

**Proposed Zoning Ordinance Amendments
Wetlands Protection
for Planning Board Public Hearing September 19, 2019**

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 10 – Environmental Protection Standards, Section 10.1010 – Wetlands Protection, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. In Section 10.1016.10, insert the following new paragraph (8):

(8) Construction of fences attached to hand driven steel posts 3” or less in diameter, outside the vegetated buffer strip and with no footings and no ground disturbance beyond the installation of the posts.

B. In Section 10.1017.20, renumber existing subsection 10.1017.22 as 10.1017.23, and insert the following new subsections 10.1017.22 and 10.1017.24:

10.1017.22 Where the proposed project will involve the temporary or permanent alteration of more than 250 sq. ft. of wetland and/or wetland buffer, the application shall provide information about the affected wetland and wetland buffer as follows:

- (1) Up to 1,000 sq. ft. of alteration to the wetland: a wetland characterization that describes the type of wetland (e.g., emergent, scrub-shrub, forested), the percent of invasive species, and whether the wetland is seasonally flooded.**
- (2) More than 1,000 sq. ft. of alteration to the wetland: a functions and values assessment equivalent to the model set forth in Appendix A of *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.**
- (3) More than 250 sq. ft. of alteration to the wetland buffer (regardless of the amount of alteration to the wetland): a**

description of the 100-foot buffer including vegetation type, the percent of the buffer with invasive species, and the percent of the buffer that is paved or developed.

[...]

10.1017.24 Where feasible, the application shall include removal of impervious surfaces at least equal in area to the area of impervious surface impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove impervious surfaces from the wetland buffer at least equal in area to the area of new impervious surface impact, the application shall include a wetland buffer enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

10.1017.25 A wetland buffer enhancement plan shall be designed to enhance the functions of the jurisdictional wetland and/or wetland buffer on the lot, and to offset the impact of the proposed project.

- (1) The wetland buffer enhancement plan shall include a combination of new plantings, invasive species removal, habitat creation areas, improved site hydrology, or protective easements provided offsite.
- (2) Where the vegetated buffer strip contains grass or non-native plantings, or is otherwise not intact, the first priority of the wetland buffer enhancement plan shall be to include revegetation of the vegetated buffer strip with native, low-maintenance shrubs and other woody vegetation.

C. In Section 10.1017.40, insert the following new subsection 10.1017.45:

10.1017.45 Where new impervious surface is proposed in a wetland or wetland buffer, the submission of a plan to compensate for such new impervious surface does not guarantee that a conditional use permit will be granted.

D. In Section 10.1018, insert the following new sections 10.1018.30 and 10.1018.40:

10.1018.30 Porous Pavement in Wetland Buffer

10.1018.31 All new pavement installed in a wetland buffer shall be porous pavement. The Planning Board may allow exceptions to this requirement where it can be demonstrated that the height of ground water, condition of soil, or other factors as described in the application are not appropriate for porous pavement.

10.1018.32 An application that proposes porous pavement in a wetland buffer shall include a pavement maintenance plan addressing erosion control, periodic removal of sediment and debris from the porous surfaces, snow management, and repairs.

10.1018.40 Wetland Boundary Markers

Permanent wetland boundary markers shall be shown on the plan submitted with an application for a conditional use permit and shall be installed during project construction.

E. In Section 10.1017.20 – Application Requirements, insert a new subsection 10.1017.26 as follows:

10.1017.26 Where the proposed project involves a use, activity or alteration in a tidal wetland or tidal wetland buffer, the application shall include a living shoreline strategy to preserve the existing natural shoreline and/or encourage establishment of a living shoreline through restoration, as applicable. Said living shoreline strategy shall be implemented unless the Planning Board determines that it is not feasible.

F. In Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, insert the following new term and definition:

Living shoreline

Any shoreline management system using native vegetation, alone or in combination with offshore sills, to stabilize the shoreline without interrupting the natural water/land continuum to the detriment of natural shoreline ecosystems.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk