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**Sandown Planning Board
Wetland Regulation Amendments
Public Hearing #3
Proposed Amendments 1/16/2024 –
Continued from 1/2/2024 & 12/19/2023**

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Note that these proposed amendments to Zoning Ordinance Article I, Part B would seek to **repeal** the existing Article 1, Part B language and **replace** Article 1, Part B with the following language. Several provisions within the existing language have been incorporated into the new language, however for clarity, the full new ordinance language is proposed as the amendment. The existing ordinance language is provided in Appendix A for reference.

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**PROPOSED LANGUAGE
ARTICLE I PART B
WETLAND CONSERVATION DISTRICT**

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(Adopted: 1984, Amended 2024)

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Section 1: AUTHORITY: Pursuant to RSA 674:16, the Town of Sandown adopts a Wetlands Conservation District. As authorized in RSA 674:21, a Conditional Use Permit [“CUP”] shall be required for uses listed in Section 5.D of this Article. All conditions specified for applicable CUPs shall be met. Any person aggrieved by a Planning Board decision on a CUP application may appeal to the Superior Court as provided in RSA 677:15. These Planning Board decisions cannot be appealed to the Zoning Board of Adjustment (RSA 676:5.III). Conditional Use Permits approved under this ordinance shall meet general criteria and applicable criteria for specific conditions that are provided in Section 5.C of this Article.

Section 2: PURPOSE: The purpose of this Article and accompanying regulations is to protect the water resources and adjacent lands. The community’s priority and purpose for protecting Sandown’s surface waters is expressed within the Sandown Master Plan, the Natural Resource Inventory, and the designation of the Exeter-Squamscott Rivers under NH Rivers Management and Protection Program (RSA 483) to provide multiple benefits to the community, including but not limited to:

- Prevent the destruction of or significant environmental changes to water sources, surface water resources, and wetlands.
- Protect the continuation of natural flow patterns and hydrology of surface waters, streams and other water courses and wetlands including maintenance of groundwater recharge and stream flow during dry periods.
- Provide for nutrient attenuation and prevention of nonpoint source pollution from stormwater runoff.
- Prevent erosion and excess sedimentation from entering surface water resources and their associated wetlands.
- Preserve, protect, and maintain ecological services that protect water quality.
- Protect and preserve wildlife corridors and natural habitats for aquatic and terrestrial species.
- Prevent the destruction of or significant changes to wetland and surface waters and adjoining land which provides flood protection.

- 46 • Mitigate the effects of structures and associated land uses which have the potential to
- 47 compromise surface and groundwater supplies through the introduction of wastewater,
- 48 stormwater, nutrients, hazardous substances, and siltation.
- 49 • Protection the habitat of threatened and endangered species.

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51 **Section 3: DEFINITIONS:**

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- 53 A. Critical Wetlands: “Critical Wetlands” are defined as wetland identifies as providing significant
- 54 environmental services and ecological value as evaluated in the report “2023 Sandown, NH
- 55 Critical Wetlands Mapping Project”, by West Environmental or as amended.
- 56
- 57 B. Disturbance: Land excavation, grading or removal of soils and subsurface material or removal of
- 58 trees, or other vegetation. The removal of dead or dying trees that pose a safety hazard, and the
- 59 removal of invasive species are not considered disturbance for the purposes of this Article.
- 60
- 61 C. Vernal Pool: For the purposes of this Article a vernal pool is defined as “a temporary body of
- 62 water, at least 1,500 square feet in contiguous area, that provides essential breeding habitat for
- 63 certain amphibians and invertebrates, but does not support fish, as defined in Identification and
- 64 Documentation of Vernal Pools in New Hampshire; published by the New Hampshire Fish and
- 65 Game Department (2016), as amended.”
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- 67 D. Structure: A structure for the purposes of this Article and as defined by Sandown Zoning
- 68 Ordinance Article II., Part A Section 14 shall mean any production or piece of work artificially built
- 69 as composed of the parts and enjoined together in some definite manner. This includes, but is not
- 70 limited to garages, storage sheds, gazebos, carports or animal housing.
- 71
- 72 E. Wetlands: A wetland as defined by RSA 482:A as “ Wetlands” means an area that is inundated or
- 73 saturated by surface water or groundwater at a frequency and duration sufficient to support, and
- 74 that under normal conditions does support, a prevalence of vegetation typically adapted for life in
- 75 saturated soil conditions.” , or as amended.
- 76
- 77 F. Wetland Conservation District: All wetland areas and adjacent buffer zones defined by the District
- 78 Boundaries within Section 4 of this Article.

