

CHAPTER 160

LOON POND

[**HISTORY:** Adopted by the Annual Town Meeting of the Town of Hillsborough 3-10-1981 as Art. 36. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 107.

Sewers — See Ch. 181.

Water — See Ch. 223.

§ 160-1 Construction restricted.

No building or structure may be erected, maintained or caused to be erected within 200 feet of the mean high water mark of Loon Pond, so-called, located in the Town of Hillsborough.

§ 160-2 Applicability.

This chapter shall not apply to structures existing on March 11, 1980, but shall apply to replacement structures in the event of their demolition or other destruction.

§ 160-3 Penalties for offenses.

Any person who shall be found guilty of violating this chapter shall be fined \$50, and each day that a structure shall be determined to continue to be in violation of this chapter shall be deemed a separate offense.

§ 160-4 Injunctive relief.

The Town of Hillsborough, by its Selectmen, is authorized to seek injunctive relief in the Hillsborough County Superior Court to enjoin any anticipated or ongoing violation of this chapter.

§ 160-5 When effective.

This chapter shall be effective upon passage by the voters of the Town of Hillsborough and upon publication in a newspaper of general circulation in the Town of Hillsborough.

§ 160-6 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING or STRUCTURE - In addition to its normal meaning, any significant construction, specifically including subsurface construction, i.e., septic system components, but excluding

interior repair and ordinary maintenance; conversion from seasonal to year-round use shall be deemed significant construction.

§ 160-7 Variances.

A. Any person aggrieved by this chapter may petition the Hillsborough Zoning Board of Adjustment for a variance from the terms, which variance shall be granted upon showing by the petitioner and finding by the Board of the following.

(1) The proposed building or structure is to replace a building or structure existing on March 11, 1980, or is appurtenant to said existing building or structure;

(2) The proposed construction will not cause or contribute to actual or potential pollution of the waters of Loon Pond; and

(3) Any existing waste disposal system, however the same may be described or referred to, on the premises subject to petitioned construction or a proposed waste disposal system shall have been examined and found not to cause or contribute to actual or potential pollution of the waters of Loon Pond.

B. The Zoning Board of Adjustment may grant approval upon those conditions it deems appropriate to promote and protect the spirit and intent of this chapter. The burden of proof shall be upon the petitioner, who shall have all rights of appeal as set forth in RSA 31. The Zoning Board of Adjustment shall be governed by the procedures as set forth in RSA 31.

C. The Water Commissioners shall receive notice of all hearings.

§ 160-8 Protection of purity of water and watershed.

[Added by the ATM 3-9-1999 by Art. 21]

A. The purpose of this section is to protect the purity of the water of Loon Pond which is the sole public drinking water supply for the Town of Hillsborough.

B. This section shall be effective within the Loon Pond watershed as shown on the map, entitled "Plan of Proposed Loon Pond Watershed in Hillsborough, N.H." Such watershed is located above the dam which is located at approximately latitude 43° 08 32, longitude 71° 57 24 in the Town of Hillsborough. This plan is available for inspection at the office of the Town Clerk.

C. The Board of Water and Sewer Commissioners of the Town of Hillsborough shall be responsible for the enforcement of the rules under this section.

D. This section shall be effective upon passage by the voters of the Town of Hillsborough and upon publication in a newspaper of general circulation in the Town of Hillsborough.

E. Under the provisions of RSA 485:24, the Town of Hillsborough and its agents may enter at reasonable times any land or property within the drainage areas tributary to the Loon Pond public water supply in the Town of Hillsborough for the purpose of investigating watershed sanitation and inspecting sewage and drainage systems and other sources of potential contamination.

F. Any deviations from these rules shall be by written consent of the Water Supply and Pollution Control Division and the Town of Hillsborough in accordance with Env-Ws 386.04. These provisions shall not apply to employees of the Board of Water Commissioners engaged in the performance of necessary duties for the protection and control of Loon Pond.

G. The Town of Hillsborough shall post a summary of the prohibitions contained in this section at all public access locations where persons might reasonably be expected to access Loon Pond or its tributaries. A complete set of these rules shall be available and on file at the Town Clerk's office.

