

**BA Wetlands  
Zoning Ordinance Amendment**

**SEC. 19-6-9. RESOURCE PROTECTION DISTRICTS**

(RP1-CW, RP1-CW Buffer Overlay, RP2-WP, and RP3-F)

**A. Purpose**

The wetlands and floodplains of the Town are fragile natural resources which provide wildlife habitat, pollution control, storage and passage of flood waters, aquifer recharge, erosion control, education, scientific study, recreation, and open space. Nationally, considerable wetland acreage has been lost or impaired by drainage, dredging, filling, excavating, building, pollution, and other activities inconsistent with the natural uses of such areas. Therefore, it is the policy of the Town to ensure that wetlands and floodplains are protected from detrimental impacts and that wetland and floodplain alteration activities do not threaten public safety, welfare or cause nuisances, or negatively alter natural wetland ecology. To protect these natural resources, four (4) Resource Protection Districts are designated based upon their natural resource value and vulnerability:

**2. Resource Protection 1 - Critical Wetland Buffer Overlay District (RP1-CW Buffer Overlay)**

Areas that require regulation due to their proximity to Resource Protection 1 - Critical Wetland Districts, and function to protect wetland values including but not limited to wildlife habitat, pollution abatement, and erosion control are designated Resource Protection 1 - Critical Wetland Buffer Overlay District (RP1-CW Buffer Overlay). The RP1-CW Buffer Overlay District is an overlay zone and is located adjacent to Resource Protection 1 - Critical Wetland Districts. The RP1-CW Buffer Overlay District shall extend upland from the wetland upland edge of any critical wetland as determined by the following criteria:

- a. a two hundred fifty (250) foot buffer will be required if the critical wetland meets one (1) of the following criteria:
  - (1) The wetland is rated as having moderate or high value for wildlife by the Maine Department of Inland Fisheries and Wildlife;
  - (2) The wetland is a marine and/or estuarine marsh; or
  - (3) The Resource Protection 1 - Critical Wetland District as defined is not well separated from adjacent areas by topography or other natural features.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

b. Notwithstanding any provision of this section to the contrary, a one hundred (100) foot buffer will be required if the wetland area meets one (1) of the following criteria and the critical wetland is not rated as having moderate or high value for wildlife by the Maine Department of Inland Fisheries and Wildlife:

(1) The Resource Protection 1 - Critical Wetland District is distinctly separated from the area of the proposed development by topography such that the development area, in its natural state, drains away from the wetland. An existing road or driveway shall not be considered a topographical divide if the road drains toward the wetland.

(2) The Resource Protection 1 - Critical Wetland District is within two hundred fifty (250) feet of densely developed areas. For the purposes of this section, an area shall be considered densely developed if at least six (6) principal buildings are located within two hundred fifty (250) feet of the center of any proposed structure.

(3) The Resource Protection 1 - Critical Wetland District is two (2) acres or less in size.

(4) The Resource Protection 1 - Critical Wetland District is a coastal sand dune as measured from the point where sand and dune grasses are replaced by upland soils and vegetation.

(5) The Resource Protection 1- Critical Wetland District is located in or adjacent to a property located in the BA District which is served by public water and public sewer.

c. The RP1-CW Buffer Overlay District may be reduced to one hundred (100) feet from the edge of the wetland to allow placement of a permanent or temporary tool shed where the footprint of the tool shed does not exceed eighty (80) square feet and the tool shed will be used for storage. Tool sheds allowed under this provision shall require a building permit.

1 **B. Permitted Uses**

2  
3 Any use shown on Table 19-6-9 as a permitted use in each district shall be permitted in the RP1-  
4 CW, RP1-CW Buffer Overlay, RP2-WP, or RP3-F district respectively.

5  
6 **C. Uses Permitted with a Resource Protection Permit**

7  
8 Any use shown on Table 19-6-9 as a permitted use with a resource protection permit in the RP1-  
9 CW, RP1-CW Buffer Overlay, RP2-WP, or RP3-F District shall be permitted in that district but  
10 only upon the issuance of a resource protection permit in accordance with the provisions of Sec.  
11 19-8-3, Resource Protection Performance Standards.

12  
13 **D. Prohibited Uses**

14  
15 Uses shown as prohibited uses on Table 19-6-9 and any other use not specifically listed as a  
16 permitted use or a use permitted with a resource protection permit shall be prohibited in the RP1-  
17 CW, RP1-CW Buffer Overlay, RP2-WP, and RP3-F Districts.

18  
19 **TABLE 19-6-9**  
20 **Uses permitted, allowed with a resource protection permit,**  
21 **and prohibited in the Resource Protection Districts.**

22  
23 All use of land, buildings, and structures within the Resource Protection Districts shall be in  
24 accordance with the following:

- 25  
26 • **“Permitted”** indicates uses that are permitted by right subject to Sec. 19-8-3, Resource  
27 Protection Performance Standards  
28  
29 • **“RPP”** indicates uses that are permitted, provided that a resource protection permit is  
30 issued in accordance with Sec. 19-8-3, Resource Protection Performance Standards  
31  
32 • **“No”** indicates uses that are prohibited

33  
34 *No use, structure, or activity shall be permitted that is not in compliance with Sec. 19-8-3,*  
35 *Resource Protection Performance Standards.*

36  
37 Uses allowed with a resource protection permit may include incidental activities that otherwise  
38 would be prohibited, provided that such incidental activities are expressly included in the permit  
39 application.

