

# **Town of Effingham Zoning Ordinance**

## **ARTICLE 1 PREAMBLE AND TITLE**

### **Section 101 Preamble**

It is the purpose of this Ordinance to promote the health, safety, prosperity and general welfare of the citizens of Effingham; to buffer the town's historic districts and maintain their rural character; and to retain the Town's community character including its beauty, its rural charm, its freedom of movement and its overall good will. This ordinance will enable the citizens of Effingham to preserve their community as a beautiful, wholesome and healthy place for themselves, their children and future generations to live, work, and play. Therefore, in pursuance of authority conferred by New Hampshire Revised Statutes Annotated, Chapter 674, Section 16, for the purpose of promoting the health, safety and general welfare of the inhabitants of the Town of Effingham, now therefore the following ordinance is hereby enacted by the voters of the Town of Effingham, New Hampshire.

### **Section 102 Title**

This ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Effingham, New Hampshire, 2000."

### **Section 103 Land Use Limited to Specific Listed Uses**

No structure shall be constructed, erected, placed, or altered and no land use commenced or continued within the Town of Effingham except as specifically or by necessary implication authorized by this Ordinance and having first secured a certificate of zoning compliance from the enforcement officer.

## **ARTICLE 2 EXISTING USES**

### **Section 201 Existing Uses**

Any lawful building, or use of a building, or land, or parts thereof in existence at the time of the adoption of this Ordinance, or of any amendment thereto, may be continued although such building or use does not comply with the provisions of this Ordinance. Such building or use shall be lawful if there was compliance with existing regulations in effect. This Zoning Ordinance shall not apply to existing structures or to the existing use of any building or land. It shall, however, apply to any alteration of an existing structure or for a use that is substantially different from the existing use or from the existing structure prior to alteration. Nonconforming uses and structures shall be subject to the provisions of Article 7, Non-Conforming Uses and Structures.

## ARTICLE 3 DEFINITIONS

### **Section 301 Interpretation**

The definitions contained in this ordinance are to be considered in reference to the general purpose and intent of this ordinance as outlined above.

### **Section 302 Definitions**

***Accessory Building/Use:*** A detached building or use which is located on the same lot as the principal building and the use of which is incidental and subordinate to that of the principal use.

***Aggregate Extraction:*** Any activity related to the removal of sand, gravel, loam or stone for commercial purposes.

***Automobile Service:*** Any building or premises used primarily for the retail sale of gasoline and lubricants.

***Automobile and Truck Repair:*** Any building or premises used primarily for the purpose of repairing, rebuilding, reconstructing and servicing of automobiles and trucks.

***Bed and Breakfast:*** A private single-family detached residential building containing, in addition to living accommodations for the resident manager, no more than seven (7) rooms which provide, for compensation lodging, bathroom facilities and breakfast to overnight patrons only and for no longer than two (2) consecutive weeks.

***Building:*** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. Aside from "Accessory Buildings", all buildings must have a permanent foundation.

***Building Height:*** Vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof.

***Campgrounds:*** A parcel of land with two or more specific sites that has provision for the pitching of a tent or the parking of any recreational vehicle or trailer for use as sleeping quarters on a temporary basis for recreation or education.

***Church/Community Building:*** A building used as a place of worship maintained by a religious group or any other building used by the members of the community for social, cultural or *recreational* purposes. Parking will be provided on-site; the number of spaces provided will be based on the building's capacity.

***Construction/Building Contracting:*** An Establishment engaged in aspects of the building trades. Typical examples: excavation, foundations, carpentry, electrical and plumbing.

**Contractor Storage Yard:** Outside storage of owner owned or leased supplies and equipment used in off-site business. Typical examples are supplies, vehicles, and equipment.

**Cottage Industry:** A small scale industry involving the manufacturing or assembly of goods at home, in an accessory building of the home, or on its own lot which has no more than five (5) non-family employees. Typical uses might include a woodworking, printing, window manufacturing, or blacksmith shop.

**Dwelling, Multi-Family (3 or more units):** A building which contains three or more dwelling units.

**Dwelling, Single Family:** A building containing only one dwelling unit designed as a residence for one family.

**Dwelling, Two Family:** A building which contains two dwelling units.

**Dwelling Unit:** A residential unit intended for use by one household or family.

**Establishment:** An economic unit, generally at a single physical location, wherein business is conducted or services or industrial operations performed. Generally the physical location is a building or part therein.

**Farm:** Any parcel of land of at least ten (10) acres in size used for agricultural purposes, including raising of crops, dairying, pasturage, animal and poultry husbandry and feedlots, and includes the necessary accessory uses normally associated with such uses. A farm will include a 50-foot buffer for livestock from all water bodies including streams and ponds but excluding farm ponds, as well as a 200-foot buffer from all abutting property lines for manure and animal waste storage.

**Forestry/Woodlot:** A parcel or tract of land primarily used for the growth and harvesting of trees or tree products.

**Foundation:** A base constructed to support any building or structure including but not limited to footings, floating foundation, piles, caissons.