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80 **Section 4: BOUNDARIES:**

81 The Sandown Wetland Conservation District is hereby determined to be those areas that contain

82 ponds, lakes, freshwater marshes, alluvial soils, and perennial streams as and their adjacent lands

83 defined by the following:

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- 85 A. Any wetlands as defined under this Article and RSA 482:A.
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- 87 B. Any wetland delineated by a NH Certified Wetland Scientist (as defined by RSA 310-A:76) on a
- 88 site-specific basis by an applicant or their consultant as part of a proposal that requires a
- 89 building permit, Planning Board Site Plan Review application, Planning Board Subdivision

90 Application, or application for zoning relief by the Zoning Board of Adjustment.

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92 C. The Wetlands Protection District also includes a buffer zone of upland area immediately adjacent
93 to the wetlands as defined by this Article. The total buffer width shall be measured as a
94 perpendicular line on the land surface from the edge of the wetland. The buffer zone
95 requirement are:

- 96
97 1. A buffer zone of 50 feet from any wetland identified as a “Critical Wetland”. “Critical
98 Wetlands” are defined in Section 3 of this Article as wetland identified as providing
99 significant environmental services and ecological value as evaluated in the report “2023
100 Sandown, NH Critical Wetlands Mapping Project”, by West Environmental or as amended.
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102 2. A buffer zone of 50 feet from any wetland not identified as a “Critical Wetland” or vernal
103 pool.
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105 3. A buffer zone of 25 feet from any vernal pool as defined within this Article.
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107 4. All buffer zones also have a 25-foot no disturbance vegetative buffer requirement located
108 within the 25 feet closest to the wetland boundary. The vegetative buffer requirement does
109 not apply to sites disturbed prior to March 12, 2024.
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111 D. Boundary Disputes. When any boundary of the Wetland Conservation District is disputed by
112 either the Town of Sandown or by an applicant when applying for a land use application or
113 building permit, under RSA 673:13 the applicable land use board or appointed official, may
114 engage an independent qualified wetland scientist, at the applicant’s expense, to determine the
115 location of the Wetland Conservation District. Qualified wetland scientist shall mean a person
116 who is qualified in soil classification and wetlands delineation and who is recommended or
117 approved by the State of New Hampshire. The independent qualified wetland scientist shall
118 transmit their findings to the applicable land use board and applicant. The applicant’s project
119 engineer/surveyor shall add said findings to the project plan. This revised plan, showing both
120 wetland delineation boundaries, shall be presented to the applicable land use board who shall
121 make the final determination regarding District boundaries. The land use board or its designee
122 shall convey said findings to the applicant.
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127 **Section 5: USE REGULATIONS:**
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129 A. **Prohibited Uses** - The following are prohibited within the District except where permitted to
130 continue as a non-conforming use:

- 131 1. No disturbance is allowed within the 25-foot vegetative buffer (the 25 feet closest to the
132 wetland boundary). The vegetative buffer requirement does not apply to sites disturbed
133 prior to March 12, 2024.

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- 134 2. No impervious surfaces, permanent structures or additions to existing structures erected
135 after March 12, 2024 shall be built within the Wetlands Protection District, unless
136 granted a Conditional Use Permit under Section 5.C of this Article. Permanent structures
137 existing prior to March 12, 2024 may be expanded as long as the expansion does not
138 intrude further into the District than the principle existing structure,
- 139 3. No outside storage or disposal of solid or hazardous waste.
- 140 4. No stormwater drainage structure or outfalls.
- 141 5. No septic tank, leach field, or any other subsurface wastewater disposal system may be
142 constructed or enlarged within seventy-five (75) horizontal feet of any wetland as defined
143 by this Article.

