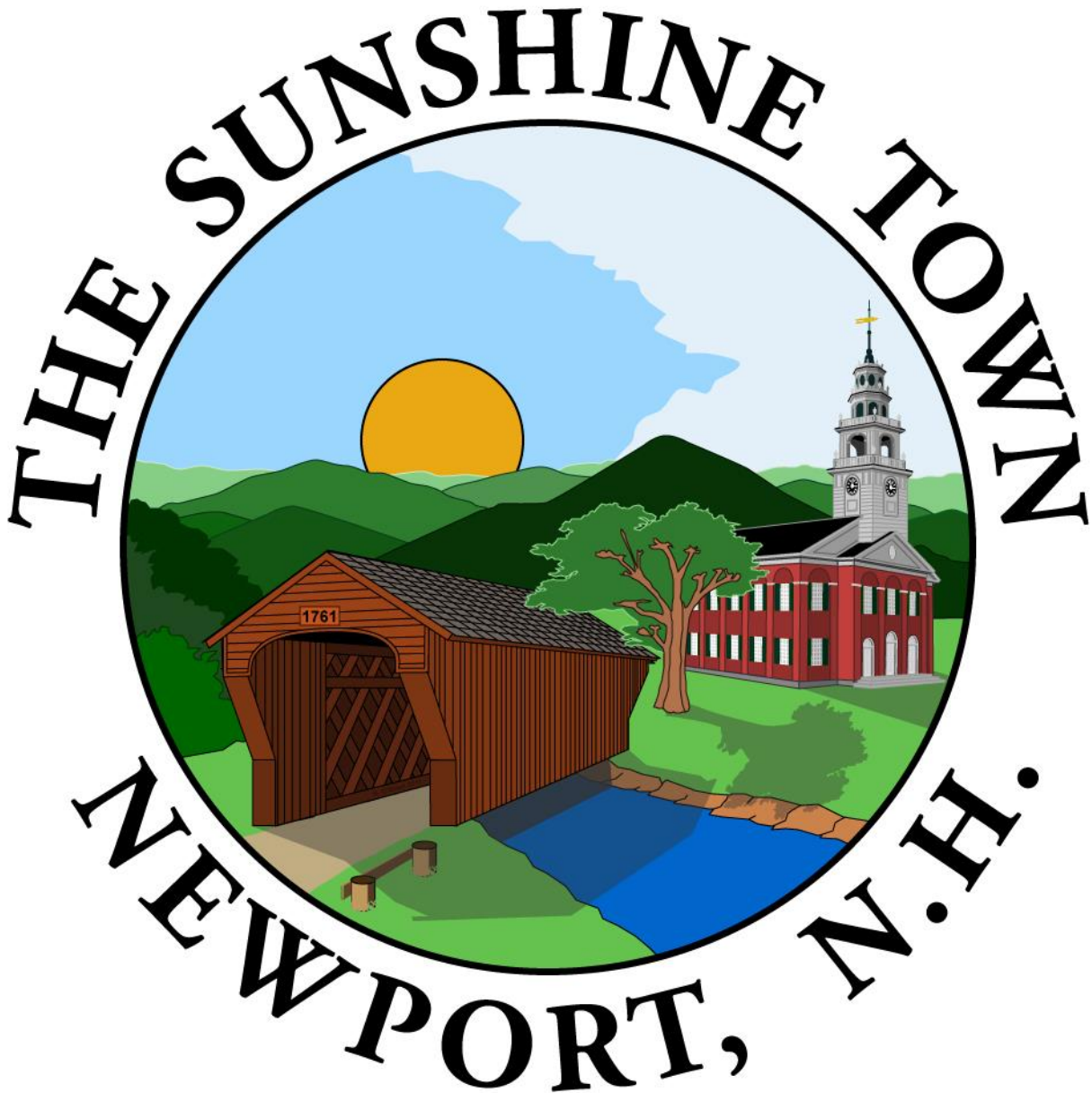


**2019**



**ZONING ORDINANCE**

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## ARTICLE I - PURPOSE

### SECTION 101 - PURPOSE

The Zoning Regulations and Districts as herein set forth have been made for the purpose of promoting the health, safety, morals, and general welfare of the community described by the New Hampshire Revised Statutes Annotated, Chapter 31, Section's 60-89. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of the transportation, water, sewerage, schools, parks, and other public requirements.

## ARTICLE II – ZONING DISTRICT REGULATIONS

### SECTION 201 - ZONING DISTRICTS

The Town of Newport is hereby divided into the following zoning districts:

Rural Commercial District (Zone RC)

Rural District (Zone R)

Single Family Residential District (Zone R-1)

General Residential District (Zone R-2)

Light Commercial District (Zone B-1)

Heavy Commercial District (Zone B-2)

Industrial District (Zone I)

Flood Plain District (Zone F)

Kelleyville Village District (Zone K)

Professional Business District (Zone PB)

Outdoor Recreation District (Zone OR)

### SECTION 202 - THE ZONING MAPS

The zoning districts in this ordinance are bounded as shown on the maps entitled:

- Zoning Map No. 1 of the Town of Newport, New Hampshire dated May 1988 (compact area).
- Zoning Map No. 2 of the Town of Newport, New Hampshire dated May 1988 (town wide).
- Zoning Map No. 3 of the Town of Newport, New Hampshire dated November 24, 1987, Industrial Area Rt. 11-103, Claremont Rd., Article 6, 1987 Town Meeting.
- Zoning Map No. 4 of the Town of Newport, New Hampshire, Professional Business District dated November 6, 1990.
- Zoning Map No. 5 of the Town of Newport, New Hampshire, Groundwater Protection District adopted May 11, 2004.

- Zoning Map No. 6 of the Town of Newport, New Hampshire, Groundwater Protection District adopted May 11, 2004.

These maps are on file in the office of Planning & Zoning. All maps and the explanatory matter thereon are hereby adopted and made a part of this ordinance.

Zoning maps including the Town Common (State) and Downtown (Nat'l) Historic Districts are also accessible on our mapping website: <https://www.axisgis.com/NewportNH/>

#### SECTION 203 - INTERPRETATION OF THE ZONING DISTRICT BOUNDARIES

Unless otherwise indicated on the zoning maps, the zoning district boundary lines are the centerlines of streets and other public ways, the middle of the channel of waterways or the center- line of the main tracks of railroad lines. Where zoning district boundaries are so indicated that they parallel the center lines of streets and other public rights-of-way, such boundaries shall be interpreted as parallel thereto and at such distance from the nearest street line as indicated on the zoning map. If no distance is given, such dimension shall be 200 feet from the nearest street lines, right-of-way lines, or such lines extended or the center line of a block, whichever is less.

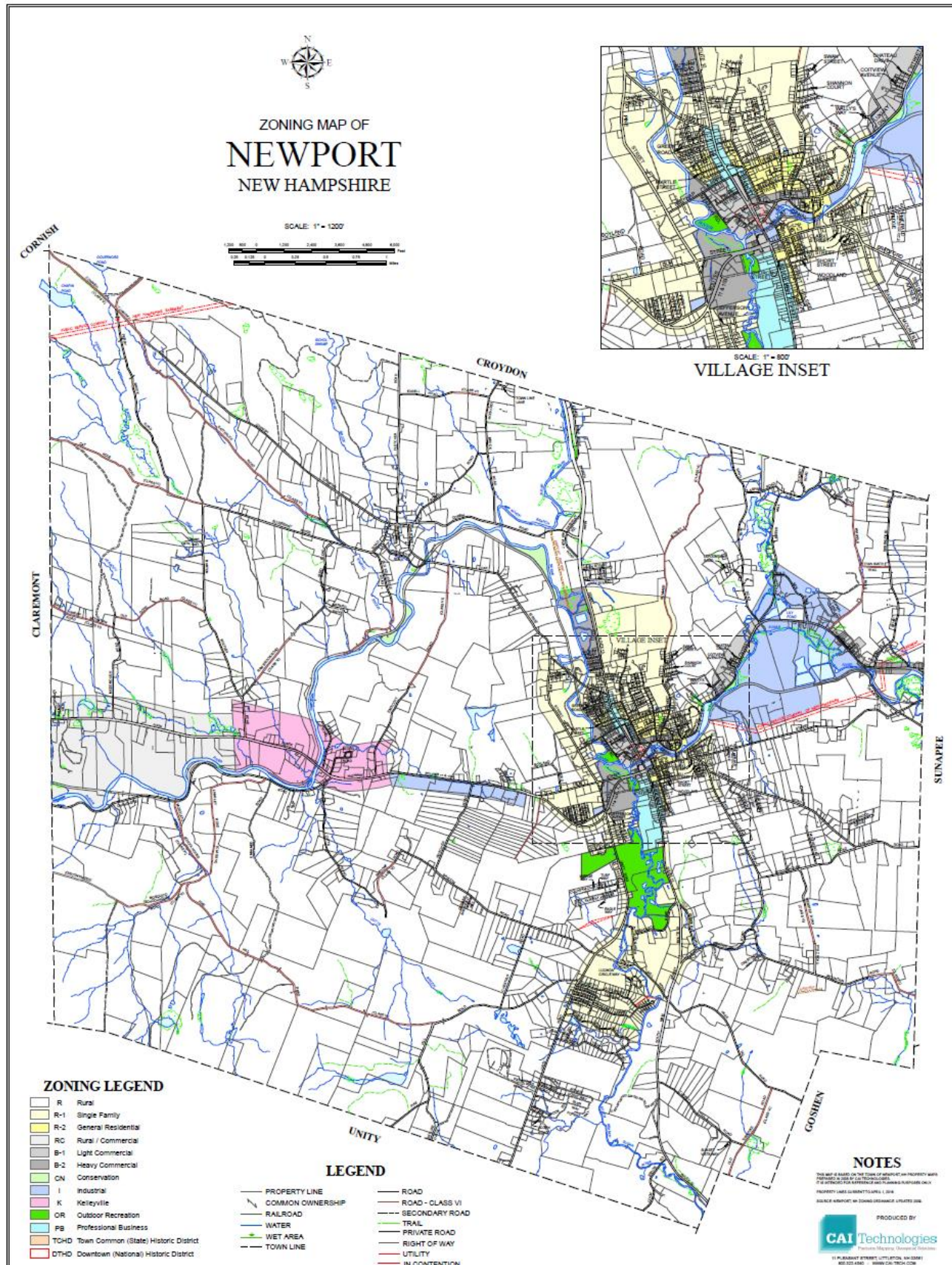
#### SECTION 204 – LOTS IN TWO ZONING DISTRICTS

Where the boundary line of a zoning district divides a lot in single or joint ownership at the time of passage of the ordinance establishing such boundary line, the regulations for either district may at the option of the owner extend to the entire lot, but in no case shall permitted uses be extended more than 100 feet from the zoning district boundary line into the zoning district prohibiting uses permitted in the other district.

#### SECTION 205 – APPLICATION OF REGULATIONS

Except as hereinafter provided, no building or land shall hereafter be used, constructed, or altered unless in conformity with the regulations herein specified for the zoning district in which it is located. For dwellings in any zone, there shall be only one main building on each lot with the exception of a planned unit development.





## SECTION 206 – RURAL (R) ZONING DISTRICT

The following regulations and the regulations and definitions contained in Article III, IV, V, VI, VII, and VIII shall apply in the Rural District (Zone R).

### SECTION 206.1 - PERMITTED USES

Stables and Riding Academies

Plant Nurseries and Greenhouses

Home Offices

Accessory uses and Buildings

Farming

Single-family dwellings including manufactured homes with 600 sq. ft. or more of livable floor space on permanent foundations

Yard Sales - Maximum 3 weekend duration with police permit

Forestry

### SECTION 206.2 SPECIAL EXCEPTIONS

Boarding Houses

Farm Produce Stands

Commercial Recreation

Sawmills

Veterinary Hospitals & Kennels (amended 2007)

Inns, Bed & Breakfast Facilities

Day Camps - Daycare Centers

Family Daycare Homes

Family Group Daycare Homes

Neighborhood grocery stores of not more than 3,000 sq. ft. in floor area

Manufactured home parks which are serviced by municipal water or sewer.

Cluster development of single-family homes provided over all maximum density does not exceed that provided in Section 206.4

Campgrounds

A minimum of 25 ft. setback of a surveyed 50 ft. right of way

Recreational Facility

Membership Clubhouse

Accessory Dwelling Unit

### SECTION 206.3 - LOT SIZE AND AREA

Each lot shall have a frontage of at least 200 ft. and land area of at least 40,000 sq. ft.



**SECTION 206.4 - LOT AND FLOOR AREA**

The minimum lot area per dwelling unit shall be 40,000 sq. ft. except that when provided with either town water and/or town sewer, the minimum lot shall be 20,000 sq. ft. This density shall also apply to cluster development. Boarding houses may have a maximum of 16 persons per dwelling unit.

**SECTION 206.5 - YARDS**

- A. Each lot shall have a front yard of not less than 50 feet in depth measured from the edge of the property line.
- B. Each lot shall have two side yards having a total width of at least 25 feet but no side yard shall have a width of less than 10 feet.
- C. Each lot shall have a rear yard of not less than 25 feet in depth.
- D. Each separate building having more than 20 sq. ft. of ground coverage on a lot shall be at least 10 feet from any other separate building for each story of 10 feet in height except for silos, water tanks and the like.

**SECTION 206.6 - LOT COVERAGE**

All buildings including accessory buildings shall cover not more than 30% of the area of the lot. No structure shall be erected more than 40 feet in height.

**SECTION 206.7 - RURAL DISTRICT SUBDIVISIONS**

In the case of the subdivision of land within the Rural District, in accordance with a subdivision plot approved by the Planning Board, the minimum lot area per dwelling unit may be reduced by not more than 10% of the required area applicable provided that the total number of lots to be contained in such subdivision does not exceed the number obtained by dividing the area of the parcel to be subdivided by the respective minimum lot area as stipulated in Section 206.4.

**SECTION 206.8 - CLUSTER DEVELOPMENT**

For all purposes of this ordinance, measurement of density of cluster developments shall include private streets and exclude accepted town streets.

**SECTIONS 206A RURAL/COMMERCIAL (RC) ZONING DISTRICT****SECTION 206A - RURAL COMMERCIAL DISTRICT (RC)**

The RC district will be defined by the following boundaries: Westerly by the easterly line of the City of Claremont, northerly along a line 1,000 feet north of the northerly line of Routes 11 and 103, easterly by the Barton-Whitney Road, or the Kelleyville Village District when the latter is enacted, and southerly by the northerly line of the Sugar River.

**SECTION 206A.1 - PERMITTED USES**

Planned Commercial Development (See Article V, Section 504.2A)

Stables and Riding Academies

Plant Nurseries and Greenhouses

Home Offices

Farming

Single-family dwellings, including manufactured homes with 600 sq. ft. or more of livable floor space on permanent foundations

Yard Sales - Maximum 3 weekend duration with police permit

Forestry

Accessory Uses and Buildings

Planned Unit Development

**SECTION 206A.2 - SPECIAL EXCEPTIONS**

Family Daycare Homes

Family Group Daycare Homes

Accessory Dwelling Unit

Permitted uses in B1, B2, and I Zones

**SECTION 206A.3 - LOT SIZE AND AREA**

Each lot shall have a frontage of at least 300 feet and a land area of at least 5 acres.

**Section 206A.4 – Yards**

A. Each lot shall have a front yard of not less than 100 feet in depth as measured from the edge of the right of way.

B. Each lot shall have two side yards of at least 50 feet each.

C. Every lot shall have a rear yard of not less than 50 feet in depth.

**Section 206A.5 - Lot Coverage**

All buildings including accessory buildings shall cover not more than 30% of the area of the lot excluding parking.

**Section 206A.6 - Cluster Development**

One lot may have one point of access to public highway.

## SECTION 206B - VILLAGE DESIGN DISTRICT-KELLEYVILLE (K)

The following regulations and the regulations and definitions contained in Articles III, IV, and VI shall apply in the Village Design District VDD-K.

### **BOUNDARY DESIGN: VDD-K (K)**

Beginning at the corner of Barton-Whitney Road and Route 11/103 thence westerly along Route 11/103 500 feet. Thence northerly in a line perpendicular to Route 11/103 1,500 feet. Thence easterly in a line parallel to, and 1,500 feet North of Route 11/103 to a point 500 feet East of Endicott Road. Thence southerly in a line parallel to and 500 feet easterly of Endicott Road to Route 11/103, and in a continuation of said line 500 feet. Thence westerly in a line parallel to and 500 feet South of Route 11/103 to the Sugar River. Thence westerly along the Sugar River to the point where the continuation of Barton-Whitney Road intersects with the Sugar River. Thence northerly on a line representing the continuation of Barton-Whitney Road to the place of beginning.

### **SECTION 206B.1 PERMITTED USES**

Stables and Riding Academies

Plant Nurseries and Greenhouses

Home Offices

Accessory Uses and Buildings

Farming

Single-family dwellings, including manufactured homes with 600 sq. ft. or more of livable floor space on permanent foundations

Yard Sales - maximum 3 weekend duration with police permit

Forestry

Any use permitted in the R-2 Zone Section 208, subject to the area, yard and lot coverage requirements for dwelling as specified in Sections 208.3, 208.4, 208.5 and 208.6

Stores for the sale of goods at retail, sold first hand

Office

Service establishments, including appliance repairs, clothes cleaning agencies, restaurants, and the like

Banks

Self-service laundries

Theaters and other places of public assembly

Hotels and Motels

Manufacture of goods, sold at retail on the premises, such as bakeries, print shops, (including newspapers)

Mortuary or funeral parlors

Antique & second-hand shops

Flea Markets - providing that the grounds are kept orderly during and directly after market closes

**SECTION 206B.2 SPECIAL EXCEPTIONS**

Any use permitted in the Industrial Zone provided each lot shall have frontage of at least 300 feet and a land area of 5 acres

Automobile and truck service station sales & repairs

Front yard may be 25 feet in depth provided that the public right-of-way is at least 50 feet in width as demonstrated by survey. This Special Exception shall not apply to front yards on state highways

Recreational Facility

Membership Clubhouse

Planned Commercial Development (See Article V, Section 504.2A)

Family Daycare Homes

Family Group Daycare Homes

Accessory Dwelling Unit

**SECTION 206B.3 YARDS**

- A. Each lot shall have a front yard of not less than 50 feet as measured from the property line.
- B. Each lot shall have two side yards of at least 10 feet each.
- C. Each lot shall have a rear yard of at least 10 feet.

**SECTION 206B.4 - LOT COVERAGE**

All buildings including accessory buildings (not including external parking) shall not cover more than 30% of the area of the lot.

**SECTION 206B.5 - LOT SIZES AND FRONTAGE**

In areas serviced by both town water and sewer, the minimum lot size shall be 10,000 sq. ft. In areas serviced by either town water or sewer, the minimum lot size shall be 20,000 sq. ft. In areas serviced by neither town water nor sewer, the minimum lot size shall be 40,000 sq. ft. All lots shall have a minimum frontage of 100 feet.

**SECTION 207 – SINGLE-FAMILY RESIDENTIAL DISTRICT (ZONE R-1)**

The following regulations and the regulations and definitions contained in Articles III, IV, V, VI, VII and VIII shall apply in the Single-Family Residential District (Zone R-1).