**Frontage:** The width of a lot measured along the line of a street where the lot meets the right-of-way.

**Home Occupation:** Any use of a professional or service character that is either carried out in the home or in an accessory building of the home carried out by a member or members of the family and no more than two (2) non-family employees. The use must be clearly secondary to the dwelling use for living purposes and does not change the character thereof. A "home occupation" does not involve any outside storage except that incidental to the home, no outside display of goods, and where no on-street parking exists must provide off-street parking in the amount of one (1) space for every 3 expected patrons or customers at any one time. In-home day care service may qualify as a home occupation.

***Inn (Conversion):*** An existing building containing no more than 20 guest rooms which are rented to customers on a temporary basis but without individual kitchen units.

***Inn (New Construction):*** A building containing no more than 20 guest rooms which are rented to customers on a temporary basis but without individual kitchen units.

***Lot of Record:*** A single lot of record which, at the effective date of this Ordinance, does not meet the minimum lot area, minimum lot area per dwelling unit, or minimum frontage requirements of the district in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

***Manufacturing:*** Any process whereby the nature, size, shape, finish or appearance of articles is changed or where articles are assembled or packaged for commercial purposes.

***Manufactured Housing:*** Any building built in compliance with the US Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards (24 C.F.R. 3280). A manufactured home is transportable in one or more sections, which, in its traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis with a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained herein.

***Manufactured Housing Park:*** Land on which two or more manufactured houses are parked and occupied for long-term living purposes, regardless of whether a charge is made for such accommodations. A park could be in either single or common ownership with lots offered on a rental basis.

***Office Building:*** A building used primarily for conducting the affairs of a business or profession.

***Recreation Facility:*** Any room or building or outdoor facility set aside for public or private recreational use, which shall be limited to the following: dance hall, bowling alley, golf driving range, golf course, tennis courts, skating rink, ball fields, equestrian facilities, swimming facilities, or health club.

***Repair Shop:*** A building used for the repair of small engines, appliances, radios, televisions, office equipment, shoes or any similar use.

***Rest/Convalescent Home:*** A building which offers personal care (including dressing, eating and health-related care) and shelter for short, intermediate and long term durations.

***Restaurants:*** An establishment where food and drink are prepared, served and consumed either within the principal building or outside the confines of the restaurant. This does not include drive-thru or drive-in establishments.

***Retail Business:*** Establishments which are engaged in the selling of goods or merchandise to the general public for personal or household consumption. The goods or

merchandise to be sold may include those which are bought or those manufactured or assembled on-site. Examples of Retail Businesses include antique stores, specialty, gift and arts and crafts shops, shoe and clothing stores, art galleries, furniture stores and country stores.

***School:*** A building or area in which persons are instructed in arts, science, languages, or any kind of learning or training.

***Service Business:*** An establishment which typically offers assistance or facilities to individuals, businesses or other enterprises. Typical uses might include banks, laundries, day care centers, or real estate services, but shall not include heavy industrial uses.

***Street:*** A public highway as defined in RSA 229:1 except a Class VI or discontinued highway; or a private road within a subdivision as platted and recorded in the Carroll County Registry of Deeds, including the full width of the right-of-way.

***Structure:*** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

***Warehouses and Storage Facilities:*** A building for storage purposes only; containing no office, assembly, repair, or other incidental facilities.

## **ARTICLE 4    DISTRICTS, LOT REQUIREMENTS AND MAPS**

### **Section 401        Establishing Districts**

The Town of Effingham is hereby divided into the following districts as shown on the official zoning map:

R/A VOD	Rural/Agricultural Village Overlay Districts, otherwise referred to as Village Districts
HD	Historic Districts

### **Section 402        Lot requirements**

	Rural/ Agricultural	Village District	Historic District
<b>Minimum Lot Size (acres)</b>	<b>2</b>	<b>2</b>	<b>2</b>
<b>Minimum Frontage (feet)</b>	<b>200</b>	<b>200</b>	<b>200</b>

**Water Frontage:** All lots having access to water shall have a minimum of fifty (50) feet of frontage.

#### **Minimum Structure Setbacks From Property Line (feet)**

<b>Front</b>	<b>50</b>	<b>35</b>	<b>35</b>
<b>Side</b>	<b>30</b>	<b>25</b>	<b>25</b>
<b>Rear</b>	<b>50</b>	<b>50</b>	<b>50</b>

### **Section 403        Zoning and Steep Slopes Maps**

The districts as established in Section 401 are shown on maps on file in the offices of the Town of Effingham and are a part of this Ordinance. There is a map entitled "Town of Effingham Zoning Map," which has been identified by the signatures of the members of the Planning Board and the date of adoption and any further amendments. There is also a Steep Slopes/Erosion Map on file in the offices of the Town.

## **ARTICLE 5 PERMITTED USES**

### **Section 501 Permitted Uses**

Permitted Uses are only those uses that are specifically listed under Permitted Uses in TABLE 1 and are allowed only if the standards established within this ordinance are met. Permitted uses are subject to Article 6. "General Provisions."

## **ARTICLE 6 GENERAL PROVISIONS**

The following shall apply to all districts except where listed.

