who developed it.