

TOWN OF NEWBURY, NH

**APPLICATION FOR APPROVAL TO CUT LIVING TREES AND SAPLINGS
IN THE WATERFRONT BUFFER ZONE**

Name of Applicant _____ Date _____

Address _____ Phone _____

Property Location, Map/Lot # _____

Briefly describe your intentions below. Also attach a sketch of your property's waterfront buffer area indicating location of 50x50 foot grid lines in accordance with Town of Newbury NH Zoning Ordinance, para 7.6.2.4 (attached). Designate the location and point count of all living, healthy trees and saplings in any 50x50 foot section affected by this cutting approval application. Circle the ones you wish to remove, and show how the point count total exceeds 50 for the trees and saplings that remain. A photo of a section view of any affected section must accompany this application. Note that *any* alteration of trees, saplings, shrubs and natural ground cover in the waterfront buffer zone must comply with Town of Newbury, NH Zoning Ordinance para 7.6 and 7.11.

Applicant Signature _____

Conservation Commission

Comments _____

Recommendation _____ Signature/Date _____

Board of Selectmen Approval / Denial (Circle)

Application Approval Date _____ Denial Date _____

Signature(s) _____

Cut compliance site inspection _____ Date _____
Code Enforcement Officer

ZONING REGULATIONS APPLICABLE TO WATERFRONT BUFFER ZONE
Extracted from Town of Newbury, N.H. Zoning Ordinance, revised March 10, 2009

7.2 Shoreland District:

The Shore Land Overlay District extends two hundred-fifty (250) feet inland:

7.2.1 from the reference line (Refer to **ARTICLE II (Definitions)**) on the following lakes and ponds: Lake Sunapee, Lake Todd, Lake Solitude, Doctors Colony Pond, Chalk Pond, Gillingham (Otter) Pond, Loch Lyndon and Mountain View Lake.

7.2.2 from the shoreline of the following permanent Newbury streams: Andrew Brook, Bartlett Brook, Beal's Brook, Beck Brook, Blodgett Brook, Blodgett Brook South, Blood Brook, Mountain Brook, Chandler Brook, Cunningham Brook, Gillingham Brook, Gunnison Brook, Johnson Brook, Morse's Brook, Newbury Harbor Brook, Pike Brook, Reservoir Brook, Ring Brook, Shaw Brook, West Branch North, West Branch South, Roaring Brook (the northerly stream entering Chalk Pond on its southwest shore), and Bly Brook (the southerly stream entering Chalk Pond on its southwest shore). Ponds in the water courses of these streams are, for the purposes of this ordinance, part of the streams and subject to the same regulation. The locations of these permanent streams are shown on the "Newbury Ponds and Permanent Streams Map" on file in the Newbury Town Office. This map shall be used as the official map to determine the geographic boundaries of permanent streams included in this Shore Land Overlay District.

7.6 Waterfront Buffer:

7.6.1 The waterfront buffer (Refer to **ARTICLE II (Definitions)**) shall be those protected shorelands (Refer to **ARTICLE II (Definitions)**) within 50 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters (Refer to **ARTICLE II (Definitions)**) while allowing homeowner discretion with regard to water access, safety, viewscape maintenance, and lot design. The preservation of natural vegetation on the shore land is important for the ecological balance of Newbury lakes and ponds, for the protection of water quality, for the preservation of the aesthetic quality of the shore land and for erosion control.

7.6.2 Within the waterfront buffer all of the following prohibitions and limitations shall apply:

7.6.2.1 No chemicals shall be applied, including pesticides or herbicides of any kind except as allowed under special permit issued by the division of pesticide control of the New Hampshire Department of Environmental Services under rules adopted by the pesticide control board under RSA 541-A Administrative Procedure Act, or fertilizers of any kind except those specified in RSA 483-B:9, II(d) Minimum Shoreland Protection Standards.

7.6.2.2 Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the Board of Selectmen.

7.6.2.3 No Natural Ground Cover (Refer to **ARTICLE II (Definitions)**) shall be removed except as necessary for a 4-foot wide foot path to water as provided under 7.6.3.3, cutting those portions that have grown over 3 feet in height down to 3' and maintaining a minimum height of 3' for the purpose of providing a view, or as specifically approved by the Board of Selectmen, or its designee, pursuant to RSA 482-A Fill & Dredge in Wetlands or 483-B: 11, II Minimum Shoreland Protection Standards.

7.6.2.4 Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree (Refer to **ARTICLE II (Definitions)**) and sapling (Refer to **ARTICLE II (Definitions)**) 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.

7.6.2.4.1 Tree and sapling diameters shall be measured at 4 1/2 feet above the ground and are scored as follows:

<u>Diameter</u>	<u>Score:</u>
1 inch to 6 inches	1 point
Greater than 6 inches and less than 12 inches	5 points
Greater than 12 inches	10 points

7.6.2.4.2 Dead, diseased, or unsafe trees or saplings shall **not** be included in scoring.

7.6.2.4.3 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. Trees and saplings may be removed from partial segments [as defined by 7.6.2.4] provided that the sum of the scores for the remaining trees and saplings in that partial segment is equal to or greater than the proportional point requirement.