**SECTION 207.1 - PERMITTED USES**

Churches

Philanthropic or Eleemosynary Institutions

Professional Offices in residences of the occupant, excluding medical facilities

Public or private, non-profit schools

Parks and Playgrounds

Home Offices

One family dwellings except those of the trailer or mobile home type

Truck farms and plant nurseries provided that storage of manure shall not be within 200 feet of any lot line

Yard sales - maximum 3 weekend duration with police permit

Accessory buildings and uses

**SECTION 207.2 - SPECIAL EXCEPTIONS**

Convalescent or rest homes, provided they are located on a lot with an additional land area of 2,000 sq. ft. for each patient bed

Saddle or pleasure horses and ponies

Medical facility

Accessory Dwelling Unit

**SECTION 207.3 - LOT SIZES AND AREAS**

Within areas served by town sewers and central water supply, as approved by the State Board of Health, each lot shall have a minimum frontage of 75 feet and an area of at least 10,000 sq. ft. Within areas served by either town sewers or central water supply, as approved by the State Board of Health, the minimum lot size shall be 20,000 sq. ft. with a minimum frontage of 100 ft. Lots shall be a minimum of 40,000 sq. ft. with a minimum 100 ft. frontage in areas neither served by town sewers nor a central water supply, as approved by the State Board of Health.

**SECTION 207.4 - LOT AND FLOOR AREAS PER DWELLING UNIT**

The minimum lot area per dwelling unit shall be in accordance with the lot area requirements stipulated in Section 207.3. No dwelling unit of any type shall have a year-round livable floor space of less than 600 sq. ft.

**SECTION 207.5 - YARDS**

A. Each lot shall have a front yard not less than 25 ft. in depth.



- B. Each lot shall have two side yards, each side yard having a width of no less than 10 feet (Amended 2007).
- C. Each lot shall have a rear yard not less than 25 ft. in depth.
- D. Each separate building having more than 20 sq. ft. of ground coverage on a lot shall be at least 10 ft. from any other separate building.

**SECTION 207.6 - LOT COVERAGE**

All buildings including accessory buildings shall cover not more than 30% of the area of the lot.

**SECTION 208 – GENERAL RESIDENTIAL (R-2) ZONING DISTRICT THE**

The following regulations and the regulations and definitions contained in Articles III, IV, V, VI, VII and VIII shall apply in the General Residential (R-2) Zoning District.

**SECTION 208.1 - PERMITTED USES**

Family Daycare Homes

Family Group Daycare Homes

Lodging or Rooming Houses

Any use permitted in the R-1 Zone (Section 207)

Dwellings constructed for the housing of two or more families except those of the trailer or mobile home type

Yard Sales - Maximum 3 weekend duration with police permit

**SECTION 208.2 - SPECIAL EXCEPTIONS**

Any special exception permitted in the R-1 Zone (Section 207)

Office buildings provided they are located on a lot of 10,000 sq. ft. in area, plus 2,000 sq. ft. of lot area for each 1,000 sq. ft. of floor area, provided required off-street parking shall be in the rear of the premises

Funeral homes provided they are located on a lot of 20,000 sq. ft. in area plus off-street parking area for 10 or more vehicles

Grocery or variety stores of not more than 1,000 sq. ft. in floor area, provided they are not located within 1,000 ft. in a direct line from any other grocery store or variety store and provided that the location is approved by 60% of the owners of the property within a 1,250 ft. radius of the numbered entrance of said store

For new construction of multi-family dwellings, more than one principal building may be permitted on a lot  
Accessory Dwelling Unit

**SECTION 208.3 - LOT SIZE AND AREA**

Lot sizes and area in the R-2 Zone shall be in accordance with the minimums stated under Section 207.3.

**SECTION 208.4 - LOT AND FLOOR AREA PER DWELLING UNIT**

- A. The minimum lot area per single-family dwelling and two-family dwelling shall be in accordance with the lot area stipulations in Section 208.3.
- B. The following standards shall apply to all multi-family dwellings:
  - 1) A multi-family dwelling is one that contains three or more dwelling units.
  - 2) The lot area requirements per multi-family dwelling shall be in accordance with the lot area stipulations in Section 208.3 provided that at least 4,000 sq. ft. lot area per dwelling unit shall be available for either new construction of multi-family dwellings or conversion of existing structures into multi-family dwellings.
  - 3) Each dwelling unit (d.u.) in either a newly constructed or converted multi-family dwelling shall have the following minimum year-round livable floor areas:

- a) Four or more rooms per d.u. - 600 sq. ft.
  - b) Three rooms per d.u. - 500 sq. ft.
  - c) Two rooms per d.u. - 400 sq. ft.
- C. Bathrooms are not considered rooms in terms of this provision, but the floor area they occupy shall be counted in the minimum square foot requirement.
- 1) Lodging houses, boarding houses, and rooming houses in which one-room units are available only for sleeping purposes shall provide at least 2,500 sq. ft. of lot area per one-room unit.
  - 2) Adequate space for parking shall be provided in accordance with Section 409.

#### **SECTION 208.5 - YARDS**

- A. Each lot shall have a front yard not less than 15 feet in depth.
- B. Each lot shall have 2 side yards, each of at least 8' in width.
- C. Each lot shall have a rear yard not less than 25 feet in depth.
- D. Each separate building on a lot shall be at least 10 feet from any other separate buildings.
- E. Courts. Each court shall have a width and depth, each not less than the average height of walls facing such court.

#### **SECTION 208.6 - LOT COVERAGE**

All buildings, including accessory buildings, shall cover not more than 30% of the area of the lot

**SECTION 209 - LIGHT COMMERCIAL DISTRICT (ZONE B-1)**

The following regulations and the regulations and definitions contained in Articles III, IV, V, VII, and VIII shall apply in the Light Commercial District (Zone B-1).

**SECTION 209.1 - PERMITTED USES**

Any permitted use listed in the R-1 District except construction of new structures for the purpose of one-family dwellings and dwellings constructed for the housing of two or more families.

Stores for the sale of goods at retail, sold first hand

Offices

Service establishments, including appliance repairs, clothes cleaning agencies, restaurants and the like

Banks

Self-Service Laundries

Theaters and other places of public assembly

Hotels and Motels

Manufacture of goods, sold at retail on the premises, such as bakeries, print shops, (including newspapers)

Medical Facility

Mortuary or funeral parlors

Flea Markets, provided that the grounds are kept orderly during and directly after market closes

Accessory buildings and uses

**SECTION 209.2 - SPECIAL EXCEPTIONS**

Construction of new structures for the purpose of one-family dwellings and dwellings constructed for the housing of two or more families.

Second- hand and antique shops, provided there is not outside display or storage of stock-in-trade

Feed and Grain Stores

Filling stations, automobile sales, and automobile repair shops

**SECTION 209.3 - YARDS**

A. Front Yard: 25 feet required except that in areas where 50% of block frontage has been developed, Section 404 shall apply and except that where the frontage on one side of a street between two intersecting streets is zoned partly as Residential and partly as B-1, the front yard depth in the B-1 Zone shall be equal to the required front yard depth of the Residential Zone for the frontage.

B. Side Yard: Where a lot in a B-1 Zone adjoins a side yard in a residence zone, such lot shall have an adjoining side yard equal to the side yard required for the adjoining lot in the residence zone, otherwise, no side yards shall be required except that if the wall of one building is not a party wall with another building on the same lot or an adjoining lot there shall be a side yard of at least six feet in width providing free access for fire- fighting purposes.

C. Rear Yards: Each lot shall have a rear yard not less than 25 feet in depth, to which there will be provided free access for fire- fighting equipment.

D. Each separate building on a lot shall be at least 6 feet from any other separate building.

**SECTION 209.4 - LOT COVERAGE: NO RESTRICTION****SECTION 210 - HEAVY COMMERCIAL (ZONE B-2) DISTRICT**

The following regulations and the regulations and definitions contained in Articles III, IV, V, VI, VII, and VIII shall apply in the Heavy Commercial District Zone (B-2).

**SECTION 210.1 - PERMITTED USES**

Small Machine Shops

Any permitted use listed in the B-1 District except the construction of new structures for the purpose of one-family dwellings and dwellings constructed for the housing of two or more families

Antique and Second Hand shops provided there is not outside storage and display of stock-in-trade

Carpenter, cabinet, upholstery, sheet metal, and sign painting shops

Drive-in business where people are served in cars

Plant Nurseries and Greenhouses

Truck terminals and bus garages

Wholesale or storage warehouses

Feed and Grain Stores

Automobile and truck service station, sales, repair, or storage

Farm equipment sales and storage

Fuel storage and sales, provided they are constructed in accord with town, state and federal laws, codes, and regulations

Contractor's storage yards

Mobile Homes Sales Lots

Flea Markets provided that the grounds are kept orderly during and directly after the market closes

**SECTION 210.2 - SPECIAL EXCEPTIONS**

Construction of new structures for the purpose of one-family dwellings and dwellings constructed for the housing of two or more families.

The following uses may be permitted by the Board of Adjustment provided that where such uses are within 50 feet of an abutting residential zone and wall facing such residential zone shall have no openings other than stationary window openings and emergency exits

Amusement enterprises such as bowling alleys and dance halls

Bottling works, including creameries

Ice cream manufacture

Laundries

Monument Sales

Group Preschool Center

**SECTION 210.3 - LOT SIZE AND AREA**



None required

#### **SECTION 210.4 - YARDS**

- A. Front Yard: 25 feet required, except that where the frontage on one side of a street between two intersecting streets is zoned partly as Residential and partly as Business 2, the front yard depth shall be equal to the required front yard depth of the Residential District for the frontage.
- B. Side Yards: Where a lot in a Business 2 Zone adjoins a yard in a Residence Zone, such lot shall have an adjoining side yard equal to the side yard required for the adjoining lot in a Residence Zone. Otherwise, no side yard shall be required, except that if the wall of one building is not a party wall with another building on the same lot or an adjoining lot there shall be a side yard of at least 6 feet in width providing free access for fire-fighting equipment.
- C. Rear Yards: Each lot shall have a rear yard not less than 25 feet in depth, to which will be provided free access for fire- fighting equipment.
- D. Each separate building on a lot shall be at least 6 feet from any other separate building.
- E. Courts: Each court shall have a width and depth not less than the average height of walls facing such court.

#### **SECTION 210.5 - LOT COVERAGE**

No restrictions.

(Sections 209 and 210 amended May 8, 2012)

## SECTION 211 – INDUSTRIAL ZONE

The Industrial District established by this ordinance is designed to improve employment opportunities and broaden the tax base as well as to promote the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare of the Town of Newport. It is intended that the separation of industrial uses from residential uses will promote a more desirable land use pattern, protect industry from the influences of other land uses, provide suitable space needs for industrial location and expansion, and promote stability of industrial and related development.

### SECTION 211.1 - DEFINITIONS

**Light Industry:** Limited to those industries that are involved in mechanical processing (those industries which size, sort, separate, or change in physical form or appearance of raw materials) and fabrication industries (those industries which use the output of processing plants to form or assemble finished products) and are limited to two stories in height, have a floor area ratio of not more than .5 and have limited if any open storage of raw materials.

**Warehouse:** A building used primarily for the storage of goods and materials.

**Trucking Terminal:** An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

**Outdoor Storage:** The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

**Research and Testing Laboratory:** An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

**Office:** A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

**Accessory Use:** A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

**Auto Service Station:** Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including gas and accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

**Removal of natural materials (excavation):** Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

**Green Space:** An area covered by living vegetation such as grass, bushes, trees, shrubs, flowers and the like.

**Heavy Industry:** Limited to those industries that are involved in extraction, chemical and heat processing, and fabrication plants that are typified by having storage yards with heavy lifting equipment and rail lines entering buildings. These industries usually have distinct structures and adjacent or attached to the plant, such as tanks, pipelines, outdoor processing equipment, large chimneys, or stacks, kilns, and outdoor storage.

## **SECTION 211.2 - INDUSTRIAL ZONE PERMITTED USES**

Light Industry

Warehouse

Lumber yards (storage and/or sales)

Research and testing laboratory

Airport

Public uses limited to office, public safety, service, recreation, and waste treatment

Utility

Planned Commercial Development (See Article V, Section 504.2A)

## **SECTION 211.3 - SPECIAL EXCEPTIONS**

Group preschool center

Churches

Daycare facility

Heavy industry

Trucking terminal

Building trade or repair shop

Vehicle sales and repair facility

Removal and processing of earth materials

Auto service station

Saw mill

Bank, including drive-in facilities

Restaurant

Recreational facility

Radio or TV tower

Permitted uses in the Rural Commercial (RC), Kelleyville (K), Light Commercial (B-1), and Heavy Commercial (B-2) Zoning Districts except the construction of new structures for the purpose of one-family dwellings and the dwellings constructed for the housing of two or more families.

(This section amended May 8, 2012)

## **SECTION 211.4 - BULK REQUIREMENTS**

Minimum lot size: 1 acre

Minimum frontage: 100 feet

Minimum side yard: 15 feet

Combined side yard: 40 feet

Minimum depth: 100 feet

Minimum rear yard: 50 feet

**Parking:** One space per employee at peak shift plus one space for every company vehicle. In NO case, shall parking be allowed in the front of the building.

Off-street Loading:

One berth per 600 - 24,999 sq. ft. of gross floor area

2 berths per 25,000 - 79,999 sq. ft. of gross floor area

3 berths per 80,000 - 127,999 sq. ft. of gross floor area

Height: 35 feet

Lot Coverage: 40%, excluding parking

Green space: 35%

Notwithstanding any of the above provisions in 211.4 Bulk Requirements, the Planning Board may allow a PID within the industrial zone. The purpose of these regulations is to allow the most efficient development of a parcel that is compatible with the terrain. In no case shall the density of the parcel exceed the density that would be permitted if the parcel were subdivided and met the bulk conditions of this ordinance.

Planned Commercial developments shall conform to the subdivision and site plan review regulations.

## SECTION 212 - FLOODPLAIN DEVELOPMENT ORDINANCE

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Newport Floodplain Development Ordinance. The regulations and maps in this ordinance shall overlay and supplement the regulations in the Town of Newport Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. Uses are allowed based on the underlying zoning district provided the development of those uses complies with the provisions of this floodplain development ordinance. If any provision of this ordinance differs or appears to conflict with any other provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as “Special Flood Hazard Areas” by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the Town of Newport, N. H.” together with the associated Flood Insurance Rate Maps, and Flood Boundary & Floodway Maps of the town dated May 23, 2006 which are declared to be a part of this ordinance and are hereby incorporated by reference.

### SECTION 212.1 DEFINITION OF TERMS:

The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Newport.

**“Area of Special Flood Hazard”** is the land in the floodplain within the Town of Newport subject to a 1% or greater possibility of flooding in any given year. The area is designated as Zone A and AE on the Flood Insurance Rate Map.

**“Base Flood”** means a flood having a 1% possibility of being equaled or exceeded in any given year. A base flood is also known as a 100-year flood.

**“Base Flood Elevation”** means the highest elevation that a base flood will reach as indicated on the FIRM. The base flood elevation is also known as the 100-year flood elevation.

**“Basement”** means any area of a building having its floor sub grade on all sides.

**“Building”** - see “structure”.

**“Breakaway wall”** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

**“Development”** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operation, or storage of equipment or materials.

**“FEMA”** means the Federal Emergency Management Agency.

**“Flood”** or **“Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. the overflow of inland waters.
- B. the unusual and rapid accumulation or runoff of surface waters from any source.



**“Flood Elevation Study”** means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

**“Flood Insurance Rate Map” (FIRM)** means an official map incorporated with this ordinance, on which FEMA has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the Town of Newport.

**“Flood Insurance Study”** - see “Flood Elevation Study”.

**“Floodplain” or “Flood-prone area”** means any land area susceptible to being inundated by water from any source (see definition of “Flood”).

**“Flood Proofing”** means any combination of structural and non-structural addition, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

**“Floodway”** - see “Regulatory Floodway”.

**“Functionally Dependent Use”** means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

**“Highest Adjacent Grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**“Historic Structure”** means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on National Register
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior,
  - or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

**“100-Year Flood”** - see “Base Flood.”

**“Lowest Floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**“Manufactured Home”** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” includes park

trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This includes manufactured homes located in a manufactured home park or subdivision.

**“Manufactured Home Park or Subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**“Mean Sea Level”** means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**“New Construction”** means, for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**“Recreational Vehicle”** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to self-propel or permanently towable by a motorized vehicle; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**“Regulatory Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. These areas are designated as floodways on the FIRM Map.

**“Special Flood Hazard Area”** - see “Area of Special Flood Hazard”.

**“Structure”** means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**“Start of Construction”** includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

**“Substantial Damage”** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**“Substantial Improvement”** means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures, which have

incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**“Violation”** means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**“Water Surface Elevation”** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains. (This section was amended May 9, 2006)

#### SECTION 212.2 - BUILDING PERMIT IN FP

All proposed development in any special flood hazard areas shall require a building permit. The Building Inspector shall specify the base flood elevation on every building permit issued pursuant to the FDO.

#### SECTION 212.3 - REVIEW OF APPLICATION

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a Special Flood Hazard Area, all new construction or substantial improvements shall:

- A. Be designed (or modified) and adequately anchored to prevent floatation, collapses, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Be constructed with material resistant to flood damage.
- C. Be constructed by methods and practices that minimize flood damages; and
- D. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### SECTION 212.4 - WATER & SEWER SYSTEMS

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

**SECTION 212.5 - ADDITIONAL INFORMATION**

For all new or substantially improved structures located in Zone AE, the applicant shall furnish the following information to the Building Inspector:

- A. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- B. If the structure has been flood-proofed, the as-built elevation (in relation to NGVD) to which the structure was flood-proofed and any certification of flood proofing.
- C. All as-built elevations shall be determined by a New Hampshire registered land surveyor or engineer.

The Building Inspector shall maintain all records for public inspection, and shall furnish such information upon request.

**SECTION 212.6 - OTHER APPLICABLE REGULATIONS**

- A. The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by local, federal, or state law, including Section 404 of the Federal Clean Water Act of 1972, 33 U.S.C 1334 as amended.
- B. The Building Inspector shall not issue a certificate of occupancy until the applicant demonstrates that the project complies with all applicable provisions of the FDO.