### **Section 601 Lots in Two Zoning Districts**

Where a district boundary divides a lot of record at the time such boundary is adopted, the regulations for the less restricted portion of such a lot apply to the more restricted portion of the lot within thirty (30) feet of the district boundary.

### **Section 602 Reduction of Lot Area**

When a lot is subdivided, no resulting lot shall be so reduced that the area, yards, frontage, or other requirements of these regulations shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when a portion of a lot is taken for a public purpose.

### **Section 603 Yards on Corner Lots**

Any yard adjoining a street shall be considered a front yard for the purposes of these regulations.

### **Section 604 Abandonment of Structures and Excavations**

- 604.1 Within six months after work on excavation for a building has begun, the excavation thus remaining shall be covered, such as with building construction or filled to normal grade by owner, and piles of unused or excess excavated material are to be removed.
- 604.2 Within six months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site and the excavation thus remaining shall be covered over as with building construction or filled to normal grade by the owner.
- 604.3 No structure in the process of completion or demolition and no ruins from fire or other casualty shall be abandoned in a hazardous or disorderly state. Such structure shall be considered to be abandoned when work to remedy the improper condition shall not have been initiated within 90 days of the occasion of the casualty, or if initiated work shall have been discontinued with the owner's consent for 30 or more consecutive days.

### **Section 605                    Motor Vehicle/Trailer Storage**

- 605.1 A maximum of two unregistered motor vehicles that are no longer intended or in condition for legal use on the highways may be stored on any lot, as described in RSA 236:112.
- 605.2 A maximum of two unregistered travel trailers, as defined in RSA 259:113, may be stored on any lot.

### **Section 606                    Building Height**

The maximum height of any building shall be thirty-five (35) feet, with determination being the vertical distance from the average finished grade surrounding the building to a point midway between the highest and lowest points of the highest roof. Silos, barns and church towers are exempted, as are residential television and radio antennas.

## **ARTICLE 7                    NON-CONFORMING USES AND STRUCTURES**

### **Section 701                    Definition**

Any lawful structure or use of a building in existence at the time of the adoption of this Ordinance, or of any amendment hereto, may be continued even though such structure or use does not comply with the provisions of this Ordinance. Such structures shall be known as "Non-Conforming Structures" and such uses as "Non-Conforming Uses."

### **Section 702                    Change or Expansion of Non-Conforming Use**

- 702.1 Upon approval of a Special Exception permit by the Zoning Board of Adjustment (see **Section 10, Non-Conforming Use Change or Expansion**), a nonconforming aspect of a lot, structure, or use may be changed upon a finding by the ZBA that such a change will bring the lot, structure, or use into closer conformance with the provisions of this Ordinance, or will make the nonconforming aspect no worse. A lot or structure will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if its dimensions are unchanged or more nearly meet the prescribed standards. A use will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if it is less or no more intense than the previous nonconforming use, as measured by volume and type of traffic expected to be generated, size of building or structure housing the use, number of potential customers, number of bedrooms, or similar measures of intensity of use. The ZBA may approve with conditions, or disapprove, requests under this section.
- 702.2 No non-conforming use shall be enlarged or extended in excess of twenty percent (20%) of the gross floor area of the principal building existing at the time the non-conformance

commenced. The expanded 20% use shall comply with all other provisions of this Ordinance, including but not limited to dimensional requirements, sign regulations, and off-street parking requirements.

**Section 703 Abandonment of Non-Conforming Use or Structure**

If a non-conforming use is changed to a conforming use and continued for a period of four (4) months or more, such change shall constitute the abandonment of the prior non-conforming use. A non-conforming use shall be presumed to be abandoned if the use has been discontinued for a period of two years or more. A determination shall in the first instance be made by the Enforcement Officer, and any person aggrieved may appeal that decision to the Zoning Board of Adjustment. Rights vested by applicable law shall not be affected.

**Section 704 Damage to a Non-Conforming Structure**

If a non-conforming **structure** is damaged by fire, explosion or other catastrophe, the building may be rebuilt and restored not greater in size or floor space than the original structure and shall be in the original location of the original structure except as provided in Section 706. Restoration of the structure must occur within two years of the date of damage. Otherwise the non-conforming use shall be presumed to have been abandoned, except as to rights vested by law.

**Section 705 Damage to a Non-Conforming Use**

If a building housing a non-conforming **use** is damaged by fire, explosion or other catastrophe, it may be rebuilt or restored provided it is limited to the original size and floor space utilized by the non-conforming use. Restoration of the structure must occur within two years of the date of damage. Otherwise, the non-conforming use shall be presumed to have been abandoned.

**Section 706 Expansion of a Non-Conforming Structure**

A structure that is non-conforming as to one or more dimensional requirements (setbacks and/or height limit) may be enlarged or extended up to 20% for non-residential structures and up to 30% for residential structures of the gross floor area existing at the time the non-conformance commenced. For example, a house which is too close to the road and does not comply with the front yard requirement may be extended parallel to the road in an amount equal to 30% of the gross floor area of the house. The extension, however, cannot violate a side yard or rear yard requirement.

If enlargement or extension includes additional bedrooms, evidence of compliance with the State of New Hampshire Water Supply and Pollution Control Regulations must be submitted to the Enforcement Officer.