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145 **B. Permitted Uses** -The following uses are permitted within the District:

- 146 1. All legally existing structures, impervious surfaces, and disturbed areas existing prior to March
147 12, 2024 shall be allowed to continue.
- 148 2. Installation of utilities to service existing lots of record.
- 149 3. Maintenance or repair of any existing structures, including but not limited to, dwellings,
150 buildings, accessory structures, septic systems, garages, barns, gazebos, etc.
- 151 4. Residential uses that involve a disturbance area of less than 1,000 square feet and do not
152 involve erection of a new structure or cumulative increase impervious surfaces after March
153 12, 2024.
- 154 5. Repair of existing driveways, streets and roads, as long as there is no expansion.
- 155 6. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers,
156 herbicides, pesticides, and other leachables applied using Best Management Practices (BMPs),
157 at levels that will not cause groundwater contamination and are stored under shelter. BMPs
158 may include, but are not limited to, those published by the NH Department of Agriculture,
159 Markets & Food or the University of New Hampshire Cooperative Extension.
- 160 7. Forestry and tree farming to include construction of access roads.
- 161 8. Water impoundments and the construction of well-water supplies.
- 162 9. Drainage ways, to include streams, creeks or other paths of normal runoff water and common
163 agricultural land drainage provided such use is otherwise permitted in the District.
- 164 10. Wildlife habitat development and management.
- 165 11. Parks and such recreational uses as are consistent with the purposes and intent of this
166 Ordinance.
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12. Conservation areas and nature trails.

13. Open space as permitted by subdivision regulations and other sections of this Ordinance.

C. Conditional Use Permits— Conditional Use Permit Criteria: The Planning Board may grant a Conditional Use Permit for those uses listed in Section 5.D. in this Article only after written findings of fact are made that all of the following are true:

1. The proposed activity minimizes and prevent pollutant contributions to water resources.
2. The proposed activity maintains, to the practical extent possible, natural landscape hydrologic functions to sustain water resources, including but not limited to infiltration, overland flow, natural drainage pathways to wetlands, groundwater recharge, and floodplain functions.
3. The proposed activity minimizes or mitigates potential impacts from landscape changes, such as but not limited to impervious cover, removal of forest canopy and groundcover, erosion, and nonpoint source pollution.
4. All stormwater is managed and treated to prevent water quality impacts.
5. The proposed use complies with all other applicable sections of this article.
6. Prior to rendering a decision regarding the possible approval of any Conditional Use Permit application, the Planning Board shall afford the Conservation Commission an opportunity to provide written comment. After consideration and review of an application for a Conditional Use Permit, the Conservation Commission may recommend the Planning Board to deny the application or to impose conditions of approval, if deemed necessary, to mitigate the potential for adverse effects caused by the proposed activity or use. If the Planning Board decides to grant a conditional use permit that does not include the Conservation Commission’s recommendations, the Planning Board is encouraged to provide the reason for their conclusion as part of the Notice of Decision.
7. The Planning Board may require that the applicant provide data or reports prepared by a professional engineer or qualified wetland scientist to assess any potential damage to the Wetland District that may result from the proposed use. The-Planning Board shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria.

D. Uses Requiring a Conditional Use Permit: The following uses are permitted by Conditional Use Permit:

1. Any use not in compliance with this Article, including those uses listed as Prohibited in Section 5.A of this Article.
2. Residential uses that after March 12, 2024 involve a cumulative disturbance area greater than

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- 223 1,000 square feet or involve the erection of a new structure or increase impervious surfaces.
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225 3. Construction of primary access roads and driveways no closer than 75 feet, and absent any
226 other feasible option.
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228 4. New or replacement accessory structures in the District associated with legally preexisting
229 primary structures if it is demonstrated that no practicable alternative exists elsewhere on the
230 lot and stormwater runoff and erosion controls are installed to protect water quality.
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232 5. The expansion of existing streets, roads, and other existing access ways, including driveways,
233 parking lots, footpaths, bridges, and utility right of way easements including power lines and
234 pipelines, if essential to the productive use of the land. These uses shall be located and
235 constructed in such a way as to minimize any detrimental impact upon the water source and
236 consistent with state recommended design standards, and only if no viable alternative is
237 available.
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APPENDIX A – EXISTING LANGUGE FOR ARTICLE 1, PART B.