**SECTION 212.7 - MISCELLANEOUS**

- A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Department Environmental Services and submit copies of such notification to the Planning Director, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Planning Director, including notice of all scheduled hearings before the Wetlands Board.
- B. The applicant shall submit to the Planning Director, certification provided by a New Hampshire registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- C. Along watercourses with a designated Regulatory Floodway, no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
- D. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**SECTION 212.8 - SPECIAL FLOOD HAZARD AREA**

- A. In special flood hazard areas the Planning Director shall determine the 100-year flood elevation in the following order of precedence according to the data available:
1. In Zones AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
  2. In A Zones the Planning Director shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
- B. The Planning Director's 100-year flood elevation determination will be used as criteria for requiring in Zone AE that:
1. All new construction or substantial improvement of residential structures shall have the lowest floor (including basement) elevated to or above the 100-year flood elevation;
  2. That all new construction or substantial improvements of non-residential structures shall have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - a. Be flood-proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - c. Be certified by a New Hampshire registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards or practice for meeting the provisions of this section;
  3. All new residential structures or residential developments and all new non-residential structures and non-residential developments shall have all driveways and/or all road access or streets constructed with the driving surface at or above the base flood elevation in order to ensure safe ingress and egress during a 100-year flood.
  4. All new manufactured homes and replacement manufactured homes to be placed or substantially improved within Special Flood Hazard Areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet all of the following requirements: (1) the enclosed area is unfinished or flood resistant, useable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) the enclosed area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either



be certified by a New Hampshire registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one sq. in. for every sq. ft. of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

- C. Recreational vehicles placed on sites within Zone AE shall either (1) be on the site for fewer than 180 consecutive days; (2) be fully licensed and ready for highway use; or (3) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program (NFIP) Regulations and the elevation and anchoring requirements for manufactured homes in paragraph (c)(6) of Section 60.3 (NFIP).

#### **SECTION 212.9 - VARIANCES AND APPEALS (IN FP):**

- A. Any order, requirement, decision, or determination of the Building Inspector or Planning Director made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
1. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  2. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  3. that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. After submittal of the variance application, the Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- D. The community shall (i) maintain a record of all variance actions, including the justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

**SECTION 213 - PROFESSIONAL BUSINESS DISTRICT (PB)****SECTION 213.1 - AUTHORITY AND PURPOSE**

- A. Pursuant to the authority of RSA 674:16 - 17 and RSA 674:20 - 21 and in the interest of public health, safety, and general welfare and in the public's interest in the historic heritage of the Town of Newport, the Professional Business District is hereby established as a zoning district. The purpose of this district shall be to:
1. Safeguard, enhance, and perpetuate the architecturally historic structures within the district;
  2. Protect and enhance the visual attractiveness of the town to home buyers, business people, tourists, visitors and shoppers and thereby support and promote business, commerce, and industry and provide economic benefit to the town;
  3. Conserve and improve the value of property within the historic district;
  4. Foster and encourage the preservation, restoration, and rehabilitation of historic structures, areas, and neighborhoods thereby preventing future urban blight;
  5. Foster civic pride in the beautiful and noble architectural accomplishments of the past; and
  6. Promote the use of the historic district for the education, pleasure, and welfare of the town's people.

**SECTION 213.2 - DISTRICT BOUNDARIES**

- A. The Professional Business district shall be delineated by the following boundaries:
1. Proceeding from the southeasterly corner of property situated on Lot No. 1384, Tax Map 43 in a westerly direction for a distance of 200 feet along the northerly curb of Pearl Street; thence in a northerly direction along a line that is parallel to and setback 200 feet from the westerly curb of North Main Street to a point of intersection with the northerly curb of Belknap Avenue; thence in a westerly direction along the northerly curb of Belknap Avenue to the easterly side of the former C & C railroad right-of-way; thence 200 feet in a northerly direction along the easterly side of the right-of-way; thence in an easterly direction along a line that is parallel to and setback 200 feet from the northerly curb of Belknap Avenue to a point that is 200 feet from the westerly curb of North Main Street; thence in a northerly direction along a line that is parallel to and setback 200 feet from the westerly curb of North Main to a point of intersection with the southerly curb of Oak Street; thence in an easterly direction along the southerly curb of Oak Street across North Main Street to a point of intersection with the easterly curb of North Main Street; thence in a northerly direction along the easterly curb of North Main Street to the northwesterly corner of property situated on Lot No. 2123, Tax Map 43; thence in an easterly direction for a distance of 200 feet along the northerly boundary line of this property; thence in a southerly direction along a line that is parallel to and setback 200 feet from the easterly curb of North Main Street to a point of intersection with the southerly curb of Crescent Street; thence in an easterly direction along the

southerly curb of Crescent Street to the intersection with a line that is parallel to and setback 200 feet from the easterly curb of Park Street; thence in a southerly direction along the line that is parallel to and setback 200 feet from the easterly curb of Park Street to a point of intersection with the southerly boundary line of property situated on Lot No. 920, Tax Map 45; thence in a westerly direction along the southerly boundary line of this property to a point of intersection with the easterly curb of Park Street; thence in a northerly direction approximately 850 feet along the easterly curb of Park Street to the northerly curb of Park Street; thence in a westerly direction along the northerly curb of Park Street across North Main Street to the southeasterly corner of property situated on Lot No. 1541, Tax Map 43; thence in a southerly direction along the westerly curb of North Main Street to the point of beginning on the southeasterly corner of property situated on Lot No. 1384, Tax Map 43 at the intersection of North Main and Pearl Streets.

- B. To the extent that the Professional Business District, as herein established, overlays portions of the existing B- 1, R-1 and R-2 zoning districts, those portions of the B-1, R-1 and R-2 zoning districts are hereby abolished and replaced by the Professional Business District. The Professional Business District shall be scaled and illustrated on a new zoning map, which shall be titled "Zoning Map No. 4 of the Town of Newport, N.H., Professional Business District dated November 6, 1990" and placed on file in the Town Clerk's Office and the Town Office of Planning and Zoning.
- C. Where the boundary line of the Professional Business District divides a lot in single or joint ownership at the time of passage of the district, the regulations for the Professional Business District may be extended to the entire lot by a special exception at the option of the owner(s).

### **SECTION 213.3 – USES IN PB**

#### **Permitted Uses:**

One-family dwelling except trailer or mobile home type  
 Two-family dwelling except trailer or mobile home type  
 Professional offices, excluding medical facilities  
 Public or private, non-profit schools  
 Lodging house or bed & breakfast inn containing no more than 8 one-room units  
 Charitable institution  
 Church  
 Public use limited to educational and cultural purposes  
 Accessory buildings and uses  
 Library, public or private

#### **Uses Permitted by Special Exception:**

Family daycare home, family group daycare home, or group preschool center provided that the children are dropped off and picked up on site  
 Adult daycare facility up to and including 12 non-domiciled adults  
 Mixed uses - more than one of the permitted uses or special exceptions allowed under this section may be allowed on a single lot provided that adequate parking space is available

A reduction in the required number of parking spaces may be granted

Medical facility

Accessory Dwelling Unit

**SECTION 213.4 LOT AREA AND DIMENSIONS**

Minimum Lot Area - 10,000 sq. ft.

Minimum Frontage - 75 ft.

Minimum Front Yard Setback - 25 ft.

Minimum Side Yard Setback - 15 ft.

Minimum Rear Yard Setback - 25 ft.

Minimum Setback between Separate Buildings - 10 ft.

Maximum Lot Coverage - 30%

Maximum Structure Height - 35 ft.

## **SECTION 214 - OUTDOOR RECREATION (OR) ZONING DISTRICT**

### **SECTION 214.1 - PERMITTED USES**

Golf courses  
Athletic fields, parks, & playgrounds  
Tennis courts  
Swimming pools  
Hiking, biking & skiing trails  
Membership clubhouses  
Accessory uses and buildings

### **SECTION 214.2 – USES ALLOWED BY SPECIAL EXCEPTIONS**

The following uses are allowed by special exception:

Agricultural operations  
Sand and gravel excavations  
Kennels and stables  
Circuses, carnivals, and similar transient amusement  
Enterprises  
Public buildings  
Public facilities  
Accessory structures and uses

### **SECTION 214.3 - DIMENSIONAL REQUIREMENTS:**

Setbacks - Any building or structure shall be located at least 25 feet from any property line or street right-of-way line.  
Minimum lot size - 1 acre  
Lot coverage - 30%

### **SECTION 214.4 - SIGNS:**

Signs shall be permitted in accordance with the provisions of Section 412.7, C.

**SECTION 215 - CONSERVATION (CN) DISTRICT****SECTION 215.1 - PERMITTED USES**

Hunting, Fishing, Snowmobiling & Other Outdoor Activities as regulated by state law  
Tree & Shrub Nurseries  
Picnic Areas  
Natural Swimming Areas  
Hiking, Biking, and Cross Country Ski Trails  
Accessory Structures not exceeding 100 sq. ft. in floor area and 18 ft. in height.  
Accessory Uses

**SECTION 215.2 - SPECIAL EXCEPTIONS**

- A. Wooden Rain Shelter not exceeding 400 sq. ft. in floor area and 30 ft. in height
- B. Boat Launch Sites
- C. Gravel Parking Lots
- D. Accessory structures not exceeding 100 sq. ft. in floor area & 18 ft. in height
- E. Accessory Uses

**SECTION 215.3 - DISTRICT BOUNDARIES**

The property boundaries of the following individual lots shall define the areas within the Conservation (CN) District:

- |                           |                           |
|---------------------------|---------------------------|
| A. Tax Map 219 -- Lot 037 | F. Tax Map 114 -- Lot 139 |
| B. Tax Map 225 -- Lot 013 | G. Tax Map 234 -- Lot 018 |
| C. Tax Map 107 -- Lot 036 | H. Tax Map 234 -- Lot 021 |
| D. Tax Map 105 -- Lot 016 | I. Tax Map 234 -- Lot 019 |
| E. Tax Map 114 -- Lot 140 |                           |

**SECTION 215.4 - DIMENSIONAL REQUIREMENTS**

- A. Setbacks—Any building or structure shall be located at least 25 feet from any property line, street right-of-way line, and public or private easement. Bridges shall be exempt from all setback requirements.
- B. Minimum Lot Size: None
- C. Maximum Lot Coverage: 5%
- D. Maximum Height: 30 ft.

**SECTION 215.5 - SIGNS**

- A. One freestanding sign not exceeding 10 sq. ft. that illustrates the name of the conservation land shall be permitted.
- B. Smaller directional trail signs not exceeding one sq. ft. shall be permitted as needed.

## SECTION 216 - WASTE DISPOSAL ORDINANCE

### SECTION 216.1 - AUTHORITY:

Pursuant to the authority granted by RSA 674:16 and 674:21, I(j), the Waste Disposal Ordinance is hereby adopted by the Town of Newport, NH in order to protect the public health, safety, and general welfare.

### SECTION 216.2 - PURPOSE:

The proper disposal of municipal solid waste and ash is the paramount importance to the well-being of the town's residents and the general public from the detrimental impacts created by the disposal of solid waste and ash. This ordinance establishes standards to minimize the degradation of the natural environment from the disposal of solid waste and ash in landfills and to maximize the number of benefits resulting from the proper disposal of solid waste and ash. These benefits include:

- The maintenance of safe and healthy conditions on the landfill site and local environs;
- The creation of an available long-term solid waste and ash disposal site for the town;
- The reduction of solid waste and ash volumes through recycling
- The enhancement of the state solid waste regulations;
- The extended operation of the NH/VT Solid Waste Projects ash landfill;
- The prevention of air and noise pollution;
- The prevention of pollution in groundwater, surface water, aquifers, and wetlands;
- The control and proper treatment of leachate produced by the landfill operation;
- The prevention of soil erosion;
- The control of accelerated rainfall runoff from the landfill site;
- The protection of public and private water supplies;
- The retention of adequate woodland buffers to protect the scenic quality of the town;
- The prevention of soil disturbance in land areas with a seasonal high water table; and
- The protection of wetlands and their important natural functions.

### SECTION 216.3 - WASTE DISPOSAL (WD) DISTRICT BOUNDARIES

The Waste Disposal District boundaries shall coincide with those described in the deed for Lot 006 of Tax Map 236 and illustrated on Zoning Map 2 (this lot is the current site of the NH/VT Solid Waste Project's ash landfill) and any future properties acquired by any solid waste district or any municipal entity for waste disposal purposes provided, however, that if Lot 006 of Tax Map 236 ceases to be owned or operated by a municipal or other governmental entity, it shall become part of the RC (Rural Commercial) District, and if any property acquired by a solid waste district or municipal entity for waste disposal purposes ceases to be owned or operated by that entity, it shall once again be part of the zoning district in which it was located prior to such acquisition.

### SECTION 216.4 - DEFINITIONS

**Aquifer:** A geological formation, group of formations, or part of a formation, that is capable of yielding usable quantities of groundwater.

**Ash:** A waste by-product resulting from the burning of municipal solid waste at the Claremont, NH waste-to-energy incinerator.

**Biosolids Composting Facility:** An operation designed to collect and decompose organic materials for reuse as a natural fertilizer.

**Capping:** Placing the final cover over solid waste or ash at a landfill to minimize the amount of precipitation contacting the solid waste, to prevent contact with the solid waste or ash and to assist in the collection of landfill gas. Composted biosolids may be mixed in with the top layer of soil in the landfill cap to create a fertile growing environment.

**Construction and Demolition Facility:** A facility or area for processing debris from the construction or demolition of buildings or other structures.

**Footprint, Landfill:** For a permitted landfill or stockpile, the area in which solid waste actually exists or formerly existed, or is proposed to be placed, as authorized, in the permit, regardless of whether solid waste has actually been deposited. For a proposed landfill or stockpile, the area in which solid waste is to be placed as proposed in the permit application and for any other landfill or stockpile, the area in which solid waste actually exists.

**Impermeable Material:** A substance that does not permit the passage of a fluid through it. Examples of such materials include but are not limited to roof tops, concrete pavements, asphalt roads, and parking areas, PVC membranes, landfill liners, and pond liners.

**Landfill, Ash:** A facility designed for the collection and disposal of ash on land in cells without creating nuisances or hazards to public health or safety and in conformance with appropriate engineering principles and all applicable local, state, and federal regulations.

**Landfill, Solid Waste:** A facility designed for the collection and disposal of municipal solid waste on land in cells without creating nuisances or hazards to public health or safety and in conformance with appropriate engineering principles and all applicable local, state, and federal regulations.

**Leachate:** A liquid that has been in contact with or passed through solid waste or ash and includes any suspended components in the liquid.

**Medical Waste:** Any solid waste which is generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. The term does not include any hazardous waste identified or listed under 40 CFR Part 261 or any household waste defined in 40 CFR Part 261.4(b)(1).

**Municipal Solid Waste (MSW):** Solid waste generated at residences, commercial or industrial establishments, and institutions, but excluding construction and demolition debris, automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent medical and ash other than ash from household stoves.

**Piggybacking:** See Vertical Stacking.

**Recycling Facility:** A collection, storage, and transfer facility, which collects, stores and prepares recyclable materials for market and transfers processed recyclable materials to markets for recycling. The term includes a recycling center.

**Solid Waste:** Solid waste as defined by RSA 149-M:4, XXII, namely any matter consisting of putrescible material, refuse or residue from an air pollution control facility and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities.



For the purposes of this ordinance, it does not include hazardous wastes as defined in RSA 147-A:2, solid or dissolved materials in irrigation return flows cut or uprooted tree stumps buried on-site with local approval if required, provided that such burial locations are not located within 75 feet of any drinking water supply; municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended source, special nuclear or by-product materials as defined by the atomic Energy Act of 1954, as amended or septage or sludge as defined in RSA 485-A:2, IX-a and XI-a, not including septage and sludge when managed at a solid waste facility. The term also does not include yard waste, actively managed waste derived products, which are certified for distribution and use pursuant to Env-Wm 3200 and bodies of deceased persons.

**Solid Waste Rules:** Those rules found in Env-Wm 101 through Env-Wm 201 through Env-Wm 205, Env-Wm 301 through Env-Wm 316, Env-Wm 2100 through Env-Wm 3700.

**Special Waste:** Certain types of waste that require special handling and disposal such as asbestos, contaminated soils and media, and infectious waste.

**Stage:** Within a landfill, an area comprised of two or more cells and which is surrounded by berms that hydraulically separate the stage, when active, from other stages of the landfill when such other stages have not yet received waste or been constructed.

**Transfer Station:** A solid waste collection, storage, and transfer facility, which collects, stores and transfers solid waste, including non-recyclable waste.

**Vertical Stacking:** The procedure of landfilling different types of waste over one another for disposal (i.e. placing a municipal solid waste landfill over an ash landfill) or placing a new landfill over a closed landfill regardless of the types of waste.

## **SECTION 216.5 – PERMITTED USES**

The following uses are permitted in the WD (Waste Disposal) District if and only if owned and operated by a municipality, solid waste district, or other governmental unit:

Ash Landfill

Stump Dump

Accessory Buildings and Uses

(Amended May 11, 2004)

## **SECTION 216.6 – SPECIAL EXCEPTIONS**

The following uses are allowed by special exception in the WD (Waste Disposal) District if and only if owned and operated by a municipality, solid waste district, or other governmental unit:

Solid Waste Landfill

Construction and Demolition Facility

Recycling Facility

Transfer Station

Biosolids Composting Facility

Mixed Uses

Accessory Buildings and Uses

(Amended May 11, 2004)

**SECTION 216.7 - PROHIBITED USES AND SUBSTANCES**

A. The following uses and substances are expressly prohibited within the Waste Disposal (WD) District:

- Vertical stacking or piggybacking of landfill stages
- All types of nuclear or radioactive waste
- All types of medical waste
- All type of petrochemical waste products
- All types of hazardous waste as defined by the NHDES rules and EPA regulations
- All types of wet cell batteries

**SECTION 216.8 - DIMENSIONAL REQUIREMENTS**

- A. Setbacks: All buildings shall be setback a minimum of 300 feet from a public right-of-way and a minimum of 100 feet from a property line or utility easement line. The permitted landfill footprint shall be setback a minimum of 500 feet from a property line, utility line easement, or public right-of-way; the permitted landfill footprint shall be setback a minimum of 200 feet from a wetland boundary as delineated in accordance with state and federal wetland regulations. All setback areas shall consist of an existing forested area, except for 50 feet around accessory buildings, to screen the landfill area from public rights-of-way, parklands, and trails and from abutting private lots of record.
- B. Minimum lot size: 50 acres
- C. Minimum frontage: 300 feet
- D. Height Limitations
- E. Minimum building height: 35 ft.
- F. Maximum landfill footprint height: The maximum height of the landfill footprint shall not exceed 847 feet in elevation above mean sea level at the highest point at the time of capping closure.
- G. Lot Coverage: Lot Coverage by impermeable materials including subsurface impermeable landfill liners shall comply with the following maximum lot coverages within the WD District where:
1. the original slope of the land is 5:1 or less, the maximum allowable lot coverage by impermeable materials shall not exceed 30% of the land area;
  2. the original slope of the land is greater than 5:1 but less than 10:1, the maximum allowable lot coverage by impermeable materials shall not exceed 20% of the land area; and
  3. the original slope of the land is 10:1 or greater, the maximum allowable lot coverage by impermeable materials shall not exceed 5% of the land area.

**SECTION 216.9 - GEOLOGIC SITING LIMITATIONS**

The footprint of a new municipal solid waste or ash landfill and associated leachate storage facilities or a horizontal expansion of a solid waste or ash landfill not be placed closer than 200 feet from earthquake faults that have had displacement within the last 11,000 years.

**SECTION 216.10 - GROUNDWATER PROTECTION**

Any expansion of the existing landfill footprint shall require a hydro geological study to assess the effect of the existing area on the ground water, how the expansion may affect the groundwater and

recommendations for additional groundwater monitoring and additional design requirements to prevent a release.