### **Section 707 Lot of Record**

A “lot of record” shall be a lot which is part of a subdivision approved by the Effingham Planning Board and recorded in the Carroll County Registry of Deeds or described by meets and bounds in a deed recorded in the Carroll County Registry of Deeds prior to the enactment of this Ordinance (March 2000). A lot of record may be used for the uses permitted in the zoning ordinance in the district within which the property is located so long as the lot satisfies the following:

- 1) The Lot must have frontage, as defined by this ordinance, and said frontage must be capable of providing sufficient access for emergency vehicles.
- 2) The lot must be capable of supporting a well and septic system, designed and installed in compliance with all then-current Town and State of New Hampshire Water Supply and Pollution Control Regulations.
- 3) All structures and improvements must comply with the set back requirements contained in this ordinance.
- 4) A lot of record may be used for the location of a single-family residence, provided that the lot of record complies with the terms of this section and all necessary state and local permits can be obtained.

## **ARTICLE 8 MANUFACTURED HOUSING**

### **Section 801 Intent**

In order to allow for a broad range of housing types within the Town, manufactured housing for single family dwelling units is allowed as a permitted use on individual lots in the Rural/Agricultural District. Such manufactured housing located on individual lots shall comply with lot size, frontage requirements and other reasonable controls that conventional single family housing in the same District must meet. Manufactured housing will only be permitted that is in compliance with the US Department of Housing and Urban Development (HUD) Manufactured Housing Construction and Safety Standards (24 C.F.R. 3280) and that is located on a permanent foundation.

## **ARTICLE 9 SPECIAL EXCEPTIONS**

### **Section 901 R.S.A. 674:33 IV.**

“A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. **All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.**”

**Section 902 Obnoxious Use**

Any use that may be obnoxious or injurious by reason of production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibration or similar conditions, or that is dangerous to comfort, peace, health, or safety of the community is prohibited.

**Section 903 General Provisions**

The Zoning Board of Adjustment may grant permits for uses permitted as special exceptions as illustrated in the Table 1 “Permitted Uses by District or Zone” based on the following general provisions, and where applicable, the provisions specific to the proposed use as outlined below.

**Section 904 Conditions for Approval**

The Zoning Board of Adjustment in considering an application for a special exception must consider the following general conditions:

- A. The specific site of the proposal is in an appropriate location for that use.
- B. The proposed use will not reduce property values in the district due to incompatible land use.
- C. The proposed use will not harm the community or neighborhood.
- D. Adequate facilities will be provided which are appropriate to the proposed use.
- E. Adequate on-site parking is to be provided appropriate to the proposed use.
- F. The proposed use will not result in any nuisance or hazard as outlined in the Section 902 “Obnoxious Use” above.
- G. There is adequate area for safe and sanitary sewage disposal.
- H. There are no valid objections from abutters based on demonstrable fact.
- I. The installation of monitoring wells or other appropriate environmental monitoring systems may be required.

## **ARTICLE 10 USE SPECIFIC CONDITIONS FOR APPROVAL**

### **Automobile Service Station:**

The following site requirements and improvements apply:

- (a) Operating hours are to be permitted between 6:00 AM and 11:00 PM seven days a week.
- (b) Minimum lot size is to be 2 acres.
- (c) Pumps are to be located no closer than fifteen (15) feet to any building or twenty-five (25) feet to the right-of-way of any street.
- (d) Each station shall provide a vegetative buffer ten (10) feet wide along the lot sides and rear.
- (e) All areas utilized by vehicular traffic, either stationary or in motion, must be paved.
- (f) There shall be one free standing not internally illuminated sign permitted per station which does not exceed twelve (12) feet in height above ground.
- (g) One portable sign is also permitted not to exceed twelve (12) square feet in area, not to be internally illuminated and to be placed in a location which does not obstruct vehicular sight lines.
- (h) Adequate room for snow storage shall be provided.
- (i) A used oil container for storage is to be approved by the ZBA and is to meet applicable state regulations.

### **Automobile and Truck Repair Station:**

The following site requirements and improvements apply:

- (a) Operating hours are to be permitted between 7:00 AM and 8:00 PM seven days a week.
- (b) Minimum lot size is to be 2 acres.
- (c) Each station shall provide a vegetative buffer ten (10) feet wide along the lot sides and rear.
- (d) Structures are to be designed so as to minimize noise pollution.
- (e) There shall be one free standing not internally illuminated sign permitted per station which does not exceed twelve (12) feet in height above ground.
- (f) One portable sign is also permitted not to exceed twelve (12) square feet in area not internally illuminated and to be placed in a location which does not obstruct vehicular sight lines.
- (g) Adequate room for snow storage shall be provided.
- (h) A used oil container for storage is to be approved by the ZBA and is to meet all applicable state requirements.

