

**ZONING ORDINANCE
TOWN OF OSS�PEE, NEW HAMPSHIRE
1988**



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TABLE OF CONTENTS

ARTICLE I - PURPOSE AND AUTHORITY	5
ARTICLE II - TITLE.....	5
ARTICLE III - DISTRICTS.....	5
3.1 DISTRICTS	5
3.2 ZONING MAP	6
3.3 BOUNDARIES.....	6
ARTICLE IV - GENERAL PROVISIONS	7
4.1 SANITARY PROTECTION	7
4.2 FIRE RUINED BUILDINGS.....	7
4.3 HEIGHT REGULATIONS.....	7
4.4 STRUCTURES AND USES PER LOT	7
4.5 SIGN REGULATIONS	7
4.6 OFF-STREET LOADING AND PARKING	7
4.7 PARKING AND STORAGE OF UNLICENSED VEHICLES	9
4.8 LOTS IN TWO ZONING DISTRICTS	9
4.9 TRAVEL TRAILERS AND CAMPERS.....	9
4.10 FLOODPLAIN DEVELOPMENT ORDINANCE	9
ARTICLE V - PERFORMANCE STANDARDS.....	17
5.1 TRAFFIC.....	18
5.2 NOISE.....	18
5.3 DUST, FUMES, VAPORS AND GASES	19
5.4 GLARE	19
5.5 STORM WATER RUN-OFF	19
5.7 HAZARDOUS MATERIALS	20
5.8 EXPLOSIVE MATERIALS	20
5.9 WATER-QUALITY	20
5.10 PRESERVATION OF LANDSCAPE.....	20
5.11 REFUSE DISPOSAL	21
ARTICLE VI - ZONING DISTRICT REGULATIONS.....	21
6.1 PERMITTED USES.....	21
6.2 SPECIAL EXCEPTIONS.....	21
6.3 LOT REQUIREMENTS	21
6.4 SETBACKS	22
6.5 LOT COVERAGE	22
ARTICLE VII - WATERFRONT ACCESS.....	23
ARTICLE VIII - SETBACKS AND BUFFERS.....	24
ARTICLE IX - LIGHT INDUSTRIAL FLOATING ZONE & PERFORMANCE STANDARDS.....	25
ARTICLE X - ROADSIDE COMMERCIAL DISTRICT	26

ARTICLE XI - CLUSTER DEVELOPMENT	27
11.1 PURPOSE	27
11.2 GENERAL REQUIREMENTS.....	27
11.3 PLAN APPROVAL	29
ARTICLE XII - (RESERVED).....	29
ARTICLE XIII - MANUFACTURED HOME SUBDIVISIONS	29
ARTICLE XIV - MANUFACTURED HOME PARK.....	30
14.1 LOCATION AND SIZE.....	30
14.2 DENSITY DETERMINATION.....	30
14.3 MANUFACTURED HOME PARK PERFORMANCE STANDARDS	30
ARTICLE XV - RECREATION CAMPING PARK PERFORMANCE STANDARDS...	32
ARTICLE XVI - (RESERVED).....	33
ARTICLE XVII - TELECOMMUNICATIONS.....	33
17.1 PURPOSE AND GOALS	33
17.2 APPLICABILITY.....	34
17.3 SITING STANDARDS.....	35
17.4 DIMENSIONAL REQUIREMENTS	36
17.5 PERFORMANCE STANDARDS.....	38
17.6 SPECIAL EXCEPTION REVIEW PROCEDURES	38
17.7 BONDING, SECURITY AND INSURANCE.....	40
17.8 ABANDONMENT	40
17.9 DEFINITIONS	41
ARTICLE XVIII - (RESERVED).....	42
ARTICLE XIX - WETLAND CONSERVATION DISTRICT.....	42
19.1 PURPOSE AND INTENT	42
19.2 WETLANDS DEFINED	43
19.3 DISTRICT BOUNDARIES:	44
19.4 PERMITTED USES.....	45
19.5 SPECIAL EXCEPTIONS.....	45
19.6 SPECIAL PROVISIONS	46
19.7 CONFLICT WITH OTHER REGULATIONS.....	46
ARTICLE XX - WATER RESOURCE PROTECTION DISTRICTS	46
20.1 ESTABLISHMENT OF DISTRICT	46
20.2 USE REGULATIONS.....	46
20.3 SPECIAL USE PERMIT GRANTING AUTHORITY	48
20.4 PERMIT AMENDMENT	49
20.5 SPECIAL USE PERMIT CRITERIA	49
20.6 SUBMITTALS.....	49
20.7 OTHER INFORMATION	50
ARTICLE XXI - (RESERVED).....	51
ARTICLE XXII - (RESERVED).....	51