#### **SECTION 216.11 - SURFACE WATER PROTECTION**

Rainfall runoff from the development or expansion or modification of the landfill site and from any impermeable materials on site shall be diverted to properly engineered detention ponds, which provide zero net runoff capability. Outflow from the detention ponds shall be diverted into adequately designed treatment swales.

#### **SECTION 216.12 - REVIEW STANDARDS FOR LANDFILL DEVELOPMENT**

The development of a solid waste or ash landfill within the Waste Disposal (WD) District shall be subject to the following review standards.

- A. Submission of a site plan for review by the planning board, which complies with the Site Plan Review Regulations and also includes location of parking, rest rooms, buildings, and related support facilities with assurances that these facilities are permanently available to the project.
- B. Submission of an environmental impact study in conjunction with the planning board's site plan review process which indicates mitigation measures to minimize potential negative impact from the landfill development including but not limited to:
  - 1. Measures to be taken to prevent leakage or spills of fuels, lubricants, waste products, leachate, or other potential pollutants into the surrounding watershed.
  - 2. Impacts on wetlands and related environmentally sensitive areas and habitats will be addressed appropriately by established professional standards.
  - 3. Impacts on groundwater resources including the seasonal high water table will be addressed appropriately by established professional standards.
  - 4. Development of a bird hazard study and plan to mitigate the potential threats to aircraft that seagulls traveling back and forth from nearby water courses and water bodies to the landfill site over the Newport and Claremont airports, respectively, pose to air traffic.
  - 5. Development of a traffic study and plan to assess and address the increase in truck traffic to and from the landfill site.
  - 6. Compliance with and receipt of all applicable local, state, and federal regulations and permits.

All expenses related to the plans and studies required by the planning board in their review of the landfill development and any other agency review shall be borne by the applicant.

#### **SECTION 216.13 - NONCONFORMING USES**

Existing uses, which are nonconforming under this ordinance, may continue until the use ceases to be active or is discontinued for a period of one year. An existing nonconforming use may not be changed to another nonconforming use.

#### **SECTION 216.14 - ENFORCEMENT PROCEDURE & PENALTY**

This ordinance shall be enforced pursuant to Sections 303 and 304 of the Newport Zoning Ordinance.

**SECTION 216.15 - SEVERABILITY**

The invalidity of any section or provision of this ordinance shall not invalidate the remainder of the ordinance.

**SECTION 216.16 - EFFECTIVE DATE: ADOPTED AT TOWN MEETING MAY 11, 2004**

## SECTION 217 - SOURCE WATER PROTECTION ORDINANCE

### SECTION 217.1 - AUTHORITY

The Town of Newport hereby adopts this ordinance pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, II, and 674:21, relative to innovative land use controls. This ordinance is also adopted in accord with the legislative encouragement for local groundwater protection programs as contained in RSA 485-C:1 and 485-C:30.

### SECTION 217.2 - PURPOSE

The purpose of this ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater. The purpose is to be accomplished by regulating land uses, which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public works supply.

### SECTION 217.3 - DEFINITIONS

For purposes of this Source Water Protection Ordinance, the following definitions shall apply:

**Aquifer:** A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

**Groundwater:** Subsurface water that occurs beneath the water table in soils and geologic formations.

**Impervious:** Not readily permitting the infiltration of water.

**Impervious Surface:** A surface though which regulated substances cannot pass when spilled. Imperious surfaces include concrete unless unsealed cracks or holes are present. Asphalt earthen, wooden or gravel surfaces or other surfaces, which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

**Junkyard:** A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material, including but not limited to all junkyards as defined by RSA 236:91 and 236:112.

**Outdoor Storage:** Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

**Public Water System:** A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

**Regulated Substance:** Petroleum, petroleum products and substances listed under 40 CFR 302, 7-1-90 edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

**Sanitary Protective Radius:** The area around a well, which must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems) and Env-Ws 372.13 (for other public water systems).

**Secondary Containment:** A structure such as a berm or dike with an impervious surface, which is adequate to hold at least 110% of the volume of the largest regulated-substances container that, will be stored there.

**Snow Dump:** For the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

**Stratified-drift Aquifer:** A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial melt water, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

**Surface Water:** Streams, lakes, ponds and tidal waters, including marshes, watercourses and other bodies of water, natural or artificial.

**Wellhead Protection Area:** The surface and subsurface area surrounding a water well or well field supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

#### **SECTION 217.4 - GROUNDWATER PROTECTION DISTRICT**

The Groundwater Protection District is an overlay district, which is superimposed over the existing underlying zoning and includes within its boundaries the Wellhead Protection Areas shown on the maps entitled, "Maps No. 5 and 6, Town of Newport Groundwater Protection Districts, dated March 12, 2004".

#### **SECTION 217.5 - APPLICABILITY**

This Ordinance applies to all uses in the Groundwater Protection District, except for those uses exempt under Section 217.11 of this Ordinance.

#### **SECTION 217.6 - PERFORMANCE STANDARDS**

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under Section 217.11:

- A. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a Stormwater Management Plan shall be prepared which the Planning Board, acting under its conditional use permit authority under Section 217.9(B) of this Ordinance, determines is consistent with Stormwater Management and Erosion and Sediment Control Handbook for Urban and Development Areas in New Hampshire, Rockingham County Conservation District, August 1992 and as it may be revised and Best Management Practices for Urban Stormwater Runoff, NH Department of Environmental Services, January 1996, and as it may be revised.
- B. Stormwater Management Plans prepared pursuant to paragraph A shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;
- C. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 1998, and as it may be revised.
- D. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains and outside drains.

- E. Facilities where regulated substances are stored must be secured against unauthorized entry by means (a) of door(s) and/or gate(s), which is (are) locked when authorized personnel are not present and must be inspected weekly by the facility owner;
- F. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells and outside the sanitary protective radius of wells used by public water systems.
- G. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property.
- H. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
- I. The waste entering on-site septic systems must be equivalent in quality of typical residential waste.

#### **SECTION 217.7- PERMITTED USES**

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are Prohibited Uses or Conditional Uses as set forth in Sections 217.8 and 217.9 below. All uses must comply with the Performance Standards unless specifically exempt under Section 217.11 below.

#### **SECTION 217.8- PROHIBITED USES**

The following uses are prohibited in the Groundwater Protection District:

- A. The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.
- B. The siting or operation of a solid waste landfill.
- C. The outdoor storage of road salt or other deicing chemicals in bulk.
- D. The siting or operation of a junkyard.
- E. The siting or operation of a snow dump.
- F. The siting or operation of a wastewater or septage lagoon.

#### **SECTION 217.9- CONDITIONAL USES**

The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted within the underlying district, if the permitted use is, or is involved in, one or more of the following:

- A. Storage, handling and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate plan is in place to prevent, contain and minimize releases from catastrophic events such as spills or fires which may cause large releases of regulated substances;
- B. Any use that will render impervious more than 15% or 2,500 sq. ft. of any lot, whichever is greater. In granting such approval, the Planning Board must first determine that the proposed use is not a prohibited use and will be in compliance with the Performance Standards as well as all applicable local, state, and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance

Standards. If the Planning Board requires any investigative studies or incurs other costs, which it considers necessary to evaluate a proposed use under the standards of this ordinance, it may require those costs to be borne by the applicant.

#### **SECTION 217.10- EXISTING NONCONFORMING USES**

Existing nonconforming uses may continue without complying with the terms of this Source Water Protection Ordinance, unless they are expanded or changed to another nonconforming use, however all nonconforming uses must be in compliance with all applicable state and federal requirements, including Env-Ws 421, Best Management Practices Rules.

#### **SECTION 217.11- EXEMPTIONS**

The following uses are exempt from the specified provisions of this Source Water Protection Ordinance as long as they are in compliance with all other applicable local, state, and federal requirements:

- A. Any private residence is exempt from all Performance Standards.
- B. Any business or facility where regulated substances are not stored in containers with a capacity of 5 gallons or more is exempt from Performance Standards E through H.
- C. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection and secondary containment in place, is exempt from Performance Standard E.
- D. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards E through H.
- E. Storage and use of office supplies is exempt from Performance Standards E through H;
- F. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards E through H.
- G. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance.
- H. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b) are exempt from Performance Standards E through H.
- I. Underground storage tank systems and above-ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article XIII of this ordinance.

#### **SECTION 217.12- RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS**

Where both the State and the municipality have existing requirements, the more stringent shall govern.

#### **SECTION 217.13- MAINTENANCE AND INSPECTION**

- A. For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards, shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Sullivan County. The description so prepared shall comply with the requirements of RSA 478:4-a.



B. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Water & Sewer Superintendent, or his designee, at reasonable times with prior notice to the landowner.

C. All properties within the Groundwater Protection District known to the Water & Sewer Superintendent as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities where all regulated substance storage is exempt from this Ordinance under Section 217.11, shall be subject to inspections under this Article.

#### **SECTION 217.14- ENFORCEMENT PROCEDURES AND PENALTIES**

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676.

#### **SECTION 217.15- SAVING CLAUSE**

If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the ordinance.

#### **SECTION 217.16- EFFECTIVE DATE: ADOPTED AT THE NEWPORT TOWN MEETING, MAY 11, 2004.**

**SECTION 218 - SHORELAND PROTECTION ORDINANCE****SECTION 218 -AUTHORITY:**

Pursuant to the authority granted by RSA 674:16, 674:21,19j) and 483-B:8,I, the Shoreland Protection Ordinance is hereby adopted by the Town of Newport, NH in order to protect the public health, safety, and general welfare.

**SECTION 218.1 - PURPOSE:**

The shorelands of the state are among its most valuable and fragile natural resources and their protection is essential to maintain the integrity of public waters.

This ordinance establishes boundaries and standards for the use and development of shorelands adjacent to the main branch of the Sugar River for the purpose of minimizing degradation of shore lands and assuring retention of the benefits provided by such shore lands. These benefits include:

- A. Maintenance of safe and healthy conditions.
- B. Prevention and/or control of water pollution.
- C. Protection of public and private water supplies.
- D. Protection of important fish, bird, and wildlife habitat.
- E. Reduction or elimination of flooding and accelerated erosion.
- F. Protection of groundwater including land areas with a seasonal high water table.
- G. Protection of wetlands and their important natural functions.
- H. Maintenance of water quantity and related stream flows during low flow periods.
- I. Protection of shore land cover as a means of maintaining water quality.
- J. The conservation and protection of natural beauty and the scenic qualities, which are critical, attributes of the state.

**SECTION 218.2 - DEFINITIONS:**

**Commissioner** means the commissioner of the Department of Environmental Services or designee.

**D.E.S.** means the Department of Environmental Services.

**Hazardous waste facility** means a facility designed for the collection and disposal of hazardous waste as defined in RSA 147-A:2.

**Lot of record** means a parcel, plat or description of which has been recorded at the registry of deeds for the county in which it is located.

**Ordinary high water mark** means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary height watermarks are not easily discernible, the ordinary height watermark may be determined by D.E.S.

**Shoreline** means the river's edge as defined by the ordinary high water mark.

**Solid Waste** means solid waste as defined by RSA 149-M:4, XXII, namely any matter consisting of putrescible material, refuse or residue from an air pollution control facility and other discarded or

abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities.

For the purposes of this ordinance, it does not include hazardous wastes as defined in RSA 147-A:2, solid or dissolved materials in irrigation return flows, cut or uprooted tree stumps, buried on-site with local approval if required, provided that such burial locations are not located within 75 feet of any drinking water supply, municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended source special nuclear or by-product materials as defined by the atomic Energy Act of 1954, as amended or septage or sludge as defined in RSA 485-A:2, IX-a and XI-a, not including septage and sludge when managed at a solid waste facility. The term also does not include yard waste, actively managed waste derived products, which are certified for distribution and use pursuant to Env-Wm 3200 and bodies of deceased persons.

**Solid Waste Facility** means a facility designed for the collection and disposal of municipal solid waste on land in cells without creating nuisances or hazards to public health or safety and in conformance with appropriate engineering principles and all applicable local, state, and federal regulations.

#### **SECTION 219 - SHORELAND PROTECTION DISTRICT:**

Boundaries:

The Shoreland Protection (SP) District is an overlay district, which is superimposed over the conventional existing zoning districts. The boundary lines parallel the main branch of the Sugar River at a distance of 250 feet from each shoreline with the following exception:

A. Where a lot of record containing an existing solid waste facility lies within 2,500 feet of the shoreline of the main branch of the Sugar River, the boundary line of the SP District shall parallel the shoreline at a distance of 1,000 feet.

Administration:

The Shore land Protection Ordinance shall be made part of the Newport Zoning Ordinance and the regulations and maps of the Shoreland Protection District shall overlay and supplement the regulations and maps of the Zoning Ordinance for purposes of administration, enforcement, and appeals.

#### **SECTION 219.1 - PERMITTED USES:**

The permitted uses, which are listed in each respective zoning, district underlying the Shoreland Protection District.

#### **SECTION 219.2 - SPECIAL EXCEPTIONS:**

The special exception uses which are listed in each respective zoning district underlying the Shore- land Protection District.

#### **SECTION 219.3 - PROHIBITED USES:**

Establishment or expansion of:

- A. hazardous waste facilities
- B. solid waste facilities

- C. commercial junkyards
- D. salt storage yards

#### **SECTION 219.4 - RESTRICTED USES:**

An existing solid waste facility, which is located within 1,000 feet of the shoreline of the main branch of the Sugar River under this ordinance, may continue to operate under an existing D.E.S. permit, provided it does not cause degradation to an area in excess of that area under the D.E.S. permit. No existing solid waste facility shall place solid waste within 1,000 feet of the shoreline of the main branch of the Sugar River under this ordinance except as expressly permitted under an existing D.E.S. permit. However, subject to permitting conditions under RSA 149-M:10, any solid waste facility may be allowed to erect accessory structures and conduct other activities consistent with the operation of the facility within 1,000 feet of the shoreline of the main branch of the Sugar River under this ordinance. These activities include filling, grading, and installing monitoring wells and other drainage structures as is consistent with the solid waste permit issued by the D.E.S. Under no circumstances shall the toe of any slope encroach within 1,000 feet of the shoreline of the main branch of the Sugar River.

#### **SECTION 219.5 - REVIEW STANDARDS FOR RESTRICTED USES:**

The Planning Board may require the submission of a site plan for its review, which complies with the Site Plan Review Regulations and also includes the location of parking, restrooms, buildings, and related support facilities with assurances that these facilities are permanently available to the project. The planning board may also require the submission of an environmental impact study in conjunction with the site plan review process, which indicates mitigation measures to minimize potential negative impact on the main branch of the Sugar River including but not limited to:

- A. Measures to be taken to prevent leakage or spills of fuels, lubricants, waste products, leachate, or other potential pollutants into the main branch of the Sugar River. Assurances that adverse impacts on wetlands and related environmentally sensitive areas and habitats will be avoided.
- B. Assurances that adverse impacts on groundwater resources including the seasonal high water table will be avoided.
- C. Compliance with and receipt of all applicable local, state, and federal regulations and permits.

#### **SECTION 219.6 - RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS:**

Pursuant to RSA 483-B:3, all state agencies shall perform their responsibilities in a manner consistent with the intent of the Shoreland Protection Ordinance.

Pursuant to RSA 674:54, all municipal bodies and the school district shall comply with the intent of the Shoreland Protection Ordinance.

Local permits for work within the Shoreland Protection District shall be issued only when consistent with the policies of the Shore land Protection Ordinance.

When the standards and practices established in the Shoreland Protection Ordinance conflict with other local, state, or federal laws and rules, the more stringent standard shall control.

**SECTION 219.7 - ENFORCEMENT PROCEDURES AND PENALTY:**

This ordinance shall be enforced pursuant to Sections 303 and 304 of the Newport Zoning Ordinance.

**SECTION 219.8 - SEVERABILITY:**

The invalidity of any section or provision of this ordinance shall not invalidate the remainder of the ordinance.

**SECTION 219.9 - EFFECTIVE DATE: ADOPTED AT THE NEWPORT TOWN MEETING, MAY 11, 2004.**

## ARTICLE III - ADMINISTRATION AND ENFORCEMENT

### SECTION 300 - LOCAL BOARDS

#### Section 300.1

The Planning Board shall consist of seven (7) regular members and up to five (5) alternate members.

#### Section 300.2

The Zoning Board of Adjustment shall consist of five (5) regular members and up to five (5) alternate members.

#### Section 300.3

The Board of Selectmen shall appoint all regular members and alternate members of the Planning Board and Zoning Board of Adjustment in accordance with state law. All regular and alternate members of both boards shall be residents of Newport.

### SECTION 301 - ZONING AND BUILDING PERMITS

#### Section 301.1

Written application for a zoning or building permit must be filed by the owner, his agent, or lessee with the Town of Newport for any of the following, and except as provided for emergencies under RSA 31:70, until a zoning or building permit has been obtained from the Building Inspector (or, if the permit is denied, until the Board of Adjustment has directed that a permit be issued), none of the following shall be commenced:

- A. The erection or use of any new building, exterior sign, or other structure.
- B. The alteration, restoration, moving or demolition of any building, structure, exterior sign, or part thereof.
- C. Any use of premises which is not provided for in this ordinance, including but not limited to a change in the nature of the use of any building or premises to a non-conforming use from any lawful prior use, the expansion of any existing lawful non-conforming use, or any change in lot size or shape which would result in a violation of area or dimensional regulations.

#### Section 301.2

Application for a zoning or building permit shall be upon an appropriate form to be prescribed by the Town and shall be accompanied by:

- A. Plans, drawn to scale, showing the actual shape, dimensions, and location of the lot to be used, of existing building upon it, of alterations proposed for existing buildings and of proposed new buildings.
- B. Information as to the existing and intended use of each building, lot, or part thereof, and as to the number of families, lodgers, or other occupants any building upon the premises is designed to accommodate.

### Section 301.3

The Building Inspector shall determine whether an application for a permit is in compliance with a permitted use as defined in this ordinance. If the Building Inspector determines that it is, the application for permit shall be approved and a zoning or building permit issued. If the Building Inspector determines that it is not, the application shall be denied. The Building Inspector shall act upon any application within 30 days after it has been filed.

### Section 301.4

Issuance of a zoning or building permit pursuant to this ordinance constitutes approval by the Town of the proposed use only under the requirements of this zoning ordinance.

### Section 301.5

The issuance of a zoning permit shall precede or be in conjunction with the issuance of a building permit.

### Section 301.6

A zoning or building permit shall become void if construction is not begun thereunder within 12 months from the date of issuance of the permit. Permits may be extended once for no more than an additional 12 months by the Building Inspector on receipt of a written request for extension at least 14 days prior to the expiration of the original permit.

### Section 301.7

No permit issued hereunder shall be transferable to a subsequent owner.

### Section 301.8

On approval by the Board of Adjustment of a variance or special exception, the Building Inspector shall issue a zoning or building permit as of the date of approval of the Board of Adjustment.