### **Campground**

- (a) A minimum of 600 square feet shall be provided for each tent site and a minimum of 1,000 square feet shall be provided for each recreational vehicle and trailer campsite, with or without connection to an approved sewage disposal system (RSA 216-I:3). Within campgrounds all roads shall be well

drained, graveled or hardsurfaced, and maintained in good condition. All two-way roads shall be a minimum width of twenty (20) feet, and all one-way roads shall be a minimum of twelve (12) feet. Water supply, garbage disposal, and toilet facilities shall conform to the State of New Hampshire sanitary laws and regulations. Management headquarters, recreational facilities, showers, laundry facilities, and other uses and structures customarily incident to operation of a campground are permitted as accessory uses. No tent, tent trailer, travel trailer, motorized camper, pick-up camper or pick-up coach shall be used as permanent year-round residence.

- (b) The minimum road frontage shall be 200 feet.
- (c) The minimum setback from the nearest street shall be 100 feet.
- (d) The minimum setback for side and rear yards shall be 100 feet.
- (e) A minimum of 20 contiguous acres, not including wetlands and steep slopes, is required.

**Contractor's Storage Yard:**

- (a) The storage yard is conducted and carried on by the owner or leasee of the property and shall be incident to a Construction/Building Contracting business carried on by the owner or leasee.
- (b) One (1) small, externally illuminated sign is permitted, not larger than six (6) square feet.
- (c) A fencing or vegetative buffer shall be required to minimize impact on abutting property.
- (d) There is to be provided adequate off-street parking for all employees and customers and for delivering and shipping goods other than by customary home delivery services.
- (e) Noise and light pollution shall be kept to a minimum and lights shall be white, non-sodium, and shielded so as not be a distraction to abutters.

**Cottage Industry:**

- (a) It is conducted and carried on by the owner or leasee of the property and not more than five (5) non-family employees.
- (b) One (1) small, externally illuminated sign is permitted, not larger than six (6) square feet.
- (c) All work is to be contained within the structure.
- (d) There is to be no production or work which increases the noise level, involves the use of water, or produces fumes beyond the limits of the lot lines.
- (e) There is to be no unreasonable outside storage of goods or materials which can be seen from abutting properties or roads.
- (f) There is to be no installation or use of mechanical or electrical equipment or hazardous materials that would not normally be part of a domestic household without the written approval of the Fire Chief.
- (g) There is to be provided adequate off-street parking for all employees and customers and for delivering and shipping goods other than by customary home delivery services.
- (h) The cottage industry located within a dwelling unit is limited in size to not more than 50% of the floor area of that unit.

- (i) The cottage industry located on its own lot shall be limited in size to not more than 2,000 square feet per floor.
- (j) Floor area is defined as the total horizontal area of a building not including cellars, attics, porches, etc.

**Dwellings, Multi-Family and Two-Family:**

- (a) Parking shall be provided on-site at a minimum of two (2) spaces per residential unit, and adequate on-site parking shall be provided for visitors;
- (b) Adequate space shall be provided for the removal/storage of snow;
- (c) Adequate lighting shall be provided and shall be white, non-sodium and shielded so as not be a distraction to abutters.
- (d) There shall be a maximum of 4 dwelling units in any multi-family dwelling.
- (e) The minimum area of the lot shall be equal to 1.25 acres multiplied by the number of individual single-family units in the building.

**Inn (New Construction):**

- (a) One (1) small, externally illuminated sign is permitted, not larger than six (6) square feet.
- (b) Adequate space shall be provided for the removal/storage of snow.
- (c) Adequate lighting shall be provided and shall be white, non-sodium and shielded so as not be a distraction to abutters.
- (d) Adequate on-site parking shall be provided based one space for every three (3) customers, patrons or users plus one (1) space for every two (2) employees.
- (e) Front, side and rear yard landscaping shall be provided where no natural woodlot exists.

**Manufacturing:**

- (a) Roads shall be of sufficient size and condition to handle projected employee and truck traffic.
- (b) The minimum road frontage shall be 250 feet.
- (c) The minimum setback for new buildings from the nearest street shall be 100 feet.
- (d) The minimum setback for side and rear yards shall be 75 feet.
- (e) The coverage of buildings, parking lots and drives shall be no more than 50% per parcel.
- (f) Parking shall be provided at one space per employee on the site. Parking shall be no closer than 75 feet to any property line.
- (g) The proposed buildings shall be at least 200 feet from existing residential buildings and 75 feet from existing commercial buildings.
- (h) Front yard landscaping shall be provided where no natural woodlot exists.
- (i) A maximum of two (2) access point shall be allowed for each lot.

- (j) Noise and light pollution shall be kept to a minimum and lights shall be white, non-sodium, and shielded so as not to be a distraction to abutters.

**Non-Conforming Use Change or Expansion:**

- (a) The dimensions of the lot or structure are unchanged *or* more nearly meet the frontage, setback or lot size standards of this ordinance.
- (b) The proposed use is less or no more intense than the previous non-conforming use as measured by:
  - (i) Volume and type of traffic expected to be generated;
  - (ii) Size of the building or structure housing the use;
  - (iii) Number of potential customers;
  - (iv) Number of potential bedrooms;
  - (v) Similar measures of intensity of use.

**Office Building:**

- (a) Landscaping shall be provided where no natural woodlot exists.
- (b) Adequate parking is to be provided on-site with one (1) space available for each employee and one space for each three (3) visitors to the building at any one time.
- (c) The permitted hours of operation in the Village Districts and the Historic Districts are between 8:00 AM and 6:00 PM seven days a week.