ARTICLE XXIII - NON CONFORMING STRUCTURES, LOTS AND USES.....	51
23.1 NON-CONFORMING LOTS.....	51
23.2 NON-CONFORMING USES	52
23.3 NON-CONFORMING STRUCTURES AND USES.....	52
ARTICLE XXIV - ADMINISTRATION, ENFORCEMENT AND PENALTY	53
24.1 ADMINISTRATION.....	53
24.2 TECHNICAL STUDIES AND SURVEYS.....	53
ARTICLE XXV - BOARD OF ADJUSTMENT	54
25.1 TERM, MEMBERSHIP, AUTHORITY AND DUTIES.....	54
25.2 POWERS AND DUTIES.....	54
25.3 PROCEDURES.....	55
ARTICLE XXVI - SPECIAL EXCEPTIONS.....	56
26.1 APPLICATION PROCEDURE.....	56
26.2 REQUIREMENTS FOR SPECIAL EXCEPTIONS.....	57
ARTICLE XXVII - VARIANCES	58
27.1 SPECIAL REQUIREMENTS.....	58
27.2 ADMINISTRATIVE PROCEDURES	58
27.3 APPLICATION DISPOSITION.....	59
27.4 EXPIRATION OF APPROVAL.....	59
ARTICLE XXVIII - APPEALS	59
ARTICLE XXIX - NOTIFICATION OF OTHER TOWN BODIES.....	59
ARTICLE XXX - RELATIONSHIP TO EXISTING ORDINANCES	59
ARTICLE XXXI - (RESERVED)	60
ARTICLE XXXII - (RESERVED)	60
ARTICLE XXXIII - DEFINITIONS.....	60
ARTICLE XXXIV - PERMITTED USES & SPECIAL EXCEPTIONS.....	66
TABLE 1 – CHART OF USES	67
ARTICLE XXXV – DESCRIPTION OF PERMITTED USES	70
35.1 RESIDENTIAL USES	70
35.2 COMMERCIAL USES.....	71
35.3 INSTITUTIONAL USES	72
35.4 OPEN SPACE USES	73
35.5 INDUSTRIAL USES.....	74
35.6 ACCESSORY USES.....	74
TABLE 2 – DIMENSIONAL REQUIREMENTS	77
TABLE 3 – SOIL MAP	78

**ZONING ORDINANCE FOR THE
TOWN OF OSS�PEE, NEW HAMPSHIRE**

ARTICLE I - PURPOSE AND AUTHORITY

In order to help retain the natural beauty of Ossipee, to encourage the most appropriate use of land, to conserve its natural resources, to stabilize the value of land and buildings, to prevent overcrowding of land and undue concentrations of population and to facilitate the economical provision of future required utilities and facilities; the following Ordinance is enacted in accordance with the authority provided by Chapter 674, Sections 16-23 and 30-32, New Hampshire Revised Statutes.

ARTICLE II - TITLE

This Ordinance shall be known and may be cited as the "Zoning Ordinance for the Town of Ossipee, New Hampshire," it is hereinafter referred to as "This Ordinance."

ARTICLE III - DISTRICTS

3.1 DISTRICTS

The Town of Ossipee is divided into five (5) Zoning Districts, hereinafter referred to as "Districts". Zoning Districts are established for the following purposes:

- 3.1.1. Village District: It is intended to blend living, business and public service uses in the three (3) existing village centers of Center Ossipee, Ossipee Village and West Ossipee.
- 3.1.2. Residential District: The vast land areas surrounding the Village Districts were intended chiefly for residential uses of lesser density than the Village District.
- 3.1.3. Roadside Commercial District: This district is intended to accommodate commercial uses along roads in a way that protects the scenic qualities of the area, allows compatibility with residential land uses and avoids the concentration of commercial uses as allowed in the Commercial District.
- 3.1.4. Commercial District: These areas are the prime commercial locations in Ossipee, ones which have developed commercially over the years. These are the areas where concentration of commercial land uses is encouraged.
- 3.1.5. Commercial Node District: This district is intended to encourage compact commercial development that accommodates pedestrians and a mixture of

uses. The District features shared parking, shared access to a main road, and shared infrastructure that meets state water supply and pollution control requirements, including those allowing innovative technology. These areas are intended to accommodate and to concentrate commercial uses that by their nature generate relatively higher amounts of trips.