## SECTION 302 - CERTIFICATES OF OCCUPANCY

### Section 302.1

It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of this regulation, until a certificate of occupancy is issued therefore by the Building Inspector stating that the proposed use of the structure or land conforms to the requirements of these regulations. A certificate of occupancy shall not be needed for the normal repair or redecorating of structures. The Building Inspector may issue a temporary certificate of occupancy not to exceed 30 days, which may be extended at the discretion of the Building Inspector for one (1) additional 30-day period. The temporary certificate of occupancy shall comply with the other provisions of Section 302.

### Section 302.2

Application for a certificate of occupancy shall be made to the Building Inspector on forms provided by him for that purpose, by the owner, his agent, or lessee.

### Section 302.3

Prior to the issuance of any certificate of occupancy, the Building Inspector shall first satisfy himself that the proposed use of the structure or land conforms to the requirements of this ordinance including zoning or building permits.

### Section 302.4

The fee for a certificate of occupancy shall be established by the Selectmen. Said fee shall accompany each application for a certificate of occupancy.

## SECTION 303 - ZONING ADMINISTRATOR

The administrative and enforcement officer for this ordinance shall be known as the Zoning Administrator who shall be appointed by the Board of Selectmen. The Zoning Administrator shall administer the Zoning Ordinance literally and shall not have the power to permit any use of land or buildings, which are not in conformance with this ordinance. Until a Zoning Administrator is appointed or if a vacancy exists in the office of Zoning Administrator, the Board of Selectmen shall perform these duties.

## SECTION 304 - ENFORCEMENT AND PENALTY

This ordinance shall be enforced by the Zoning Administrator if any building or use of land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this ordinance. The Zoning Administrator shall institute, in the name of the Town, any appropriate action, injunction or other proceeding to prevent, restrain, correct, or abate such construction or use or to prevent in or about the premises any act, conduct, business, or use constituting a violation. The Historic District Ordinance shall be enforced by the Zoning Administrator in accordance with RSA 674:49.

### Section 304.2

Any person who violates this ordinance shall be fined not more than One Hundred Dollars (\$100.00) for each offense. No action may be brought under this provision unless the alleged offender has had at least 7 days' notice by certified mail, return receipt required, and that a violation exists. Each day that a violation is continued shall constitute a separate offense.

## SECTION 305 - BOARD OF ADJUSTMENT

There shall be a Board of Adjustment, as provided by the statutes (RSA 31:65) of the State of New Hampshire, whose members and alternates shall be appointed by the Board of Selectmen.

### Section 305.1 - Powers of the Board

The Board of Adjustment shall have the following powers, as well as any other power conferred upon such Boards by the statutes of the State of New Hampshire:



- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of the ordinance.
- B. To hear and decide special exceptions to the terms of this ordinance upon which the Board of Adjustment is required to as provided herein.
- C. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done. In so doing, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community.
- D. In exercising the above-mentioned powers, the Board of Adjustment may, in conformity with the powers granted to it under RSA Chapter 674:33, reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and to that end shall have all the powers of the Building Inspector from whom the appeal is taken.
- E. The concurring vote of three (3) members of the Board shall be necessary to reverse any action of the Building Inspector or to decide in favor of the applicant on any matter upon which the Board is required to pass under this ordinance.

#### Section 305.2

- A. All appeals and applications to the Board of Adjustment shall be in writing, on forms prescribed by that Board by the 4th Thursday of the month. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall set forth the interpretation, the special exception, or the variance for which application is made. The cost of advertising and mailing shall be payable by the appellant prior to the required public hearing.
- B. Whenever a notice of appeal is filed for a variance or an application is made for a special exception, the Board of Adjustment shall hold a public hearing, and notice shall be given as follows:

The appellant and all the abutters shall be notified of the hearing by certified mail, return receipt requested, stating the time and place of the hearing, and such notice shall be given not less than five (5) days before the date fixed for the hearing of the appeal. The public hearing shall be held within thirty (30) days of the receipt of the notice of appeal. Any person may appear in person or by agent or attorney at the hearing of an appeal. In addition to the notices sent as described above, the Board shall also send such a notice to the Planning Board and the Board of Selectmen, and either Board shall be a proper party to appear and to be heard upon any such appeal or application. Upon the entry of any decision, report, or order in such a proceeding, the Board of Adjustment shall cause a copy to be sent to the Planning Board. In those proceedings before the Board of Adjustment at which the Planning Board submits its recommendations, such recommendations shall be in the same format as that required of the Board of Adjustment in reporting its decision within 30 days of the hearing. The Board of Adjustment shall state in writing in sufficient detail its reason as to the granting or denial of a special exception or variance with particular reference to the standards or conditions applicable thereto.

- C. The Board of Adjustment shall adopt rules in accordance with the provisions of this ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings

showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record.

## SECTION 306 - SPECIAL EXCEPTIONS

### Section 306.1

The special exceptions for which conformance to additional standards is required as set forth in the several zoning district regulations shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this ordinance. All such uses are hereby declared to possess such special characteristics that each shall be considered as individual cases.

Each type of use of land, structure, or building that is listed as a special exception in a particular zoning district shall be allowed as a special exception only after application to and a public hearing by the Zoning Board of Adjustment and provided that the Zoning Board of Adjustment finds that each of the following standards shall be met:

- A. The proposed use will not be detrimental to the overall character of the neighborhood by reason of undue variation from the nature of other uses in the vicinity including design, scale, noise, and odor;
- B. The proposed use will not be injurious, noxious or offensive or in any way detrimental to the neighborhood; and
- C. The proposed use will not be contrary to the public health, safety, and general welfare by reason of undue traffic congestion or hazards that pose a risk to life and property or be unsanitary or create unhealthful waste disposal or unhealthful conditions.

### Section 306.2

The Zoning Board of Adjustment may require that a plan of development for a proposed special exception be submitted showing the location of all buildings, parking areas, traffic access, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special exception is in harmony with the intent of this ordinance.

### Section 306.3

The following uses may be permitted by the Board of Adjustment in any zone where such uses are deemed essential to the public convenience and welfare:

Airports, or aircraft landing fields, including helicopter landing fields

Public Utility lines, stations, and buildings

Radio or television stations or transmitters

City, County, State, and Federal Buildings

Cemeteries

Non-profit Fraternal Clubs and Lodges

**SECTION 307 - VARIANCE****Section 307.1**

- I. The Zoning Board of adjustment shall have the power to:
- (a) Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and
  - (b) Authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:
    - (1) The variance will not be contrary to the public interest;
    - (2) The spirit of the ordinance is observed;
    - (3) Substantial justice is done;
    - (4) The values of surrounding properties are not diminished; and
    - (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
      - (A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area;
        - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
        - (ii) The proposed use is a reasonable one.
      - (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

(This section amended May 8, 2012)

**Section 307.2**

In authorizing a variance, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community, including but not limited to a time limit when the variance will expire if not utilized.

**SECTION 308 – FEE**

The fee for any permit issued under this ordinance shall be established by the Board of Selectmen. Such fee shall accompany each application for a permit.

## ARTICLE IV – GENERAL PROVISIONS

The following provisions shall apply to all districts except where listed:

### SECTION 401 - PRINCIPAL BUILDINGS INCLUDING DWELLINGS ON LOTS

There shall be only one (1) principal building on a lot, except where provided by special exception.

### SECTION 402 – MIXED USES SPECIAL EXCEPTION

More than one principal use or principal building on any single lot may be allowed, by special exception, if the additional use or additional building will have a use that is either permitted or allowed by special exception in that same district, provided that all of the following criteria are also met:

- That the selected site is an appropriate location for the proposed use;
- That adequate and safe highway access is provided to the proposed site and that there is adequate off-street parking provided for the proposed use;
- That adequate method of sewage disposal is available at the proposed site
- That the proposal will not be detrimental, hazardous, or injurious to the neighborhood; and
- That the proposed use is consistent with the spirit of the Ordinance and the intent of the Master Plan.

(This section amended on May 8, 2012)

### SECTION 403 - REQUIRED AREA OR YARDS

The reduction of lot size and area or the creation of Back Lots shall be permitted in all districts upon approval of a Special Exception by the ZBA as provided for in Article III, Section 306 of the Zoning Ordinance. Specifically, in the establishment of and/or construction or building on so-called back lots, such lots must be not less than fifty (50) feet in width, have frontage on a public road or private road or right-of-way consistent with RSA 674:41 and, further, any private rights-of-way cannot reduce the road frontage or area requirement of an already existing lot below the minimum required size and road frontage for that existing lot. Back lots so established must contain a minimum of 87,120 square feet and meet the setback requirements of the district that parcel is located in. The ZBA may attach such conditions and safeguards as it deems necessary to comply with RSA 674:41, to protect the neighborhood and community and to determine that the proposal is consistent with the spirit of the Ordinance and the intent of the Master Plan.

(This section amended on May 8, 2012)

#### SECTION 404 - YARDS ON CORNER LOTS

The side yard on the street side of a corner lot shall be not less than 12 feet. No building in the rear yard of a corner lot shall be located within 8 feet of the side yard of an adjoining lot or within 12 feet of any street line.

#### SECTION 405 - PROJECTION IN YARDS

Every part of a required yard shall be open from finished ground level to the sky, unobstructed, except for the ordinary projections of sills, cornices, pilasters, chimneys and eaves, provided that no such projections may extend more than 2' into any required yard.

#### SECTION 406 - DRIVEWAY EXITS

No driveway shall exit directly across the street from another driveway. There shall be a minimum of 5' between the opposite side alignment of each driveway.

#### SECTION 407 - OPEN EXCAVATION

Within six (6) months after work on an excavation for a building has begun, the excavation thus remaining shall be covered with building construction or filled to normal grade by owner.

#### SECTION 408 - OBSTRUCTION OF VISION

On a corner lot regardless of the district, within the triangular area formed by the intersection of two street property lines and a third line joining them at points 25' away from their intersection, there shall be no obstruction to vision between the heights of 3' and 10' above the surface of each street. The Board of Adjustment may waive, as a special exception, this requirement in the commercial and industrial district.

#### SECTION 409 - OFF-STREET PARKING

**Section 409:** Off-Street Parking: Amend to read as follows: The following off-street parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building used for any of the following purposes, except as provided in Sections 409.18 and 409.20.

##### **Section 409.1**

Automotive Sales and Service - Three (3) spaces for each service bay or unit in addition to those spaces used for the storage of unregistered vehicles offered for sale.

##### **Section 409.2**

Manufacturing Plants - Shall provide one (1) square foot of parking space for each two (2) square feet of floor area other than that used for storage. However, the requirement may be reduced where the applicant can demonstrate that the floor area per employee is less than 1,200 square feet, but in no event

shall off-street parking be reduced to less than (1) space per one and one-half (1.5) employees on maximum shift.

**Section 409.3**

Restaurants - Shall provide (1) space per 150 square feet of gross floor area and within 500 feet of the place of business.

**Section 409.4**

Personal Service Establishments - Shall provide one (1) space per 300 square feet of gross floor area.

**Section 409.5**

Offices - Shall provide one (1) space per 300 square feet of gross floor area and within 500 feet of the place of business.

**Section 409.6**

Retail Businesses - Shall provide one (1) space per 250 square feet of gross first floor area and one (1) space per 300 square feet of gross second and third floor area.

**Section 409.7**

Resident parking on same lot as residence shall provide:

- A. Two (2) spaces per apartment dwelling unit.
- B. Two (2) spaces per accessory dwelling unit.
- C. Two (2) spaces per single-family residence.
- D. Four (4) spaces per duplex residence.
- E. Two (2) spaces per condominium unit.
- F. Two (2) spaces per townhouse unit.
- G. Two (2) spaces per cooperative unit.

**Section 409.8**

Funeral Homes - Ten (10) spaces on the same lot as the main building.

**Section 409.9**

Hotels - One (1) space per two sleeping rooms and within 500 feet of the main building.

**Section 409.10**

Motels and Tourist Homes - One (1) space per sleeping unit on the same lot as the unit.

**Section 409.11**

Theaters and Meeting Halls - One (1) space per seven (7) seats.

**Section 409.12**

Fraternal Organizations - One (1) space per one hundred and fifty (150) square feet of gross floor area.

**Section 409.13**

Bowling Alleys - Four (4) spaces per alley to be provided on a lot within 500 feet of gross floor area.

**Section 409.14**

Truck Terminals - Two (2) spaces per loading bay plus one (1) square foot of parking space for each two (2) square feet of floor area other than that used for storage.

**Section 409.15**

Warehouses - One (1) square foot of parking space for each two (2) square feet of floor area other than that used for storage.

**Section 409.16**

Other Uses - In order to maintain the purpose and intent of these regulations, sufficient parking spaces will be provided for those uses not listed in 1-15 above.

**Section 409.17**

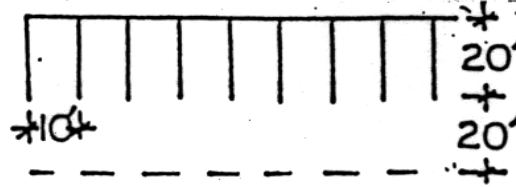
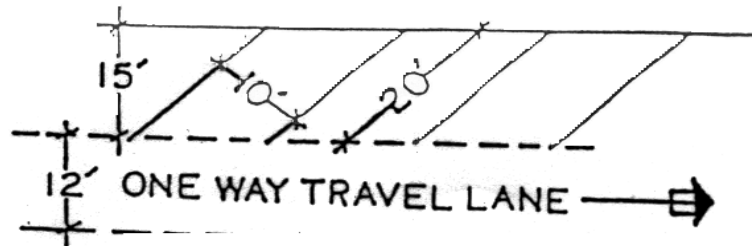
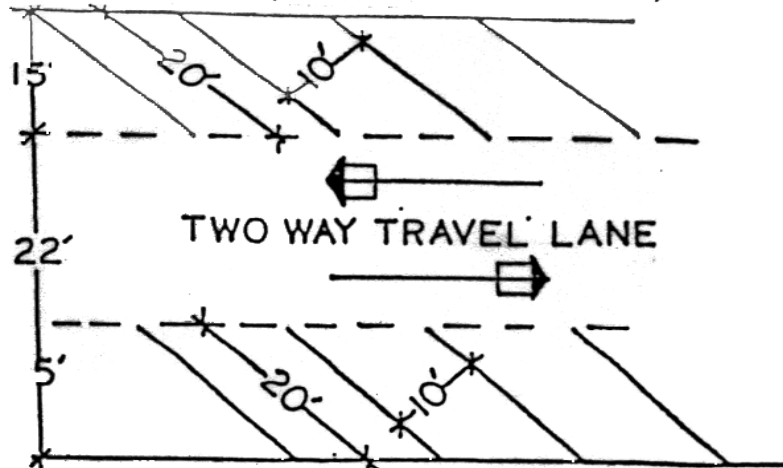
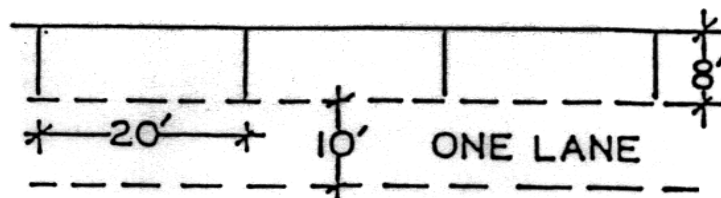
Multi-Uses - Buildings or structures having separate parts used for purposes requiring different amounts of parking space (as listed in 1-16 above) must be provided with the sum total of the number of spaces required for the area devoted to each use (as listed in 1-16 above).

**Section 409.18**

The existing uses of any building, which existed at the time of the adoption of this Ordinance, shall be exempt from the off-street parking requirements under this Article; however, this exemption shall not apply to any portion of such a building, which is enlarged, substantially altered, or changed from one use category to another. In any expansion of an existing facility not involving a change in use category, the off-street parking requirements shall apply only to the expanded portion of the facility.

**Section 409.19**

The minimum dimensions for parking spaces and adjacent maneuvering lanes shall be as below:

**A. PERPENDICULAR PARKING****B. ANGLED PARKING (ONE-WAY TRAFFIC FLOW)****C. ANGLED PARKING (TWO-WAY TRAFFIC FLOW)****D. PARALLEL PARKING**



E. PARKING ISLANDS: Where one row of parking spaces is separated from an adjacent row of parking spaces by a curbed traffic island at least 4' in width, the length of each abutting parking space may be reduced by 2'.

F. SMALL PARKING LOTS: Where the number of parking spaces required by a particular land use on a single lot equals 8 or less, the dimensions for each parking space on that lot may be reduced to 9' by 18'.

**Section 409.20: Off-street Parking for Multi - Family Dwellings**

On multi-family dwelling lots, driveways shall not be used to provide off-street parking spaces unless a special exception is granted by the zoning board.

**Section 409.21: Main Street**

Notwithstanding Section 409.18, there shall be no off-street parking requirements for existing structures that are on Main Street between Elm Street and Oak Street, even if such structures are altered, changed in use, or replaced. However, if such existing structures are enlarged in gross floor area, the off-street parking requirements shall apply to the expanded portion of the building. The purpose of this is to encourage and accommodate use of the historic downtown, and the structures located there.

(This section was amended on March 23, 2004)

**Section 409.22 Off-Street Parking And Loading Bays**

For commercial or industrial buildings of 20,000 square feet or more of floor area there shall be provided at least 600 square feet of land area on the premises for the loading and unloading of trucks.

**Section 410 - Earth Removal**

There shall be no excavation or removal of earth, loam, topsoil, gravel, clay, or stone for sale or use other than in connection with the construction or alteration of a building for which a building permit has been issued.

**Section 410.2**

No fixed machinery shall be erected or maintained, and no building shall be erected on the premises within any residential or business zone except temporary shelters for machinery and field offices.

**Section 410.3**

Soil and water projects related to normal farming and silvacultural activities carried out in a generally accepted manner and not selling the excavated material as its primary activity. Where applicable plans shall be submitted by the applicant to the State of New Hampshire.

**Section 410.4**

The Zoning Board of Adjustment may grant a special exception for the excavation or removal of earth, loam, topsoil, gravel, clay, or stone for sale or other use in any zone subject to other provisions of this Article and the following provisions:

A. The Zoning Board of Adjustments may require an applicant to file a plan prepared by a competent engineer or land surveyor showing contours of the land before and after excavation.

B. Provided that after excavation of the premises:

1. The area shall be cleared of debris.
2. There will be no sharp declivities, pits, or depressions, and that proper drainage will be provided to avoid stagnant water.
3. Slopes shall not exceed 30° to the horizontal.
4. In a residential R-1 or R-2 zone the area excavated shall be covered with arable topsoil for a depth of 4 inches and planted with suitable ground cover.

#### SECTION 411 - EXTERIOR LIGHTING

Exterior lighting in conjunction with commercial, industrial, institutional, public and semi-public uses and residential accessory uses such as swimming pools and tennis courts shall be installed and operated in such a manner that adjacent residential uses shall be protected from direct glare and intensity of the lighting.

## SECTION 412 – SIGNS

### Section 412.1

No sign as defined in these regulations shall be placed, erected, moved, replaced, or reconstructed without a permit. Said permit shall be issued by the Building Inspector. Application for a sign permit shall be made on forms provided by the Building Inspector and shall include a set of plans showing site location, sign size, design, size of lettering, method of illumination, and type of materials to be used in construction.