H. This chapter is enforced in addition to the minimum standards of shoreline protection as set forth in RSA 483-B, the Comprehensive Shoreline Protection Act. All property owners are required to meet the standards of this chapter in addition to those set forth in RSA 483-B. Where any provision of these rules is in conflict with state law or other local ordinances, the more stringent provision shall apply.

I. If any section of these rules shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section or portion of the rules.

J. The rules for Loon Pond are as follows:

(1) Nuisance. No privy, pigpen, stable or other building or structure in which horses, cattle, swine or other animals or fowl are kept shall be built, continued or maintained within 200 feet of the mean-high water mark of Loon Pond or any lake, reservoir or stream tributary thereto. An exception may be granted by the Water and Sewer Commissioners for the purpose of providing housing protection for domestic pets so long as there is no danger of pollution to the waters of Loon Pond.

(2) Toilets; drains. No privy, toilet, sink drain or subsurface septic disposal systems, or discharges therefrom, shall be built or maintained within 200 feet of the mean high-water mark of Loon Pond or any lake, reservoir or stream tributary thereto, nor anything else that might endanger the purity of the water supply shall be permitted to exist, whatever may be their distance from the pond, in such locality or manner as, in the opinion of the Board of Water and Sewer Commissioners, would be liable to contaminate the water of Loon Pond. Existing, properly functioning, septic systems within 200 feet of the shoreline shall remain

in place. If failure occurs, the repair or replacement shall be carried out in accordance with Env-Ws Chapter 1000.

(3) Animal or human waste. No dead animal or fish, or parts thereof, or food or any article perishable or decayable, and no human waste, swill or garbage, shall be thrown into or deposited into or upon the water or ice, or placed or left in or within 75 feet of the water of Loon Pond, or any lake, reservoir or stream tributary thereto.

(4) Hazardous waste. No hazardous waste, as defined in RSA 147-A, including such as solid, semi-solid, liquid or contained gaseous waste, or any combination of wastes, which possesses a threat to human health or the environment shall be placed on, left in, on or within 150 feet of the water or ice on Loon Pond or any lake, reservoir, or stream tributary thereto. The State of New Hampshire Hazardous Waste Laws shall be strictly enforced.

(5) Solid waste. No solid waste such as refuse, appliances, auto parts, tires, tree stumps, or similar waste shall be placed or left in, on or within 50 feet of the water or ice of Loon Pond or any lake, reservoir or stream tributary thereto.

(6) Chemical waste. No chemical waste such as gasoline, paint, fertilizer or similar waste shall be placed into, on or within 150 feet of the water or ice of Loon Pond or any lake, reservoir or stream tributary thereto. This subsection shall not apply to such household products as are safely maintained within a structure on the premises.

(7) Pesticides. All pesticide applications, as defined in RSA 430, made on that land area which contributes surface water runoff either directly into Loon Pond or indirectly by running into any lake, reservoir or stream tributary thereof shall be conducted in strict accordance with the rules of the State of New Hampshire Pesticide Control Board.

(8) Water contact. No person shall bathe, wade, swim or perform any similar water contact activities in Loon Pond or any lake, reservoir or stream tributary thereto.

(9) Boats. A person shall not use a sailboard, wet-sailor-type boat, jet ski or inflatable craft in Loon Pond or any pond, reservoir or stream tributary thereto. The use of sunfish, sailfish, rowboats, canoes and the like shall be permitted. The use of properly functioning electric motors shall be permitted. The Board of Water and Sewer Commissioners may make additional rules and regulations, subject to lawful procedures, with regard to the use of boats as it may deem expedient.

(10) Marine toilet. No person shall discharge from or off a vessel, cruiser, boat, houseboat, wharf or from a structure of any kind, whether on the water or on the ice, or any tank or receptacle thereon or therein contained, any excrement, urine, nor shall any waste be left in, on or near the water or ice of Loon Pond or any lake, reservoir or stream tributary thereto. All boats or structures of any kind used on the water or on the ice that are equipped with toilet, lavatory or other sewage or waste producing fixtures shall be provided with watertight tanks or receptacles for the reception and temporary storage of such wastes. The aforementioned tanks or receptacles shall be maintained as required in RSA 487 and the contents thereof shall be disposed of in a municipal sewerage system or into any adequate sewage disposal system on shore.