- 3.1.6. Corridor District: This district is intended to accommodate commercial uses and clustered residential uses that generate relatively lower amounts of traffic while also preserving the rural and scenic character of the Route 16 Corridor. It is intended to promote traffic safety and reduced traffic congestion through encouraging development of lesser intensity than other districts in these areas.
- 3.1.7. Rural District The remaining areas of town are largely undeveloped. Here it is intended to protect the town's natural resources for premature and inappropriate development to minimize the need for extending community services, and to conserve open space.
- 3.1.8. Water Resource Protection Districts: This district is an overlay district and shall apply to all land described on the official map entitled "Ossipee Water Resource Protection Districts Map." This district is intended to protect both current and future ground and surface water resources by preventing contamination.
- 3.1.9. Wetlands Conservation District: This District is an overlay district and shall apply to any land in the Town where there are wetland areas. (Section XIX).

3.2 ZONING MAP

The Zoning Districts listed above are bounded as shown on the map entitled "Ossipee Zoning Map" and the map entitled Ossipee Water Resource Protection District and the map entitled "Ossipee Wetlands Map," which maps are located in Ossipee Town Hall and made a part of this Ordinance. The first map is hereinafter referred to as the "Zoning Map" and the second map is referred to as the "Ossipee Water Resource Protection Map" and the third map is referred to as the "Ossipee Wetlands Map."

Regardless of the existence of other printed copies of the Zoning Map, the Water Resource Protection Map, and the Ossipee Wetlands Map, which from time to time may be made or published, the official Zoning Map which shall be located in the Town Hall shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the Town.

The official Zoning Map for the Town of Ossipee to be used to determine exact Zoning District boundaries is drawn to a scale of two thousand (2000) feet to the inch, and shall be certified as the official Zoning Map of the Town of Ossipee by the Town Clerk upon adoption of this Ordinance, upon any amendment that affects the Zoning Map and, upon such certification, shall be filed with the Planning Board.

3.3 BOUNDARIES

A district boundary shown on the Zoning Map as approximately following the

right-of-way of a road, a shoreline of a body of water or property line, shall be construed as following such line. If the District classification of any land is in question, it shall be deemed to be in the most restricted adjoining district. The Zoning Board of Adjustment shall determine the location of a district boundary upon an appeal from an administrative decision of the Zoning Enforcement Officer.

ARTICLE IV - GENERAL PROVISIONS

4.1 SANITARY PROTECTION

All buildings for human use or occupancy shall have sanitary systems constructed and maintained in accordance with standards set by The New Hampshire Water Supply and Pollution Control Division, by the Town Subdivision Regulations and applicable health and sanitary codes.

4.2 FIRE RUINED BUILDINGS

No owner or occupant of land in any district shall permit fire or other ruins which are uninhabitable to be left indefinitely, but within one (1) year shall remove or refill the same to clear ground level or shall repair, build or replace the structure.

4.3 HEIGHT REGULATIONS

The building height for all buildings whose primary use is residential shall not exceed two and one-half (2-1/2) stories, or thirty-five (35) feet, whichever is less. The building height for all buildings whose primary use is non-residential shall not exceed three stories, or thirty-five (35) feet, whichever is less. These height limitations do not apply to domestic radio and television antennas, silos for storage of feed crops, church towers, water storage structures, chimneys, or wind operated devices. (Amended March 2006)

4.4 STRUCTURES AND USES PER LOT

In all Districts there shall not be more than one (1) principal structure allowed per lot except that a multi-family use may allow more than one principal multi-family dwelling, where allowed. In the Village and Nodal Districts both commercial and residential uses may be combined in the same structure. An accessory structure may be permitted upon the premises, so long as it is not to be adapted for use or occupancy as a dwelling or for any use inconsistent with that of the principal building upon the premises. (Amended January 16, 2007)

4.5 SIGN REGULATIONS

All signs are governed by the regulations and provisions of the Sign Ordinance of the Town of Ossipee as adopted by its voters on November 2, 1982.