40  
41 A permitted use that includes within it an incidental prohibited activity shall be allowed only if a  
42 resource protection permit is issued in accordance with Sec. 19-8-3, Resource Protection

Permitted = Permitted subject to performance standards  
RPP = Permitted with a resource protection permit  
No = Prohibited

1 Performance Standards.  
2

Use, Activity, Structure	RP1-CW and RP1-CW Buffer Overlay	RP2-WP	RP3-F
1. Expansion of nonconforming structure subject to the provisions of Sec. 19-4-5, Nonconformance within the Resource Protection Districts	Permitted	Permitted	Permitted
1a. <u>Expansion or change of a nonconforming use where the activity is permitted in an abutting district and is located in an existing building or paved area.</u>	<u>RPP</u>	<u>RPP</u>	<u>RPP</u>
2. Forest management activities	Permitted	Permitted	Permitted
3. Timber harvesting	Permitted	Permitted	Permitted
4. Conservation of soil, water, vegetation, fish, shellfish, and wildlife	Permitted	Permitted	Permitted
5. Wilderness area, wildlife preservation and refuges	Permitted	Permitted	Permitted
6. Education and scientific research and nature trails	Permitted	Permitted	Permitted
7. Shellfishing and trapping	Permitted	Permitted	Permitted
8. Non-intensive recreational activity including but not limited to hunting where permitted, bird-watching, duck blinds, hiking, horseback riding, swimming and trapping, provided there is no alteration of the wetland and no operation of any motorized recreational vehicles	Permitted	Permitted	Permitted
9. Maintenance of existing golf course waterholes, municipal skating ponds	Permitted	Permitted	Permitted
10. Maintenance of stormwater detention basins by the Town, or by a homeowners' association as approved by the Planning Board as part of an	Permitted	Permitted	Permitted

Permitted = Permitted subject to performance standards

RPP = Permitted with a resource protection permit

No = Prohibited

<b>Use, Activity, Structure</b>	<b>RP1-CW and RP1-CW Buffer Overlay</b>	<b>RP2-WP</b>	<b>RP3-F</b>
approved subdivision or site plan			
11. Grooming of existing residential lawns and landscaping, including the installation of fences in existing lawns	Permitted	Permitted	Permitted
12. Fire prevention activities	Permitted	Permitted	Permitted
13. Aquaculture	Permitted	Permitted	Permitted
14. Replacement of septic disposal system	Permitted	Permitted	Permitted
15. Service drop to allowed use	Permitted	Permitted	Permitted
16. Individual campsite	Permitted	Permitted	Permitted
17. Home occupation and home business	Permitted	Permitted	Permitted
18. Fences, wildlife management shelters, observation decks and shelters	RPP	Permitted	RPP
19. Minor recreational structure	RPP	Permitted	RPP
20. Catwalks and footbridges	RPP	RPP	RPP
21. Public utilities/essential utility services	RPP	RPP	RPP
22. Existing road reconstruction	RPP	RPP	RPP
23. Official vegetated playing fields and related accessory structures, including parking facilities, located more than one hundred (100) feet from the RP1 wetland upland edge	RPP	RPP	RPP
24. Damming	RPP	RPP	No
25. Dredging	No	RPP	RPP
26. Grading	No	RPP	RPP
27. New street construction	No	RPP	RPP
28. Agriculture (existing uses exempted)	No	RPP	RPP
29. Piers, docks and boathouses	No	RPP	RPP
30. Marina	No	RPP	RPP
31. Filling	No	RPP	No

Permitted = Permitted subject to performance standards

RPP = Permitted with a resource protection permit

No = Prohibited

<b>Use, Activity, Structure</b>	<b>RP1-CW and RP1-CW Buffer Overlay</b>	<b>RP2-WP</b>	<b>RP3-F</b>
32. Draining	No	RPP	No
33. Excavating	No	RPP	No
34. Mining or drilling	No	RPP	No
35. One and two family dwellings and accessory buildings and structures	No	RPP	No
36. Multi-unit residential	No	RPP	No
37. Parking facility	No	No	RPP
38. Commercial structure	No	No	No
39. Industrial structure	No	No	No
40. Governmental/institutional	No	No	No
41. Conversion to year-round	No	No	No
42. Private septic disposal system	No	No	No
43. Campground	No	No	No
44. Polluting	No	No	No

Permitted = Permitted subject to performance standards

RPP = Permitted with a resource protection permit

No = Prohibited

Permitted = Permitted subject to performance standards  
RPP = Permitted with a resource protection permit  
No = Prohibited