**Recreation Facility:**

- (a) Adequate on-site parking shall be provided based on every three (3) customers, patrons or users plus one (1) space for every two (2) employees.
- (b) Noise and light pollution shall be kept to a minimum and lights shall be white, non-sodium, and shielded so as not be a distraction to abutters.
- (c) The facility shall be set back at least 100 feet from the road and 75 feet from rear and side lot lines.
- (d) Hours of operation in the Village Districts and the Historic Districts shall be no greater than 7 a.m. to 12 Midnight.

**Rest/Convalescent Home:**

- (a) In the Village Districts and in the Historic Districts, Rest/Convalescence homes are to be located only in existing structures.
- (b) Adequate parking is to be provided on site. In the Village Districts and Historic Districts, parking is to be located only in the rear of the building.

**Restaurants:**

- (a) All signs, if illuminated, are to be externally illuminated; and exterior lighting shall be white, non-sodium, and shielded so as not be a distraction to abutters.
- (b) Restaurants are to be located only in existing structures.
- (c) Adequate on-site parking is to be provided at one (1) space per expected three (3) customers at any one time plus one (1) space for every two (2) employees.

**Retail Business:**

- (a) Retail stores are to have a maximum floor space of 2000 square feet per floor.
- (b) One externally illuminated sign is permitted at a size no larger than twelve (12) square feet.
- (c) Operating hours are to be permitted between 8:00 AM and 9:00 PM seven days a week.
- (d) Adequate on-site parking is to be provided at one (1) space for every three (3) expected customers at one time.
- (d) If parking is provided on the street side of the lot, a minimum of a two (2) foot wide vegetative buffer is required.

**Schools:**

- (a) Adequate on-site parking shall be provided based on the proposed use of the building and number of anticipated students, participants, and employees.
- (b) One externally illuminated sign is permitted at a size no larger than twelve (12) square feet.
- (c) Exterior lighting shall be white, non-sodium, and shielded so as not be a distraction to abutters.

**Service Business:**

- (a) In the Village Districts and Historic Districts, operating hours are to be permitted between 7:00 AM and 8:00 PM seven days a week.
- (b) In the Village Districts and Historic Districts, Service Businesses are to have a maximum floor space of 2000 square feet per floor.
- (c) One externally illuminated sign is permitted at a size no larger than twelve (12) square feet.
- (d) Adequate on-site parking is to be provided at one (1) space for every three (3) expected customers at one time.
- (e) If parking is provided on the street side of the lot, a minimum of a two (2) foot wide vegetative buffer is required.

**Warehouse/ Storage Facility:**

- (a) One externally illuminated sign is permitted at a size no larger than twelve (12) square feet.

- (b) Noise and light pollution shall be kept to a minimum and lights shall be white, non-sodium, and shielded so as not be a distraction to abutters.
- (c) A landscaped vegetative buffer at least 10 feet wide shall be provided where no natural woodlot exists.
- (d) The facility shall be setback at least 100 feet from the street and 50 feet from side and rear lot lines.

**TABLE 1  
PERMITTED USES BY DISTRICT OR ZONE**

**P = Permitted Use**

**N = Not Permitted**

**E = Permitted By Special Exception**

<b>USE</b>	<b>VILLAGE DISTRICT</b>	<b>RURAL/AGRICULTURAL ZONE</b>	<b>HISTORIC DISTRICT</b>
<b>Accessory Building/Use</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Aggregate Extraction</b>	<b>N</b>	<b>P</b>	<b>N</b>
<b>Automobile and Truck Repair and Service</b>	<b>N</b>	<b>E</b>	<b>N</b>
<b>Bed and Breakfast</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Campgrounds</b>	<b>N</b>	<b>E</b>	<b>N</b>
<b>Church/Community Building</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Construction/ Building Contracting</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Contractor Storage Yard</b>	<b>N</b>	<b>E</b>	<b>N</b>
<b>Cottage Industry</b>	<b>E</b>	<b>P</b>	<b>E</b>
<b>Dwelling, Multi-Family</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Dwelling, Single Family</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Dwelling, Two Family</b>	<b>E</b>	<b>P</b>	<b>E</b>
<b>Farm</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Forestry/Woodlot</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Home Occupation</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Inn (Conversion)</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Inn (New Construction)</b>	<b>N</b>	<b>E</b>	<b>N</b>
<b>Manufacturing</b>	<b>N</b>	<b>E</b>	<b>N</b>
<b>Manufactured Housing</b>	<b>N</b>	<b>P</b>	<b>N</b>
<b>Manufactured Housing Park</b>	<b>N</b>	<b>N</b>	<b>N</b>
<b>Non-Conforming Use (change or expansion)</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Office Building</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Recreation Facility</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Repair Shop</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Rest/Convalescent Home</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Restaurants</b>	<b>E</b>	<b>P</b>	<b>E</b>
<b>Retail Business</b>	<b>E</b>	<b>P</b>	<b>E</b>
<b>School</b>	<b>E</b>	<b>P</b>	<b>E</b>
<b>Service Business</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Telecommunications Facilities</b>	<b>E</b>	<b>E</b>	<b>E</b>
<b>Warehouse/Storage Facility</b>	<b>N</b>	<b>E</b>	<b>N</b>

## **ARTICLE 11      ADMINISTRATION AND ENFORCEMENT**

### **Section 1101                      Enforcement Officer**

The administrative and enforcement officer for this Ordinance shall be known as the Enforcement Officer and shall be appointed by and be the agent of the Board of Selectmen. The Enforcement Officer shall administer the Zoning Ordinance literally and shall not have the power to permit any use of land or buildings not in conformance with this Ordinance.