4.6 OFF-STREET LOADING AND PARKING

Parking and loading accommodations must be adequate to service all increases in

parking demand created by new construction, whether through new structures or additions to old ones, or through change from one category of use as listed in Table 1 to another, creating higher parking demand. The number of additional parking spaces to be provided shall normally be as specified in Sections 4.6.2 through 4.6.5. However, the Board of Adjustment in acting upon a special exception, or the Planning Board in acting under Site Plan Review, may determine that a provision lower than those specifications would be adequate for all parking needs. In making such determinations, consideration shall be given to such special circumstances as shared parking for uses having peak parking demands at different times, unusual age or other characteristics of site users, car-pooling, bike access, or other trip conserving measures. The sources cited in Section 4.6.9 shall also be considered.

- 4.6.1. Any institutional, commercial or industrial uses shall comply with the following:
 - a) If requiring off-street loading facilities, provision shall be made so that delivery vehicles are parked outside of the street right-of-way.
 - b) If serving a use not in existence on the premises on March 1, 2000, access to parking and loading shall not be directly from Route 16.
- 4.6.2. Any proposed residential development shall provide a minimum of two (2) off-street parking spaces per dwelling unit.
- 4.6.3. Any hotel, motel, tourist accommodation, lodging unit shall provide one space for each unit.
- 4.6.4. Any commercial use shall provide a minimum of one (1) space for each two hundred (200) square feet of gross floor area and one (1) space for each employee on the premises at any one time.
- 4.6.5. Any church, restaurant, theater, hall, auditorium, or other place of assembly shall provide for at least one space for every four (4) seats anticipated, plus one (1) space for every two (2) employees.
- 4.6.6. Parking spaces and access shall comply with standards contained in the Planning Board Site Plan Review Regulations. No spaces used for loading shall be credited towards meeting these requirements. In the Village District on-street parking spaces may be credited if located between the parcel's side lot lines on the same side of the street.
- 4.6.7. Nothing shall be so located so as to interfere with the safe sight distance of vehicles entering and exiting the property.
- 4.6.8. Parking may be located on the same premises as the activity it serves or on a separate parcel, which may be shared. To be credited, parking spaces must be located within five hundred (500) feet walking distance of the entrance they serve, or within eight hundred (800) feet for employee parking. In the Village District, no parking shall be located closer to the street line than the building it serves. Walkways, including sidewalks if necessary, shall be provided by the applicant to connect the proposed activities with the parking,

which serves it, and with adjacent premises, if developed. If an applicant is proposing to use a parcel for parking that is not under his ownership, he must obtain written permission from the parcel's owner.

4.6.9. Alternative Parking Standards: (Added March 1996)

- a) Parking Requirements for Shopping Centers: Summary recommendations and Research Study Report. Urban Land Institute, Washington, 1982.
- b) Shared Parking. Urban Land Institute, Washington, 1990.
- c) Parking Generation. Institute of Transportation Engineers. Washington, 1987.

4.7 PARKING AND STORAGE OF UNLICENSED VEHICLES (Amended March, 1996)

In any district, no more than one (1) motor vehicle which requires license plates, but which are without current license plates, shall be parked or stored except in authorized automobile sales areas, enclosed buildings or approved junk yards. No more than two (2) specialty vehicles which do not require license plates, such as homemade or factory constructed competition machines and shall be parked or stored out of sight from adjacent properties and may be subject to RSA 236:111. This does not pertain to farm vehicles or other vehicles which are in constant use and do not require a license plate for such use.

4.8 LOTS IN TWO ZONING DISTRICTS

Where the boundary line of a Zoning District divides a lot at the time of passage of this Ordinance, the requirements of either district may by Special Exception, extend not more than one hundred (100) feet on one (1) lot into the other Zoning District.