7.6.2.4.4 The Board of Selectmen, or its designee, may approve applications pursuant to RSA 482-A Fill & Dredge in Wetlands that include the planting of native trees and saplings as necessary to at least maintain either the existing combined tree and sapling score or the minimum score required. The Board of Selectmen, or its designee, shall not approve any application that would result in a combined tree and sapling score less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the combined tree and sapling score where the segment does not initially meet the minimum score.

7.6.2.4.5 Dead, diseased, or unsafe trees, limbs, saplings, or shrubs (Refer to **ARTICLE II (Definitions)**) that pose any imminent hazard to structures or have potential to cause personal injury may be removed regardless of any requirements that pertain to the waterfront buffer under this Article. Such exemption shall not be used to contravene the intent of this law. Owners of lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the waterfront buffer. Existing grass lawns and open areas with either bare ground or weed cover within the fifty (50) foot wide waterfront buffer are encouraged to be converted and replanted with a natural vegetative cover consisting of indigenous species of natural ground cover, shrubs and trees. Conversion to or planting of cleared areas with native species of natural ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements of 7.11.2.

7.6.2.4.6 A healthy, well-distributed stand of trees, saplings, shrubs and natural ground covers and their living undamaged root systems shall be left in place.

7.6.2.5 Mechanical harvesting and stump removal in the buffer zone is prohibited.

7.6.2.6 Existing stone walls located within the buffer zone shall be retained and not removed.

7.6.2.7 As required by Section 7.9, an erosion and sediment control plan is required for any land disturbance activity within two hundred-fifty (250) feet of a lake or stream.

7.6.2.8 Changes to the natural shoreline shall not be permitted.

7.6.3 Permitted in Waterfront Buffer: Within the Waterfront Buffer the following are permitted:

7.6.3.1 Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views are permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom 1/2 of the trees or saplings.

7.6.3.2 When necessary for the completion of construction activities permitted in accordance with RSA 483-B: 6, Minimum Shoreland Protection Standards a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction.

7.6.3.3 A permanent 4-foot wide foot path to the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, is allowed.

7.11 Impervious Surfaces:

7.11.1 Subject to subparagraph 7.11.2, Protected Shoreland, no more than 30 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces.

7.11.2 If the impervious surface area will exceed 20 percent, a stormwater management system shall be implemented and maintained which is designed to infiltrate increased stormwater from development occurring after the effective date of this paragraph in accordance with rules established by the Department of Environmental Services under RSA 485-A:17 Terrain Alteration. In addition, if the natural tree and sapling cover in the waterfront buffer does not meet the 50-point minimum score of RSA 483-B:9, V(a)(2)(D) Minimum Shoreland Protection Standards in any segment, then such segment shall be planted, as determined by rule of the Department of Environmental Services, with native trees, saplings, or natural ground cover in sufficient quantity, type, and location either to meet the minimum score or to provide at least an equivalent level of protection as provided by the minimum score and shall be maintained in accordance with RSA 483-B:9, V(a) Minimum Shoreland Protection Standards.

7.11.3 Property owners and developers are encouraged to seek creative solutions that utilize low impact development techniques.

ARTICLE II - DEFINITIONS

2.83 Natural Ground Cover: Means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones, and boulders. Natural ground cover shall not include lawns, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III Invasive Species, exotic species as designated by rule of the Department of Environmental Services in accordance with RSA 487:24, VII New Hampshire Clean Lakes Program Rulemaking imported organic or stone mulches, or other artificial materials.

2.103 Protected Shoreland: Means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters.

2.104 Public Waters: Means and includes:

(a) All fresh water bodies listed in the official list of public waters published by the Department pursuant to RSA 271:20, II Published list of Public Waters whether they are great ponds or artificial impoundments.

(b) Rivers, meaning all year-round flowing waters of fourth order or higher and all rivers and river segments designated as protected under RSA 483:15 Rivers Designated for Protection. Stream order shall be determined using the New Hampshire Hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the University of New Hampshire.

2.108 Reference Line: Means:

(a) For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the department of environmental services.

(b) For artificially impounded fresh water bodies with established flowage rights, the limit of the flowage rights, and for water bodies without established flowage rights, and the waterline at full pond as determined by the elevation of the spillway crest. For lakes where dams are owned by the New Hampshire Water Resources Board, information on the level of flowage rights is available from the Board. On Lake Sunapee the normal high water is defined as elevation 1094.15 feet above sea level according to U.S.G.S. data or 11.5 feet on the gauge at the dam in Sunapee Harbor. For Lake Sunapee, the normal high water elevation of 1094.15 feet above sea level is defined by the New Hampshire Water Resources Board as the natural mean high water level.

(c) For rivers, the ordinary high water mark.

2.113 Sapling: Means any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4 1/2 feet above the ground.

2.122 Shrub: Means any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

2.138 Tree: Means any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4 1/2 feet above the ground.

2.148 Waterfront Buffer: Means those protected shorelands located within 50 feet of the reference line.