### **Section 1102                      Enforcement and Penalty**

1102.1            This Ordinance shall be enforced by the Enforcement Officer 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 Enforcement Officer 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.

1102.2            Any person who violates this Ordinance shall be fined one hundred dollars (\$100) per day per violation. No action may be brought under this provision unless the alleged offender has had at least seven (7) days notice by certified mail that a violation exists.

### **Section 1103                      Zoning Board of Adjustment**

There shall be a Zoning Board of Adjustment as provided by RSA 673:1, IV. Its members shall have terms and powers hereby conferred upon the Zoning Board of Adjustment by RSA 673:3 and RSA 674:33. The members of the ZBA are to be elected by the registered voters of the Town.

- 1103.1            The Zoning Board of Adjustment shall have the following powers as conferred by RSA 674:33 and as otherwise conferred by law.
- A.            To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Enforcement Officer in the administration of this Ordinance.
  - B.            To hear and decide Special Exceptions to the terms of this Ordinance upon which the Zoning Board of Adjustment is required to pass as provided in this Ordinance.
  - 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 will be observed and substantial justice done. In so doing, the Zoning Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community.

- D. To hear and decide appeals from decisions of the Planning Board as authorized by RSA 676:5, III.
- E. In exercising the above-mentioned powers, the Zoning Board of Adjustment may reverse or affirm wholly or in part 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 Enforcement Officer from whom the appeal is taken.
- F. The concurring vote of a simple majority of the membership of the Zoning Board of Adjustment shall be necessary to reverse any action of the Enforcement Officer or to decide in favor of the applicant on any matter upon which the ZBA is required to pass under this Ordinance or to affect any variation in this Ordinance.

1103.2 The following rules shall apply in all proceedings before the Zoning Board of Adjustment:

- A. All appeals and applications to the Zoning Board of Adjustment shall be in writing on forms prescribed by that ZBA. Every appeal or application shall refer to the specific provision of the Ordinance involved, and shall set forth the interpretation, the Special Exception, or Variance for which application is made.
- B. Any application to the Zoning Board of Adjustment shall require a public notice and hearing in accordance with law.
- C. The Zoning Board of Adjustment shall establish such appropriate fees as will compensate the Town for the cost of processing and reviewing all appeals and applications submitted to the ZBA. The applicant shall pay the established fee upon submission of the appeal or application. The applicant is responsible for all costs of special investigative studies determined necessary by the Zoning Board of Adjustment.
- D. The provisions contained herein are intended to comply with applicable provisions of New Hampshire Revised Statutes Annotated, Title LXIV, as amended. Any such amendment shall constitute a similar amendment herein without further action.

#### **Section 1104                      Variance**

1104.1 The Zoning Board of Adjustment may, on an appeal, grant a Variance from the provisions of this Ordinance, if the ZBA determines that the following five requisite standards are met, namely:

- A. No diminution in value of surrounding properties would be suffered;
- B. Granting the permit would not be contrary to the public interest;

- C. Denial of the permit would result in unnecessary hardship to the owners seeking it;
- D. By granting the permit, substantial justice will be done;
- E. The use must not be contrary to the spirit of this Ordinance.

In determining whether or not these standards are met, the Zoning Board of Adjustment shall find the following facts and so specify in its decision:

1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot, size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions the property cannot be used in strict conformity with the provisions of this Ordinance and that the authorization of a Variance is therefore necessary to enable the reasonable use of the property.
3. That the Variance if authorized will not diminish the value of surrounding properties.
4. That the Variance if authorized will represent the minimum Variance that will afford reasonable relief.

1104.2 In authorizing a Variance, the Zoning Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community, as to the use of the land.

## **ARTICLE 12 MISCELLANEOUS PROVISIONS**

### **Section 1201 Severability Clause**

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

### **Section 1202 Effective Date**

This ordinance shall take effect immediately upon its adoption.