### Section 412.2

Material and construction of any sign shall be in accordance with building code and other Town requirements. All signs shall be maintained in a safe condition and in good repair. Any sign, which is in disrepair, shall be removed upon order of the Building Inspector if not repaired after a 30 day notice.

### Section 412.3

- A. All signs shall be prohibited within the rights of way of public highways except signs may project over public sidewalks provided no public hazard is created. The bottom of sign must be 10' above sidewalk.
- B. On corner lots no sign shall be erected in such a manner as to impair vision.
- C. Signs in all districts shall not be closer than 5' to lot lines unless affixed to a building.

### Section 412.4

The following signs are prohibited:

Neon, tubular gas, animated, flashing, noise making, changeable electronic message board signs, or signs that have lights of changing degrees of intensity, brightness or color, or intermittently or intensely lit signs that could present a potential distraction or safety hazard to passing motorists or pedestrians, except as otherwise provided herein.

Temporary seasonal holiday decorations are not considered as part of this regulation.

Electronic signs that do not exceed the size of 12"x 24" that state "Open" or "Closed" shall be allowed and shall not require a permit.

Gas station signs that illustrate the price of gasoline so long as they have the ability to be adjusted to comply with the restrictions regarding public safety above.

Signs that move or create the illusion of movement except as otherwise provided in Section 412.7E.

Mobile and/or portable signs.

Signs on trees, rocks or other natural surfaces except those signs used in the posting of land.

Billboards

(This section amended on 5.12.2009)

### Section 412.5

Signs shall be allowed by variances and special exceptions in accordance with the appropriate requirements for the type of use granted.

**Section 412.6**

Signs allowed by permit:

A. In a B1, B2, K, RC, or I district and excepting shopping centers and/or shopping malls, two (2) signs shall be permitted for any legally established business, one (1) free standing, the other affixed to the building. Total area of all signs shall not exceed one (1) square foot for each linear foot of building fronting on a public street for a maximum of 100 square feet in area. The height of a free standing sign shall not exceed 25 feet. Said signs if illuminated shall be shielded in such a manner to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign. Signs shall not extend over the roof or parapet of the building. On lots in the B1, B2, I, RC, or K districts on which no building has been constructed, one (1) free standing sign not to exceed 50 square feet shall be permitted for the legally established business on that lot and the sign shall be in conformance with any other applicable provisions of this ordinance.

B. In shopping centers and on shopping malls two (2) signs shall be permitted, one (1) sign affixed to the face of the building for each of the legally established businesses, and one (1) freestanding directory sign to be shared in common by each of the businesses. The directory sign shall not exceed 25 feet in height. Each advertising sign affixed to the directory shall not exceed 2 feet by 2 feet. Total area of each wall sign shall not exceed one (1) square foot for each linear foot of individual building frontage for a maximum of 100 square feet in area.

C. A sign or signs shall be permitted for any legally established subdivision development, farming or agricultural operation, golf course, airport development, outdoor park, manufactured home park, or recreational camping park subject to the following conditions:

1. One (1) freestanding sign not to exceed 50 square feet shall be permitted at only one (1) entrance;
2. One freestanding sign not to exceed 20 square feet shall be permitted at each additional entrance;
3. The total square footage of all freestanding signs at all entrances shall not exceed 100 square feet;
4. The height of each freestanding sign shall not exceed 10 feet;
5. If interior or exterior illumination is provided, it shall be properly focused in a manner that does not distract or blind oncoming traffic; and
6. All signs shall be in conformance with any other applicable provision of this ordinance.

D. Definition: **“SIGN, SANDWICH BOARD”**: A free standing, temporary A-frame, ground sign having a message on both sides”. Sandwich board signs shall be allowed in business districts only, and shall be subject to the following limitations:

1. The sign shall be of professional quality and shall not exceed 3.5' in height or 7 square feet in area.
2. The sign shall not be located within a street or street right-of-way, except that where sidewalks exist such a sign may be located on a public sidewalk.
3. The sign shall not obstruct visibility of vehicles or pedestrians.
4. Only one (1) such sign shall be allowed in front of each business establishment.

5. The sign shall not obstruct pedestrian traffic. If located on a sidewalk, it shall be placed either adjacent to the curb or adjacent to the building so as to allow a 36" minimum walkway.
6. The sign will be removed during non-open business hours.
7. The sign shall be properly secured and/or weighted as to not intrude upon, infringe upon, or cause a hazard to passers-by and/or the traveling public.
8. The sign shall not be placed during snow events.
9. The sign shall not hinder or obstruct municipal maintenance operations.

(D. was added by amendment on 5.09.2006)

**E. Traditional Barbershop Pole Signs**

1. Movement and internal illumination are allowed provided that there is no glare.
2. The size shall not exceed 18" in diameter or 36" in height.

(E. added by amendment on 5.12.2009)

**F. Banners:** Temporary banners which are attached to or suspended from a building and which are constructed of cloth or other material shall be constructed in an approved manner and shall be securely supported. Banners shall be allowed in business districts only, and shall be subject to the following limitations:

1. The banner shall be of professional quality and shall not exceed 100 square feet in area.
2. Permits for a banner shall be limited to a period of ten days, with a maximum of 4 per year.
3. Banners shall be removed as soon as torn or damaged.
4. Banners shall comply with the provisions of Section 412.7 D, 3-5, 7-9.

**G.** A Copy of Certificate of Insurance naming the Town as an additional insured in the amount of \$1.0 million per occurrence shall be required for all signs that are on, adjacent or above a public way.

(F & G added by amendment on 5.09.2017)

**Section 412.7**

Existing signs for which a permit was previously granted or which met the requirements of the zoning regulations in effect at the time of construction but which are not in conformance with the provisions of these regulations shall be deemed a non-conforming sign. Such non-conforming signs shall be subject to those provisions contained in Article VI, Section 602 of the Zoning Regulations.

**Section 412.8**

Window signs whether they are interior or exterior shall be considered as a wall sign affixed to the face of the building. There shall be no limitation on temporary signs on the interior of a window.

**Section 412.9**

- A. The measurement of the area of a sign shall be considered to include all lettering or elements of a sign together with the background on which they are displayed but not including the supporting framework and bracing.
- B. When the sign consists of letters or symbols affixed to a surface or building, the area shall be considered to be the smallest summation of rectangles which encompasses each individual letter and/or symbol.
- C. The area of one side of a double-faced sign shall be considered as the total area of the sign.

**Section 412.10 - Farming & Agricultural Operations Seasonal Signs:**

A. In furtherance of the goals enumerated in RSA 672:1, III-b, off-premise seasonal (O.P.S.) signs for farming or agricultural operations, as defined in RSA 21:34-a, shall be allowed on a temporary basis as a special exception in any zoning district provided that all of the following special criteria are also met:

1. Each legally established farming or agricultural operation situated in the Town of Newport may display no more than four (4) O.P.S. signs, which shall be located within a Town right-of-way notwithstanding Section 412.3A above. The maximum of four (4) O.P.S. signs may be listed on one (1) special exception application. No more than one (1) sign per owner shall be displayed at an individual location at the same time.
2. A plan illustrating the proposed location(s) of the O.P.S. sign(s) shall be submitted with the special exception application and reviewed by the Town Highway Superintendent prior to the Zoning Board's public hearing. The Highway Superintendent shall submit a written recommendation to the Zoning Board. The location of each O.P.S. sign shall be determined based on the applicant's need for reasonable directional information and shall be placed in a non-hazardous location that does not impair vision or endanger or inconvenience the public's right to travel over the Town right-of-way.
3. Each O.P.S. sign shall be in non-fluorescent colors shall be 6 square feet or less in area, shall be well secured in the ground and shall be displayed without illumination. The height of the post from ground level to the top of the post shall not exceed 6'. An individual post may be left adequately secured in the ground year round at the discretion of the Town Highway Superintendent. Each O.P.S. sign and post shall be maintained in good repair by the owner.
4. Each O.P.S. sign shall be displayed only during the permitted period, which shall begin on March 1st and end on December 31st of each year.
5. Each O.P.S. sign shall be installed by its owner under the supervision of the Town highway superintendent every year that the O.P.S. sign is put in use. Once installed, the highway superintendent may, if necessary, require an O.P.S. sign to be temporarily removed in order to facilitate roadway or right-of-way improvements. Each O.P.S. sign shall be removed by the owner at the end of the permitted period. Any O.P.S. sign left standing outside of the permitted period may be removed and disposed of by the Highway Superintendent.
6. Each individual O.P.S. sign shall require a sign permit in accordance with Section 412.1 above and the display period for each shall be listed on the permit.
7. Each O.P.S. sign shall conform with any other applicable provision of this ordinance.

B. Permission for the placement of an O.P.S. sign in a state highway right-of-way shall be obtained from the New Hampshire Department of Transportation.

(This section was amended on May 9, 2017)

**SECTION 413 – HOME BUSINESS**

A home business may be allowed in a residence by special exception provided that the special exception criteria in Section 402 and the criteria of this section are met.

**Section 413.1**

The home business shall be carried on by residents of the dwelling unit. Two on-premises employees who are not residents are permitted.

**Section 413.2**

The home business shall be carried on within the principal or accessory structures.

**Section 413.3**

Exterior storage of materials or variation from the residential character of the principal structure shall not be permitted.

**Section 413.4**

Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbance, odor, heat, or glare shall not be produced.

**Section 413.5**

No traffic shall be generated by such activity in greater volumes than would normally be expected in the neighborhood.

**Section 413.6**

Parking shall be provided off-street and shall not be located in the front yard.

**Section 413.7**

No building shall be remodeled or expanded to accommodate a home business without a Zoning or Building Permit and a Certificate of Occupancy.

**SECTION 414 - PUBLIC ADDRESS AND AUDIO ADVERTISING SYSTEMS**

No public address or audio advertising system shall be permitted in any residential districts. Public address and audio advertising systems are permitted within business and industrial districts as accessories to special permit uses provided that their resultant noise is confined within the building.

## SECTION 416 - HEIGHTS OF BUILDINGS

### Section 416.1

New construction of buildings shall not exceed 40 feet in height.

## SECTION 417 - LOT SIZE

### Section 417.1

Where a lot in separate ownership at the time of passage of this ordinance does not conform to the area and width requirements of the zone in which it is located, such lot may be occupied by any use permitted in that zone provided it conforms to front, side and rear yard requirements.

### Section 417.2

If a parcel of land contains an area and frontage greater than the area and frontage of the zone in which it is located and if after such parcel is divided into as many conforming lots as practical where there remains a lot with an area 75% of the frontage of the zone in which it is located, such remaining lot may be occupied by any use permitted in a zone in which it is located.

## SECTION 418 SIDE YARDS

Side Yards on Corner Lots in Residential or Rural Zones or on any Corner Lots Adjoining Residential or Rural Zones.

### Section 418.1

The side yard on the street side of a corner lot shall be not less than 12 feet. No building in the rear yard of a corner lot shall be located within 8 feet of the side yard of an adjoining lot or within 12 feet of any street line.

## SECTION 419 ACCESSORY DWELLING UNITS

### 419.1 Definitions

Accessory Dwelling Unit: An "accessory dwelling unit" (or "ADU") is a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the dwelling unit it accompanies.

### 419.2 Provisions

An accessory dwelling unit shall be permitted by special exception in all zoning districts that permit single family dwellings, subject to the following:

- A. Only one (1) ADU shall be permitted for each single-family dwelling.
- B. The ADU shall provide independent living facilities for one or more persons containing the four elements of sleeping, eating, cooking and sanitation.



- C. If attached, the ADU shall have an independent means of ingress and egress, or shall have ingress and egress through a common space such as a shared hallway to an exterior door.
- D. The ADU shall not exceed 750 square feet in habitable floor area.
- E. The ADU shall be provided a minimum of two (2) off-street parking spaces as provided for in Article IV, Section 409.
- F. An ADU shall make provision for adequate water supply and sewage disposal service in compliance with RSA 485-A:38 and regulations adopted by the New Hampshire Department of Environmental Services.
- G. The ADU shall have an interior door between the attached ADU and the primary dwelling.
- H. The ADU shall comply with the residential occupancy standards that are covered by the State Building Code and other pertinent safety, fire, health and accessibility standards.
- I. If the ADU is not on public water and sewer, well and septic provisions shall comply with NH Department of Environmental Services regulations. Note that DES may require enlargement or modification of the septic system if the ADU makes it necessary to accommodate a larger loading.
- J. The ADU shall not have more than 2 bedrooms.
- K. The ADU shall maintain the aesthetic continuity with the principal dwelling unit as a single-family dwelling.
- L. The ADU shall comply with the density and lot size requirements outlined in each zoning district.

**419.3 Minimum Lot Dimension Requirements:** An ADU shall not be required to meet additional lot area requirements other than already provided for the dwelling unit. An ADU shall comply with all lot setback requirements.

(This section was adopted on May 9, 2017)

## SECTION 420 – KEEPING OF HENS

The intent and purpose of this section is to allow the keeping of a limited number of hens, primarily for the purpose of providing fresh eggs to the occupants of the dwelling, in all zoning districts.

The keeping of hens shall be permitted (allowed) for all single and/or two-family dwellings provided the following standards are met (these standards do not apply to chickens kept in the zoning districts where farming is a permitted use):

- Less than one acre three (3) hens are permitted
- One (1) to two (2) acres: up to a total of six (6) hens
- Two (2) to five (5) acres: up to a total of fifteen (15) hens
- More than five (5) acres no limitation on the number of hens
- No roosters shall be allowed.
- All hens shall be kept outdoors within a secure enclosure (coop and exercise area) at all times.
- The secure enclosure and the coop shall comply with minimum setbacks for the respective zoning district and shall not be located within the dwelling's front yard.

(This section was adopted May 14, 2019)

**ARTICLE V—SPECIAL PROVISIONS****SECTION 501 - MANUFACTURED HOMES/RECREATIONAL CAMPING****Section 501.1 - Manufactured Homes**

It shall be unlawful for any person to park a manufactured home on any private property, except in locations and in accordance with this ordinance as follows:

- A. In districts specifically zoned to permit the use of manufactured homes as living accommodations and in an approved manufactured home park, and subdivision. It shall be placed on a foundation of any type, which will ensure vertical and horizontal stability of a manufactured home, and, if it doesn't have a basement, a storage building of at least one hundred square feet shall be provided. The area between the bottom of the manufactured home and the ground shall be completely enclosed.
- B. In an approved manufactured home sales lot.
- C. Upon approval as a special exception by the Zoning Board of Adjustment, a manufactured home or travel trailer may be located on the construction site of a new structure for a period not to exceed one year. An additional extension of one year may be granted by the Board of Adjustment.
- D. All manufactured homes placed within the Town limits shall comply with HUD, 1976 standards and the National Conference of States on Building Codes and Set-ups (NC5BCS) standards for manufactured home installations dated 1982. Prepared by Technical Committee on Fire Safety for Manufactured Homes and acted on by the National Fire Protection Association, Inc., on May 19, 1982.

**Section 501.2 - Travel Trailers and Recreational Camping**

A. It shall be unlawful for any person to park a camping travel trailer, pick-up coach, and/or motor home, or to camp, on any private property except in locations and in accordance with these regulations as follows:

- 1. In an approved recreation camping park.
- 2. In an approved travel trailer sales lot.
- 3. The owner of a travel trailer may park it on his own property, provided that the trailer may be parked in the rear or side yards, but not within the required front yard, not any closer than 6' from any lot line. A trailer so parked shall not be used as living quarters and shall not be connected to any utilities except for periods of less than 30 days when a visitor may utilize such a trailer or a trailer owned by the visitor for sleeping purposes only.

**Section 501.3 - Applications**

A. Proposals for Manufactured Home Parks and Recreation Camping parks shall be submitted in five (5) copies to the Building Inspector who shall submit copies to the Board of Adjustment and the Planning

Board. The Planning Board shall have 30 days to review and submit comments on such plan to the Board of Adjustment. Any development not part of the approved plan shall constitute a violation of this ordinance.

The proposal shall contain the following:

1. Required site plan shall show all proposed building, parking areas, signs, and landscaping at a scale sufficient to permit the study of elements of the plan.
2. A plan and description of all proposed utilities.
3. Typical elevation drawings and floor plans of all proposed buildings.
4. The site plan shall also show the adjacent building outlines and other outstanding features within 200 feet of the property line.

#### **Section 501.4 - Manufactured Home Park Standards**

The following regulations shall apply with respect to manufactured home parks and all manufactured homes in such parks:

- A. A manufactured home park shall have an area of not less than 5 acres.
- B. Manufactured home parks shall provide for individual manufactured home spaces, access driveways, and parking.
- C. Each manufactured home space shall be at least 7,200 square feet in area, shall be at least 60' wide by at least 120' in depth, when served by Town water and sewerage. All others shall have at least 12,500. All manufactured homes shall front on an access road.
- D. All interior roads within a manufactured home park shall have a right-of-way at least 50' in width and have a surface travel width of at least 24'. All- weather roads, driveways, and walkways shall be provided.
- E. Two parking spaces each at least 10' wide by 22' long shall be provided for each manufactured home space and shall be of all-weather construction.
- F. Each manufactured home space shall have an attachment for water supply. The water supply source must meet all local and state regulations.
- G. Each manufactured home space shall have an attachment for sewage disposal. The method of sewage disposal must be in compliance with all local and state regulations.
- H. A strip of land of at least 25' in width shall be maintained as a landscaped area abutting all manufactured home park property lines except when the manufactured home park boundary is adjacent to residential uses, where the landscaped area shall be at least 50' in width.
- I. Provision for disposal of household garbage and rubbish shall be made.
- J. An electrical source supplying at least 100 amps, 120/240 volts shall be provided for each manufactured home space. The installations shall comply with all applicable state and town electrical laws and regulations. Such electrical outlets shall be weatherproof. The use of underground utility installations shall be required unless waived by a special exception by the Board of Adjustment.
- K. A manufactured home shall be located on the manufactured home space so that it is at least 25' from the right-of-way of the interior road and 10' from any other lot line of the manufactured home.

#### **Section 501.5 - Recreational Camping Park Standards**

The following regulations shall apply with respect to all recreational camping parks:

- A. A recreational camping park shall have an area of not less than 10 acres.