(11) Overnight mooring. No occupied vessel, cruiser, boat, houseboat or structure of any kind shall be tied or beached or grounded to the water or ice, or tied to the shore of Loon Pond or any lake, reservoir or stream tributary thereto for an overnight period or any part of an overnight period. An unoccupied vessel, cruiser, boat, houseboat or structure of any kind may be anchored or grounded to said waters or ice only by permission of the Board of Water and Sewer Commissioners or landowner, lessee or person otherwise in control of such location.

(12) Vehicles. The use or operation by any person of an OHRV or other motorized vehicle on the water or ice of Loon Pond or any lake, reservoir or stream tributary thereto is prohibited.

(13) Aircraft. Aircraft shall not use the waters or ice of Loon Pond or any lake, reservoir or stream tributary thereto.

(14) Ice. A person, firm or corporation shall not cut and take ice from Loon Pond or adjacent wetlands except by permission of and under the direction of the appropriate Board of Selectmen as prescribed in RSA 485:54.

(15) Fishing. Nothing in these rules shall be construed to prevent access to Loon Pond for fishing purposes, so long as the intent of the rules is observed. Ice fishing shall not be permitted.

(16) Garbage disposal. A person shall place any garbage, refuse or trash of any kind brought from home, camp or place of business in or near public waste containers. Refuse resulting from picnicking on or adjacent to Loon Pond or adjacent wetlands shall be deposited in approved containers.

(17) Refuse disposal. A person shall not break bottles or deposit refuse or wastes of any description into Loon Pond or adjacent wetland.

(18) Outdoor cooking. A person shall not kindle charcoal fires or maintain such within 50 feet of Loon Pond or adjacent wetlands.

(19) Pets. A person shall keep dogs and other pets on a leash while within 50 feet of the shoreline. Pets shall not be left unattended and shall not be permitted in the water.

(20) Horses. A person shall not ride or lead a horse along the shoreline.

(21) Hours of use. An unauthorized person shall not enter upon or remain on Hillsborough town property adjacent to Loon Pond between the hours of 9:00 p.m. and 6:00 a.m.

(22) Alcohol and drug use. A person shall not possess or consume any alcoholic beverage or other controlled substances on Hillsborough Town property.

(23) Property damage. A person shall not remove or damage any structure, sign, plant, tree or natural feature on town land.

(24) Emergency access. A person shall not obstruct or damage an emergency access gate. Violators shall be subject to towing at the owner's expense as defined in RSA 265:69.

(25) Trespassing. A person shall not enter restricted areas that have been so posted as "no trespassing."

(26) Conduct. A person shall obey the request made by authorized officials of the appropriate town in matters of safety and orderliness.

(27) Overnight use. A person shall not make overnight use of recreational vehicles or campers within 200 feet of Loon Pond or adjacent wetland.

(28) Waterfowl. A person shall not feed any waterfowl found in, on or near the waters of Loon Pond.

(29) Animal waste. A person shall prepare and follow an animal waste management plan if any one property within 200 feet of Loon Pond or adjacent wetlands has more than 5 adult livestock, 10 immature livestock or 50 poultry, to be approved by the Hillsborough County Conservation District.

K. Upon state adoption of these rules, any person violating these rules is, in accordance with RSA 485:26, guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

L. The Town of Hillsborough, by its Board of Water and Sewer Commissioners, is authorized to seek injunctive relief in the Hillsborough County Superior Court to enjoin any anticipated or ongoing violation of these rules.

M. Grandfathering of existing land uses shall be subject to the following: Existing uses as of the date of enactment of this section may be continued by the landowner; such continued use shall be subject to any other rules which may limit the continuance of an existing use. If a change in use occurs or an expansion is proposed, the rule requirements must be met. A change in use shall include, but is not limited to, a change from seasonal to year-round use, higher intensity of campsites, units or domestic farm animals. Discontinuance of a grandfathered use for two consecutive years shall result in the termination of any/all grandfathered rights. An owner of a completely destroyed property shall not be entitled to the protections of this section. Any destruction of more than 50 percent of the property or destruction which renders the property unusable for a period in excess of 12 months shall render the property completely destroyed. The intent of these rules, to improve and maintain protection of Loon Pond, shall be considered at all times.