**Section 1203            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 1204            Validity**

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

## **Town of Effingham Historic District Ordinance**

Purposes: The purpose of this Ordinance is to safeguard the heritage of Effingham by:

- Preserving structures and places of historic and architectural value;
- Preserving a district which reflects elements of Effingham's cultural, social, economic, political, and architectural history;
- Conserving property values in the Historic District;
- Fostering Civic Beauty; and
- Promoting the use of the Historic District for the education and pleasure of the citizens of Effingham

Historic District: Pursuant to NH RSA 674:46, the Town of Effingham hereby establishes the Center Effingham Historic District and the Lord's Hill Historic District, which are bounded as follows: (see attached map)

Historic District Commission: Pursuant to NH RSA 673:1, the Town of Effingham hereby establishes a Historic District Commission, with all of the powers and duties authorized and requires in State law (RSA 673-677)

The Historic District Commission shall consist of seven (7) members and two (2) alternate members. The members and alternate members shall be appointed (within 30 days of the establishment of the Historic District Commission) by the Board of Selectmen for the terms specified in RSA 673:5-6. In determining each member's qualifications, the Board of Selectmen shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purposes of the Historic District Commission. One Commission member shall be a member of the Board of Selectmen, at least one member from the Center Effingham Historic District and at least one member from the Lord's Hill Historic District.

The Commission shall adopt, and may amend, rules governing its procedures and the duties of its officers. The Commission shall adopt, and may amend, regulations for the purpose of enforcing this ordinance and the standards contained within it. These regulations shall provide general guidelines for the persons seeking to move, demolish, or change the external appearance or use of buildings, structures, and land; or to construct new buildings and structures (including signs) within the Historic District.

In addition to the functions authorized by State law, the commission may conduct architectural and historic surveys, prepare and publish maps, brochures, and other publications, erect historic markers, advise owners on the preservation and restoration of their properties, and cooperate with and advise other Town boards and agencies on historic sites and buildings. The Commission is empowered to accept gifts, grants and contributions for the purpose of performing any of its functions.

Requirement for Certificate of Approval: No person shall alter, construct, reconstruct, repair, demolish, or change the external appearance of any building or structure, or

change the use of land in the Historic District without a Certificate of Approval from the Commission.

Application: The application for a Certificate of Approval shall be made in writing on a form provided by the Commission, and shall be accompanied by whatever plans, elevations, sketches, photographs, samples and other information deemed necessary by the Commission. Failure to provide adequate information on the proposal shall be sufficient grounds for disapproval.

Public Hearing: The Commission shall hold public hearing on any application (if it deems appropriate). The Commission shall give notice of the public hearing to the abutters of the property in question (and to any other property owners the Commission deems materially affected by the proposal), by certified mail and shall post notices of the public hearing in two appropriate places in the Town (including one public place in the District) and shall publish a notice of the hearing in a newspaper of general circulation in the Town. The applicant shall be responsible for all costs of mailing, posting and publishing these notices.

Action of Commission: The Commission shall review the application and shall base its decision to approve or disapprove the proposal on the appropriateness of the proposed changes, the purposes and standards of this ordinance and the regulations and guidelines adopted by the Commission.

Hardship Approval: Although the proposed change may be deemed inappropriate, the Commission may find that, owing to conditions especially affecting the lot, building or structure involved, but not affecting the District generally, failure to issue a Certificate of Approval would involve a peculiar and unusual hardship to the applicant. If, in such a case, a Certificate of Approval can be issued without a substantial departure from the intent and purposes of this Ordinance, the Commission may approve the application and issue a Certificate of Approval, with such conditions as the application deems necessary to minimize the impact of the change.

Final Action: The Commission, in accordance with the procedures established in NH RSA 676:8-9 shall issue a Certificate of Approval or a notice of disapproval to the applicant within forty-five (45) days. A notice of disapproval shall include the reasons for disapproval.

Standards: The following standards shall apply to proposed changes of buildings, structures, land, and use in the District.

- Buildings, structures, and landscape features of historic, architectural and aesthetic significance shall be preserved, whenever possible.
- Alterations and additions to existing buildings and structures shall not destroy or obscure historically and architecturally significant features, or the distinguishing qualities of the building or structure.
- Additions to existing buildings and structures shall be compatible in design, character, and scale with the original building or structure.

- New buildings and structures shall be compatible in design, location, and scale with the existing buildings and structures in the Historic District.
- Uses or buildings, structures, or land shall not be:
  - ◆ Incompatible with the visual or historic character of the Historic District;
  - ◆ Detrimental to buildings or uses on adjoining lands;
  - ◆ Obnoxious because of noise, vibration, odor, smoke, dust, fumes, or similar conditions; or
  - ◆ Likely to produce congestion or heavy traffic, or to detract from the quiet enjoyment of the Historic District by its residents or the public.
- The following uses are prohibited in the Historic District:
  - Mobile home (trailers)
  - Dumps
  - Junkyards
  - Public storage units

Exception: This Ordinance and the Regulations adopted under it shall not prevent:

- Timber Harvesting;
- Ordinary maintenance or repair of any structure or place, which does not change the external appearance of the structure or place;
- Any interior or underground alteration or construction that does not change the external appearance or use of the building, structure, or place; or
- Installation of monuments or markers within private graveyards.

Appeals: Any person aggrieved by the decision of the Commission may appeal that decision under the procedures established in State law (NH RSA 676:10 and RSA 677)

Enforcement: This ordinance and the regulations adopted under it shall be enforced by the Historic District Commission (NH RSA 676:10)

Penalties: The penalties for violations of this ordinance and the regulations adopted under it shall be those established by State law (NH RSA 676:10)

Validity: If any section, subsection, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.