- B. Recreational camping parks shall provide for individual trailer spaces and/or tenting sites, access driveways and parking.
- C. Each trailer space shall be at least 1,800 square feet and at least 30' in width, and shall have a compacted gravel surface at least 10' in width and 20' in depth. A lot for a tent shall be at least 1,000 square feet in area.
- D. All interior roads within a recreational camping park must be at least 30' in width and have a compacted gravel surface at least 20' in width.
- E. No trailer space or tent site shall be closer than 50' to a public street right-of-way line or a property line.
- F. A strip of and at least 25' in width shall be maintained as a landscaped area abutting all recreational camping park property lines except when the recreational camping park boundary is adjacent to residential uses, where the landscaped area shall be at least 50' in width.
- G. Every recreational camping park shall have a dumping station for sewage disposal meeting all applicable state and local laws and regulations. The water supply source must meet all local and state regulations.
- H. Provision for the disposal of solid waste shall be made.
- I. Service Building Requirement: Each recreational camping park shall provide one or more service buildings in accordance with the following specifications:
  - 1. Flush-type toilet minimum distance from trailer. Flush-type toilets shall be placed in a building that is not more than 500' from any trailer space nor less than 15' from any trailer space. No service building shall be located within 80' from any public street or highway.
  - 2. Lighting Requirement. The service building shall be lighted with a light intensity of 5 foot candles measured at the darkest corner of the room.
  - 3. Construction Requirements. The building shall be a permanent structure sheathed with impervious material, adequately ventilated and with all openings to the outside effectively screened, shall be supplied with a floor drain, and shall comply with town and state requirements.
  - 4. Toilet Requirements. Separate toilet areas shall be provided for males and females in accordance with all applicable state and local laws.
  - 5. Lavatory Requirements. Toilet rooms shall contain one lavatory with hot and cold running water for each two toilets, but in no case shall any toilet room be without at least one lavatory with hot and cold running water.
  - 6. Heating Requirements. Each service building shall have heating facilities to maintain a minimum temperature of 70° F.
  - 7. Shower Requirements. Each service building shall have shower facilities with hot and cold running water.

#### **Section 501.6 - Non-Conforming Uses**

Any lawful trailer, manufactured home, camping park, or manufactured home park existing at the time of adoption of this ordinance or amendment thereto may continue although such use does not conform to the provision of this regulation. However, all trailer camps and manufactured home parks must comply with the applicable sanitation and health laws of the State of New Hampshire and the Town of Newport. No non-conforming use that has been discontinued for a period of 12 consecutive months shall be re-established. Any additions, extension, or enlargements of such use shall be as provided for in Article VI of this Ordinance.

**SECTION 502 - HOUSING FACILITIES FOR THE ELDERLY**

Housing facilities for the elderly will be permitted in the General Residential District (Zone R-2), the Light Commercial District (Zone B-1), and the Heavy Commercial District (Zone B- 2), subject to the following conditions:

- A. For new construction, more than one principal building is permitted on a lot.
- B. Such facilities must conform to the minimum lot size, frontage, yard and lot coverage requirements specified in Article II, Section 208.
- C. One off-street parking space shall be provided for every two dwelling units.
- D. In General Residential Districts (Zone R-2), the following minimum lot areas shall be required:
  - 1. Where the facility will be serviced by both Town water and Town sewer systems, 3,000 sq. ft. per dwelling unit.
  - 2. In all other cases, a minimum lot area of 5,000 sq. ft. per dwelling unit.
- E. In Light Commercial Districts (Zone B-1) and in Heavy Commercial Districts (Zone B-2) the following minimum lot area must be provided:
  - 1. Where the facility will be serviced by both Town water and Town sewer systems, 1,200 sq. ft. per dwelling unit.
  - 2. In all other cases, a minimum lot are of 5,000 sq. ft. per dwelling unit.

**SECTION 503 - CUTTING AND SPLITTING OF FIREWOOD FOR SALE OR TRADE**

The cutting, splitting of firewood for sale or trade may be permitted subject to such restrictions, as hours, as deemed appropriate by the Zoning Board of Adjustment in all zoning districts (except the R-1 and R-2 districts) by Special Exception, subject to the following conditions:

- A. The criteria of Section 306.1 - Special Exceptions shall be met.
- B. Nothing in this section shall otherwise change any requirement of any zoning district.

(ADOPTED - SEPTEMBER 20, 1988)

**SECTION 504 - PLANNED COMMERCIAL DEVELOPMENT****Section 504.1 - Authority, Purpose, Administration and Scope**

A. **AUTHORITY:** The Planned Commercial Development (PCD) is hereby established as an innovative land use control pursuant to the authority of RSA 674:16-18 and RSA 674:20-21 and in the interest of public health, safety and general welfare.

B. **PURPOSE:** The purpose of a PCD shall be to:

1. Encourage flexibility in design for large scale development projects;
2. Provide adequate standards for the development of shopping centers, office parks, and industrial parks;
3. Permit mixed land uses on the same lot;
4. Encourage a more economic design of street and utility networks;
5. Promote business, commerce and industry there by providing economic benefit to the town; and
6. Foster civic pride in the town's beautiful environment through good land use and the retention of open space.

C. **ADMINISTRATION:** The administration of a PCD proposal shall be as follows:

1. The PCD proposal shall comply with the site plan review regulations and/or the subdivision regulations of the Town of Newport; and
2. Site plan review and/or subdivision review of the PCD shall be the responsibility of the planning board.

D. **SCOPE:** PCD's shall be allowed as a permitted use in the following zones:

1. Rural Commercial (RC)
2. Industrial (I)
3. Kelleyville (K)

**Section 504.2 - Definitions**

For the purposes of this section, the following definitions shall apply:

A. **PCD:** a "Planned Commercial Development" (PCD) a tract of land , including a lot or more than one contiguous lot, that will be comprehensively planned and constructed as a single development for a quasi-public, commercial or industrial uses which meets the minimum area requirements established by the Ordinance. Requirements such as frontage or setbacks that would ordinarily apply if the development applied only to a single lot or to a single building may be waived so that the land may be developed in a more economical and environmentally friendly manner (e.g., with regard to contours, the least expensive way to install streets, water and sewer, etc.) while retaining more open space, but in no case shall the density be greater that if the land were subdivided or used according to the established zoning regulations of for the applicable district.

- B. PCD COLLECTOR ROAD: a road located within the PCD tract that provides access to the driveways of individual PCD lots, collects the traffic therefrom, and transports it to an intersection with either a town road or a private road built to town standards.
- C. PCD LOT: a subdivided portion of the PCD tract. Each PCD lot within a PCD tract shall front and access a PCD collector road.
- D. PCD TRACT: the total land area on which a PCD is built which may be further subdivided into PCD lots.

### **Section 504.3 - Standards**

A Planned Commercial Development shall comply with the following standards:

#### **A. MINIMUM PCD TRACT AREA AND FRONTAGE**

- 1. The minimum area of a PCD tract shall be 5 acres.
- 2. The minimum frontage of a PCD tract shall be 300 feet.

#### **B. MINIMUM PCD LOT SIZE, FRONTAGE, AND SETBACKS**

- 1. Within a PCD tract, the lot size, lot frontage and setback requirements of the zoning district in which a PCD is being proposed, may be reduced to the following minimums for a PCD lot provided that each PCD lot can be properly served by an approved water supply and sewage disposal system and that a 100 foot setback from the Route 11/103 right-of-way shall be required:

- a. Minimum lot size: 1 ½ acres
- b. Minimum frontage: 100'
- c. Minimum front setback: 25'
- d. Minimum rear setback: 25'
- e. Minimum side setback: 25'

#### **C. ROADS AND PARKING**

- 1. Each PCD collector road shall access either a town road or a private road built to town standards.
- 2. Each PCD lot within a PCD tract shall front and access a PCD collector road.
- 3. Parking areas shall be designed to provide adequate spaces and safe circulation. To lessen the visual impact of large paved areas, the Planning Board may require landscape plantings and screening.
- 4. All roads and parking areas shall comply with the standards in ARTICLE 13 of the Town's Subdivision Regulations.
- 5. The Planning Board may require the establishment of a timetable and performance bond for the completion of a PCD project pursuant to its site plan review and/or subdivision review.

#### **D. BUILDINGS AND USES**

- 1. The land uses proposed for a PCD shall comply with the permitted uses or special exception uses in the zoning district in which the PCD is located.
- 2. More than one principal building and one principal use may be allowed on a PCD lot at the discretion of the Planning Board provided that the proposed buildings or uses comply with other applicable provisions of the Town's zoning ordinance.

#### **E. OPEN SPACE REQUIREMENT**

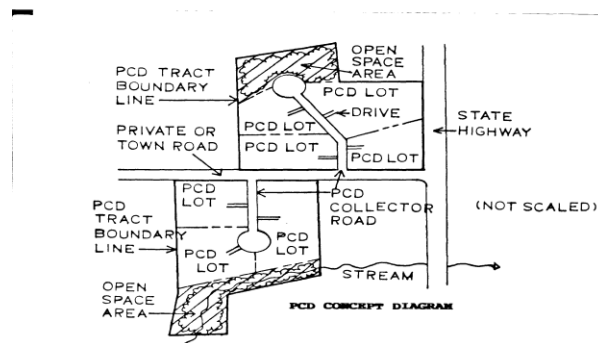
- 1. A minimum of 10% of a PCD tract shall be retained as open space. Open space shall contain undisturbed natural features that include but are not limited to stands of mature trees, open fields,

geologic forms, stream corridors, wetlands, wildlife habitat, endangered plant habitat, or any combination of these or any similar natural features.

2. Areas designated as open space shall be subject to the provisions of RSA 674:21-a.

#### Section 504.4 - PCD Concept Diagram

This concept diagram is for illustrative purposes only and is intended to suggest ways in which a PCD could be designed.





**SECTION 505-OUTDOOR STORAGE OF USED OR DISMANTLED ITEMS AND MATERIALS**

**Section 505.1-Purpose:** The outdoor storage or display of used, discarded, dismantled or salvaged items and materials, though not necessarily meeting the definition of “junk yard” in RSA 236:112, 1, can have just as substantial an adverse effect on surrounding properties, the environment and the public welfare as a junk yard. The purpose of this section, therefore, is the prevention and abatement of public nuisances.

**Section 505.2-Regulation:** Notwithstanding any other section of this Ordinance, no land in any district shall be used for the keeping, storing, display or accumulation, in any unroofed area for more than 24 hours, of any used, second-hand, discarded, dismantled or salvaged items or materials which are used or intended, whether immediate or future, for resale at retail or wholesale, recycling, barter, construction use or reuse, or waste disposal, except in conformity with the following:

- A. Such use shall not occupy an area of more than 20% of the footprint area of the principal building on the property.
- B. The area devoted to such use, and all such items and materials, shall be completely and opaquely screened from view from abutting parcels and from public ways.
- C. No such items or materials shall be located within required yard areas.

**Section 505.3-Existing Uses:** Notwithstanding the provisions of Article VI of this Ordinance concerning non-conforming uses, any land being used contrary to subsection 505.2 above, at the time of the adoption of this section by the Town, shall be brought into conformity with paragraphs B and C of that subsection within one year.

**Section 505.4-Applicability:**

- A. This section shall not apply to the keeping, storage or display of motor vehicles or trailers, OHRV's, motorized heavy equipment or watercraft, so long as such items are in good working condition, nor to waste disposal facilities permitted by the State, nor to yard sales otherwise in compliance with this Ordinance. This section shall not apply to items or materials kept for personal, non-business use by the occupants of a residence on the property. This section shall not apply to accumulations, at a construction site, of debris from the construction, provided such debris is removed within 60 days of the completion of construction.
- B. This section shall not be construed to excuse compliance with any other provision of this Ordinance or of State law, including but not limited to laws regulating junk yards and solid waste. In all cases, the provision which imposes the greater restriction or higher standard shall be controlling.

(Adopted May 2002)

## SECTION 506 - LAND APPLICATION OF SEPTAGE

**Section 506.1 - Purpose:** The purpose of this Section is to protect public health and welfare by minimizing the potential for human contact with septage, treated or untreated, and to carefully regulate the introduction of septage into the natural environment.

The purpose is not to discourage agricultural operations or to diminish the conservation of prime agricultural soils. This provision prevents possible water pollution, promotes an appropriate balance among residential, agricultural and conservation land uses. Septage includes not just human waste, but also metals, pathogens, chemicals, & odors. It is impossible to entirely contain the septage materials and odors on the site where it is applied and/or stored. Domestic and wild animals as well as birds cannot be controlled, and therefore may spread the materials from one site to neighboring sites. It is therefore in the public interest to carefully regulate any land spreading of septage.

**Section 506.2 - Regulation:**

- A. Any stockpiling, lagooning, treatment, land spreading or other processing of septage which in any manner involves any contact between septage, whether treated or untreated, and the ground is not permitted anywhere in the Town of Newport, except as provided in this section. This ordinance shall not prohibit or interfere with the pumping, maintenance or repair of septage systems.
- B. Land application of septage is prohibited in the Town of Newport, except in accordance with all of the following:
1. No land application of septage shall be permitted without a conditional use permit from the Newport Planning Board.
  2. The Board shall not approve any site for land application of septage unless such use is found to be accessory to a genuine economically-viable agricultural use, which means that such spreading must be subordinate, incidental, and comparatively minor in relation to the primary agricultural use.
  3. Such land application shall occur only in compliance with all applicable state and federal regulations, including but not limited to N.H. Code of Administrative Regulations Env- Wq Chapter 1600 and 40 Code of Federal Regulations 503 et seq., including such amendments as may be made hereafter. The applicant shall provide to the Planning Board copies of all of the information required to be submitted with a state septage site permit application, including but not limited to soils information and management plan. The Planning Board may require any or all such submissions to be reviewed, at the applicant's expense, by a qualified peer reviewer, for purposes of determining compliance with applicable regulations, and to identify any potential adverse impacts. The Board shall approve the application only if it finds, in light of all the circumstances of

the case, and in light of any conditions the Board may attach to its approval, that applicable state and federal regulations will be complied with, and that the potential for adverse impacts on human health, water quality, and the character of the area will be negligible.

4. No facilities for holding, stabilization, or processing of any kind shall be permitted on the agricultural property.
5. Surface spreading and stockpiling of septage is prohibited. Any approved land application shall be in the form of subsurface incorporation (injection), in accord with all applicable regulations.
6. All areas where land application is occurring shall be effectively fenced to prevent access to the site.
7. No site for land application shall be permitted in the following areas:
  - a) Within 500 feet of any off-site dwelling, off-site well or any surface drinking water supply.
  - b) Within 300 feet of any on-site dwelling or on-site well;
  - c) Within 100 feet of any public road or property boundary; or
  - d) In areas where stockpiling of manure or keeping of farm animals is prohibited;
  - e) Within 150 feet of streams, tributaries, ponds, lakes, seeps or wetland areas.
8. The Board shall, as a condition of approval, require regular soil/water testing. The Board may also require groundwater monitoring wells to be installed, with testing results submitted to the Town at such intervals at the Board may require. The parameters to be tested for shall include at least the testing parameters set forth in N.H. Code of Administrative Regulations Env-Wq Chapter 1600. The Board may require test results to be reviewed by a qualified peer reviewer, or may require that testing be performed by such a party unaffiliated with the owner or applicant.

**Section 506.3 - Applicability:**

A. Residential or commercial septic systems are exempt from the stockpiling provision noted above for septage generated on the same lot or development.

B. This section shall not be construed to excuse compliance with any other provision of this Ordinance or of State law, including but not limited to laws regulating Water Pollution and Waste Disposal. In all cases, the provision which imposes the greater restriction or higher standard shall be controlling.

**Section 506.4 - Definitions:** Terms used in this section shall, to the greatest possible extent, be deemed to have the same meaning as similar terms in applicable state and federal regulations including but not limited to N.H. Code of Administrative Regulations Env-Wq Chapter 1600 and 40 Code of Federal Regulations 503 et seq.

(Adopted May 2016)

**ARTICLE VI - NON-CONFORMING USES AND NON-COMPLYING BUILDINGS****SECTION 601 - CONSTRUCTION APPROVED PRIOR TO ADOPTION OR AMENDMENT TO REGULATIONS**

Nothing contained in these regulations shall require any change in use, plans or construction of a non-complying structure for which a permit has been issued and which has been completed within one year from the effective date of this ordinance.

**SECTION 602 - NON-CONFORMING USES****Section 602.1**

The following provisions shall apply to all buildings and uses existing on the effective date of this ordinance which do not conform to the requirements set forth in these regulations and to all buildings and uses that in the future do not conform by reason of any subsequent amendment to these regulations.

**Section 602.2**

Any non-conforming use of structures or land may be contained indefinitely, but it shall not be:

- A. Moved, enlarged, altered, extended, or restored (except as provided below).
- B. Changed to another non-conforming use without approval by the Board of Adjustment and then only to a use which, in the opinion of the Board of Adjustment, is of the same or of a more restricted nature.
- C. Reestablished if such use has been discontinued for a period of one year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
- D. Restored to other than a conforming use after damage from any cause, unless the non-conforming use is reinstated within one year of such damage. If the reconstruction of the premises is not completed within one year, the non-conforming use of such building shall be deemed to have been discontinued, unless such non-conforming use is carried on without interruption in the undamaged part of the building.
- E. It shall be permissible to permit the reasonable expansion of a non-conforming residential building provided that it is a permitted use in the zone and is not made more non-conforming. (This section amended on March 23, 2004)

**SECTION 603 - NON-CONFORMING BUILDINGS**

Nothing in this article shall be deemed to prevent normal maintenance and repair of a non-conforming building. The Zoning Board of Adjustment may grant a special exception in accordance with Section 306 for the reasonable expansion of a non-conforming building provided that it is not made more non-conforming.

## ARTICLE VII -- WETLANDS

### SECTION 700 - WETLANDS STATEMENT

Inland wetlands refer to any submerged land under fresh water, which includes any marsh, swamp, bog, or meadow subject to permanent or periodic flooding, including the surrounding shore and any abutting soil designated as poorly drained or very poorly drained by the National Cooperative Soil Survey. Any change or development in these areas shall conform to existing or future state and/or federal legislation.

## ARTICLE VIII - AIRPORT ZONING

In pursuance of the authority conferred by Chapter 424, of the Revised Laws and for the purpose of promoting the health, safety and general welfare of the inhabitants of Newport, New Hampshire, by preventing the creation or establishment of airport hazards, thereby protecting the lives and property of users of the Parlin Field airport and of occupants of land in its vicinity and preventing destruction or impairment of the utility of the Airport and the public investment therein the following regulations are hereby adopted.

### SECTION 801 – DEFINITIONS

As used in this ordinance, unless the context otherwise requires:

**“Airport”** means any area of land or water, whether constructed or not, which has been approved by the director as a site for the landing and taking off of aircraft or utilized or to be utilized by the public as a point of arrival or departure by air.

**“Approach Zone”** means an area having dimensions of 500 feet in width at a point 200 feet from the end of the landing strip and 2,500 feet in width as a distance of 10,200 feet. The center line of this area shall coincide with the center line of the landing strip extended.

**“Airport Hazard”** means any structure, tree, smoke, steam, dust or other substance which obstructs the aerial approaches of a publicly owned airport or impairs the reasonable visibility in the vicinity thereof, electrical impulses and disturbances which interfere with radio aids or communications and lights which might result in glare in the vision of pilots of aircraft or be confused with airport lights.

**“Non-conforming use”** means any structure, tree, or use of land, which does not conform, to a regulation prescribed in this ordinance or an amendment thereto, as of the effective date of such regulations.

**“Person”** means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

**“Structure”** means any object constructed or installed by man, including such objects although regulated or licensed by other provisions of law.

**“Tree”** means any object of natural growth.

## SECTION 802 - ZONES

In order to carry out the purposes of this amendment all of the land within the boundaries of the approach zones and all of the land within a distance of 11,000 feet from the airport reference point shown on the Parlin Field Airport Approach Plan dated July 1, 1977, which is attached hereto and made a part hereof, is hereby declared subject to the restrictions of this amendment.

## SECTION 803 - HEIGHT LIMITS

No structure or tree shall be erected, altered or allowed to grow within the areas described in Section 802 hereof, above a slope ratio of 40' to 1' measured from the end of the landing strip served by an approach zone or above a slope ratio of 7' to 1' measured from the side of the landing strips and the approaches, or within a distance of 6,000' from the airport reference point above a height of 150' above the airport elevation, except that the Board of Appeals shall have the power to grant a variance of this regulation where literal application or enforcement of the same would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but to do substantial justice and be in accordance with the spirit of this regulation.

## SECTION 804 - USE RESTRICTIONS

Notwithstanding any other provisions of the zoning ordinance, no use may be made of the land described in Section 802 hereof in such manner as to create electrical interference with radio aids or communications between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes to flyers using the airport, impair visibility in the vicinity of the airport by the creation and discharge of smoke, steam, dust or other obstructions to visibility or otherwise endanger the landing, taking off, or maneuvering of aircraft.

## SECTION 805 - NON-CONFORMING USES

The regulations prescribed in Section 803 and 804 of this amendment shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure and construction or alteration, of which was begun prior to the effective date of this amendment, and it is diligently prosecuted and completed within two years hereof.

## SECTION 806 – VARIANCES IN AIRPORT ZONE

Any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this amendment may apply for a variance therefrom. Such variance shall be allowed where a literal application of enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this amendment.

## SECTION 807 - PERMITS

### Section 807.1 - Future Uses

No material change in violation of Sections 803 and 804 hereof shall be made in the use of land, and no structure or tree shall be erected, altered, planted or otherwise established in violation of Sections 803 and 804 hereof in any of the areas of land described in Section 802 hereof, unless a permit therefore shall have been applied for and granted. Each such application shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit applied for shall be granted.

### Section 807.2 - Existing Uses

Before any existing use, structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, hereof, a permit must be secured authorizing such replacement, change or repair if it is in violation of Sections 803 and 804 hereof. No such permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this ordinance or than it is when the application for a permit is made. Except as indicated, all applications for a permit for replacement, change or repair of existing use, structure, or tree shall be granted.

## SECTION 808 - HAZARD MARKING AND LIGHTING

Any permit or variance granted under Section 806 and 807, may if such action is deemed advisable to effectuate the purposes of this amendment and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Town of Newport, New Hampshire at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

## ARTICLE IX - AIRPORT APPROACH PLAN

### SECTION 901 - APPROACH PLAN

This Airport Approach Plan prepared under the authority of chapter 424.3 of the New Hampshire Revised Statutes Annotated, is based upon the ultimate development of a Basic Utility Airport with runway and landing strip as follows:

- A. Runway 18-36, 3,500' by 50': landing strip 3,500' by 300'.

### SECTION 902 - LIMIT OF HEIGHT

Part 77 of the Federal Aviation regulations establishes the standards used to determine the limit of height of obstructions in the vicinity of the airport.

### SECTION 903 - LIMITATIONS

The limit of height of obstructions shall be:

- A. In the approach areas of Runway 18-36 which are 500' wide at a point 200' from the end of the pavement and 2,500' wide at a point 10,200' from the end the pavement, an inclined plane of 40:1 slope.
- B. On the sides of the landing strip and approach areas, an inclined plane of 7:1 slope.
- C. 936' above sea level within 6,000' of the Airport Reference Point (150' above the airport).
- D. Between 6,000' and 11,000' from the airport a line with a slope of 20:1 measured in a vertical plane passing through the center of the airport.

### SECTION 904 - HEIGHT LIMITS

No provision of Section 903 shall limit the height of a structure or tree to less than 30 feet above the ground upon which it is located.

### SECTION 905 - AIRPORT REFERENCE POINT

The Airport Reference Point is the mid- point of the runway and its elevation is 786 feet above sea level.





## ARTICLE X - DEFINITIONS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

### SECTION 1001 - WORD DEFINITIONS

The word **person** includes a firm, association, organization, partnership, trust, company or corporations as well as an individual.

The **present tense** includes the future tense, the **singular** number includes the plural, and the **plural** includes the singular.

The word **shall and will** are mandatory; the word **may** is permissive.

The word **lot** includes the word parcel.

### SECTION 1002 - TERM DEFINITIONS

**Accessory Dwelling Unit:** An "accessory dwelling unit" (or "ADU") is a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the dwelling unit it accompanies.

**Accessory Building or Use:** A building or use subordinate and customarily incidental to the main building or use on the same lot. The term "accessory building", when used in connection with a farm, shall include all buildings customarily used for farm purposes.

**Alteration:** Any structural change or rearrangement in the walls, roof, ceiling, floors, beams, columns, interior plan or layout, exterior architectural features and exit facilities. Alteration includes the movement of any building, except mobile homes and trailers from one location to another.

**Apartment:** Common name for a dwelling unit in a multi-family building.

**Auto Service Station:** Any area of land, including structures thereon, that is used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used for polishing, greasing, washing, spraying, dry cleaning, minor mechanical repairs or otherwise cleaning or servicing such motor vehicles. A service station is not a vehicular sales and major repair facility.

**Back Lot:** Any parcel of land which has not less than fifty (50) feet of frontage on a public or private road or right-of-way, as further defined in Section 403.

**Block Frontage:** All the property fronting on one side of a street between streets, railroads, and similar rights-of-way, waterways, end of streets or Town boundaries measured along the street line or any combinations thereof.

**Building:** A constructed unit forming a shelter for persons, animals, or property and having a roof and being permanently located on the land. Where the content allows, the word "building" shall be construed as followed by the words "or part thereof."

**Building Front Line:** The line parallel to the front lot line transecting that point in the building face which is closest to the front lot line except for minor projections as provided for in Article IV, Section 405.

**Building Height:** Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

**Camping:** Camp, Camping (and recreational camping)—accommodations that have been erected or sited in the form of, for example, tents, motor homes, or travel trailers that are used for temporary or short-term shelter.

**Cluster Development:** A cluster Development is an optional form of subdivision for single-family dwellings, which may include condominiums, that allows lots of reduced dimensions where development will occur in order to maximize the sharing of open space. The maximum density is set by the Zoning Ordinance based on applicable zoning district where the tract of land is located.

**Coverage:** That percentage of the lot area covered by a building. Where not otherwise specified, coverage shall be limited by set-back requirements.

**Cul-de-sac Street:** A street having one open end and being permanently terminated at the other by a vehicular turn-around. A cul-de-sac street shall not provide entrance to other streets.

**Daycare Facility, Adult:** An adult daycare facility shall mean a public or privately operated day care center, therapeutic program or other facility, which provides daily care to adults who need special care due to the aging process or disease progression. All adult daycare facilities shall be licensed by the state, if required.

**Dwelling, One-Family:** A detached or free-standing residence other than a mobile home designed for and occupied by one family only.

**Dwelling, Two-Family:** A residential building designed for or occupied by two families living independent of each other in individual attached dwelling units.

**Dwelling, Seasonal:** A residence used only for casual and intermittent occupancy such as, but not limited to a second home, a vacation home, a summer cottage, a ski chalet, and such similar dwelling. Such a dwelling shall not be the principal place of residence of the occupant.

**Dwelling Unit:** One room or rooms connected together, constituting a separate, independent housekeeping establishment from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. It shall include section homes and modular units provided these units meet the standards of the local building code but shall not include mobile home, motel, hotel, lodging house or similarly structures.

**Essential Services:** The erection, construction or major alteration by public utility companies of underground or overhead gas, electrical, sewer, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, and similar equipment and accessories in connection therewith, and including buildings reasonably necessary for the furnishing of such services by public utility companies. This shall not include minor relocations or minor additions such as street lights, hydrants, wire, fire alarm boxes or pipes and the replacement of facilities except for buildings.

**Family:** Any number of persons related by blood or by marriage, or not more than three persons not related by blood or by marriage, living together as a single housekeeping unit.

**Family Daycare Home:** An occupied residence in which child care is regularly provided for any part of a day, but less than 24 hours, except in emergencies, for 1 to 6 children from 1 or more unrelated families. The maximum of six includes children living in the home and children receiving care who are related to the resident caregiver.

In addition to 6 children, 1 to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays. All Family Daycare Homes shall be licensed by the state, if required.

**Family Group Daycare Home:** An occupied residence in which child care is regularly provided for any part of a day, but less than 24 hours, except in emergencies, for 7 to 12 children from 1 or more unrelated families. The maximum of 12 children includes children living in the home and children receiving care who are related to the resident.

In addition to 12 children, 1 to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays. All Family Group Daycare Homes shall be licensed by the state, if required.

**Farm:** Any parcel of land which is used for the raising of agricultural products, livestock, poultry and dairy products, including necessary farm structures and storage of equipment used, excluding raising of fur bearing animals or more than 10 swine.

**Flea Market:** A sale of merchandise on a space-rental basis.

**Foundation, permanent:** The whole masonry substructure of a building or structure that is designed to resist frost action and to support safely all vertical and lateral loads.

**Frontage:** The width of a lot measured along its common boundary with the street line.

**Group Preschool Center:** Any agency that regularly provides full day or half day child care for 13 or more preschool children, whether or not the service is known as a day nursery, nursery school, kindergarten, cooperative child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name. All Group Preschool Centers shall be licensed by the state, if required.

**Home Business:** A use of a professional or service character that may employ not more than two people who do not reside on the property. The use shall adhere to all of the regulations of Section 413.

**Home Office:** A use of a professional or service character that is carried on solely by the residents of the property. The use shall not occupy any more than one room of the home or an accessory building and shall clearly be secondary to the primary residential use. The use shall not have any onsite advertising except an identification sign complying with Section 412. The use shall not require any additional parking spaces.

**Junk Yard:** Any use which meets the terms and definitions found in State of New Hampshire RSA 236:111-a and 112. Junkyards are not allowed in any zoning district unless the ZBA grants a variance, which shall be enforceable by the Town under the terms of the Zoning Ordinance, as provided in Section 304.

**Kennel:** Any lot or structure that is used for the keeping, breeding or boarding of five or more dogs or cats. Four or less adult dogs and/or four or less adult cats that are household pets do not come under this definition.

**Lodging House:** Any dwelling (other than a hotel or motel) in which living accommodations without individual kitchen facilities are rented to three or more non-transient guests. A boarding or rooming house shall be deemed a lodging house.

**Lot:** A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required.

**Lot Area:** The horizontal area of the lot lying within the lot lines, exclusive of any area in a street right-of-way.

**Lot Corner:** A lot situated at the intersection of, and abutting, two streets which have an angle of intersection of not more than 135°. A lot abutting a curved street shall be deemed a corner lot if the tangents to the curve at its points of intersection with the side lot lines meet at an interior angle of not more than 135°.

**Lot Measurements:** Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. Width of a lot shall be considered to be the side lot lines between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; width between the lot lines at their foremost points (where they intersect with the street line) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of cul-de-sac where the 80% requirement shall not apply.

**Lot of Record:** A lot, which is part of a subdivision of record in the office of the County Registry of Deeds, or a lot or parcel described by meets and bounds, the description of which has been so recorded.

**Main Building or Use:** A building or use which houses or constitutes the principal activity on the premises.

**Medical Facility:** Includes hospital, sanitarium, clinic, nursing home, convalescent home, professional medical office, medical laboratory, and any other place for the diagnosis, treatment or care of human ailments. (Amended March 23, 2004)

**Membership Clubhouse:** A building used for education, entertainment, recreational, social or charitable purposes by an organization, association, or society for the primary benefit of its members and which may include cooking, dining, restroom, or locker room facilities.

**Mobile Home:** A mobile home is a structure, transportable in 1 or more sections, which exceeds either 8 body feet in width or 32 body feet in length, is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A double-wide mobile home is a mobile home consisting of two sections combined horizontally at the site while still retaining their individual chassis for possible future movement.

An expandable mobile home is a mobile home with one or more room sections that fold, collapse or telescope into the principal unit when being transported and which can be expanded at the site to provide additional living area.

**Mobile Home Park:** Any tract of land on which two or more mobile homes are parked and occupied for living purposes.

**Motel:** A building or group of buildings which contain four or more apartments or living accommodations, with or without kitchens, and which constitutes primarily the temporary abode of persons who have their residence elsewhere. This shall include hotels.

**Motor Home:** A portable, temporary dwelling to be used for travel, recreation, and vacation, and constructed as an integral part of self-propelled vehicles.

**Non-Complying Building:** A non-complying building means a structure or part thereof not in compliance with the zoning ordinance covering building bulk, dimensions, height, area, yards, or density where such structure conformed to all applicable laws, ordinances and regulations prior to the enactment of this zoning ordinance.

**Non-Conforming Use:** A use which lawfully occupied a building or land that existed on the effective date of this ordinance or amendment.

**Off-Lot Water and Sewer:** The provision of water from a source and the disposal of sewage at a location not on the same or adjacent lot as the building for which these utilities are provided. Further provided that each of these systems shall be designed so as to provide service to ten or more independent users.

**On-Lot Water and Sewer:** The provision of water from a source such as a drilled well and the disposal of sewage by such means as septic system and drainage field located on the same or adjacent lot as the building for which these utilities are provided.

**Parking Space Off-Street:** For the purposes of these regulations, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked without moving another.

**Planned Commercial Development: (PCD)** a tract of land, including a lot or more than one contiguous lot that will be comprehensively planned and constructed as a single development for a quasi-public, commercial or industrial uses which meets the minimum area requirements established by the Ordinance. Requirements such as frontage or setbacks that would ordinarily apply if the development applied only to a single lot or to a single building may be waived so that the land may be developed in a more economical and environmentally friendly manner (e.g., with regard to contours, the least expensive way to install streets, water and sewer, etc.) while retaining more open space, but in no case shall the density be greater than that if the land were subdivided or used according to the established zoning regulations of the applicable district.

**Planned Unit Development:** A tract of land, including a lot or more than one contiguous lot that will be comprehensively planned, constructed, operated and maintained as a single development which meets the minimum area requirements established by the Zoning Ordinance. A PUD shall contain public, quasi-public, commercial, or industrial uses. All requirements of the Zoning District in which the property is located shall apply with the exception that the maximum allowable density may be reduced by the Planning Board

**Professional Office:** A place of business where the daily administrative practices of a business enterprise are carried out or where the services of a professional vocation are conducted.

**Public Water, Public Sewer:** Town or Municipal water supply and sewage disposal systems approved by the town.

**Public Utility:** See Essential Services.

**Recreational Facility:** Recreational activities and their accompanying structures, operated either for profit or non-profit, including but not limited to tennis courts, swimming pools, athletic fields, ice or roller skating rinks, golf courses, canoe or boat launches, squash or handball courts, slides, rides, and racing facilities.

**Removal of Natural Material:** The removal of natural material is the removal of loam, sand, gravel, stone, or other fill material for sale in commercial quantities, or for use in another location.

**Retail Store:** Includes shop and store for the sale of retail goods, personal service shop and department store and shall exclude any drive-in service, freestanding retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service and commercial services.

**Sawmill:** Sawmill operations or forest produce manufacture in structures provided they are not within 200 feet of any property line and provided that outdoor storage shall not be located within the required front yard or within 50 feet of any property line.

**Service Area:** The area adjacent to a building entrance, usually in the rear, through which supplies are received and waste materials are moved.

**Sign:** Any device having a display surface on one or both sides designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulation herein:

- A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises.
- B. Flags and insignia of any government except when displayed in connection with commercial promotion.
- C. Legal notices, identification, informational, or directional signs erected as required by governmental bodies.
- D. Signs directing and guiding traffic and parking on private property, but bearing no advertising.

**Sign, Sandwich Board:** A free standing, temporary A-frame ground sign having a message on both sides.

**Signs Surface Area:** The surface of a sign shall be computed as including the entire area within regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

**Single Family Dwelling:** See Dwelling, One-Family.

**Special Exception:** A use of land, structure or building which may be permitted under this ordinance only after application to and approval by the Zoning Board of Adjustment subject to the general criteria of Section 306 and any special criteria that may be specifically attached to a particular special exception. The use of land, structure, or building must be clearly identified as a special exception in this ordinance.

**Street or Public Street:** A public right-of-way which the town or state has the duty to maintain regularly or a right-of-way shown on a subdivision plat approved by the Planning Board and recorded with the County Registry of Deeds which provides the principal means of access to abutting property.

**Street Line:** Boundary line of a street right-of-way as dedicated by subdivision plan or a deed of record. Where the width of the street is not established, the street line shall be considered to be 25' from the center line of the street pavement.

**Structure:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structure includes, but is not limited to a building, swimming pool, mobile home, billboards, or poster panel. It shall not include a minor installation such as a mailbox, flagpole, or a fence less than 6' high providing such fence does not obstruct vision of highway and traffic.

**Travel Trailer:** A vehicular, portable, non-self-propelled structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, having a body width not exceeding 8' and a body length not exceeding 32'.

**Use, Permitted:** Use specifically allowed in a zoning district, excluding illegal uses and non-conforming uses.

**Utility:** See Essential Services.

**Variance:** Such departure from the terms of this ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize only under the terms of Section 307 and applicable statutes of the State of New Hampshire.

**Vehicular Sales and Repair Facility:** Enclosed establishment for the display, sale, and repair of new and used motor vehicles, snowmobiles, trailers, motorcycles, mobile homes, and boats. NO retail sale of gasoline or retail sale of oil permitted except as incidental to the repair facility.

Outdoor display of new and used equipment may be permitted.

**Warehouse:** Includes warehouse, wholesale establishment, bulk storage, and bulk sales outlet.

**Yard:** That portion of a lot not occupied by a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

**Yard, Front or Setback Depth:** The depth of the front yard shall be measured from the street line to the front line of the building.

**Yard, Rear Depth:** The depth of the rear yard shall be measured from the rear lot line to the rear line of the rearmost building.

**Yard Sale:** Also, garage sale or tag sale: A sale of occupant's personal property to be held a maximum of three weekends per year.

**Yard, Side Depth:** The depth between the side of the principal building or accessory building and the nearest side lot line.



## ARTICLE XI - MISCELLANEOUS PROVISIONS

### SECTION 1101 - SEVERABILITY CLAUSE

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

### SECTION 1102 - EFFECTIVE DATE

This ordinance shall take effect immediately upon its adoption.

### SECTION 1103 - AMENDMENTS

This ordinance and its accompanying maps may be amended in accordance with the provisions of the applicable statutes of the State of New Hampshire.

### SECTION 1104 - VALIDITY

Whenever the provisions of this ordinance or rulings made under the authority hereof from those of other ordinances or regulations of the town, that provision or ruling which imposes greater restriction or higher standard shall govern.

This document has been amended by Town vote on the following dates:

February 19, 1965	March 14, 1978	October, 1980	March 8, 1983
March 12, 1985	March 11, 1986	March 10, 1987	November 24, 1987
September 20, 1988	May 8, 1990	November 6, 1990	May 12, 1992
May 11, 1993	March 9, 1995	May 11, 1999	May 9, 2000
May 14, 2002	March 23, 2004*	May 11, 2004	May 9, 2006
May 8, 2007	May 12, 2009	May 8, 2012	May 10, 2016
May 9, 2017	May 14, 2019		

\*Special Town Meeting