4.9 TRAVEL TRAILERS AND CAMPERS

A travel trailer and/or camper, defined by this Ordinance, owned and registered by residents of the Town of Ossipee for personal use, may be stored or parked during periods of non-use on the premises of the owner provided it remains mobile, is not hooked to utilities and remains uninhabited. (Amended March 1996) - The town will allow occasional use of Recreational Vehicles on parcels of land, if parcels are used for not more than fourteen (14) days in any calendar year. The landowner must comply with the remainder of RSA 216-1:13.

4.10 FLOODPLAIN DEVELOPMENT ORDINANCE

This Ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Ossipee Floodplain Development Ordinance. The requirements in this Ordinance shall overlay and supplement the requirements in the Town of Ossipee Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this Ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other Ordinance or

regulation, the provision imposing the greater restriction or more stringent standard shall be controlling. Federal Emergency Management Agency Standards Part 60 - Criteria for Land Management and Use and any additional requirements of Section 60.3 (d) are hereby incorporated into this Ordinance. Revised maps and base one hundred (100) year flood elevations are effective on July 3, 1995. (Amended March 1995)

The following requirements 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 Ossipee, NH" together with the associated Flood Insurance Rate Maps, and Flood Boundary & Floodway Maps of the town dated June 17, 1991 which are declared to be a part of this Ordinance and are hereby incorporated by reference.

4.10.1. 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 Ossipee.

AREA OF SHALLOW FLOODING: Means a designated AO, AE or VO Zone on the Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual possibility of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

AREA OF SPECIAL FLOOD HAZARD: Is the land in the floodplain within the Town of Ossipee subject to a one percent (1%) or greater possibility of flooding in any given year, the area is designated as Zone A on the FHBM and is designated on the FIRM as Zones A and AE.

BASE FLOOD: Means the flood having a one percent (1%) possibility of being equaled or exceeded in any given year.

BASEMENT: Means any area of a building having its floor subgrade 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, or drilling operation.

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:

- 1) The overflow of inland or tidal waters;
- 2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP: (Floodway Map) is an official map of the Town of Ossipee, on which FEMA has delineated the "Regulatory Floodway". This map should not be used to determine the correct flood hazard zone or base flood elevation. The Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.

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 Ossipee.

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 "Flooding").

FLOOD PROOFING: Means any combination of structural and non-structural additions, 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. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

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 the 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.

LOWEST FLOOR: Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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 one hundred eighty (180) days.

MEAN SEA LEVEL: Means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

100-YEAR FLOOD: See Base Flood.

RECREATIONAL VEHICLES: (Added March 1994) Means a vehicle which is:

- a) built on a single chassis;
- b) four hundred (400) square feet or less when measured at the largest horizontal projection;
- c) designed to be self propelled or permanently towable by a light duty truck 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 increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

SPECIAL FLOOD HAZARD AREA: Means an area having flood, mudslide, and/or flood related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, VI-30, VE, V, M, or E. (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 improvements was within one hundred eighty (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 manufactured home on a foundation. Permanent construction does not include land preparation, such as cleaning, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include the 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 fifty percent (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 fifty percent (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 dimension 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".

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 flood plains.

- 4.10.2. All proposed development in any special flood hazard areas shall require a permit.
- 4.10.3. The Zoning Enforcement Officer 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:
 - i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - ii) be constructed with materials resistant to flood damage;
 - iii) be constructed by methods and practices that minimize flood damages;
 - iv) 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.
- 4.10.4. 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 Zoning Enforcement Officer 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.
- 4.10.5. For all new or substantially improved structures located in Zones A, A1-30, AE, AO or AH, the applicant shall furnish the following information to the Zoning Enforcement Officer:
 - 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;
 - c) any certification of flood proofing.

The Zoning Enforcement Officer shall maintain for public inspection, and shall furnish such information upon request.

4.10.6. The Zoning Enforcement Officer 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 federal or state law including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

4.10.7. 1) 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 of Environmental Services and submit copies of such notification to the Zoning Board of Adjustment, in addition to the copies required by the RSA 482-A:3. Further the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Zoning Board of Adjustment, including notice of all scheduled hearings before the Wetlands Board and the Zoning Board of Adjustment.

2) The applicant shall submit to the Zoning Board of Adjustment, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3) Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A the Zoning Board of Adjustment shall obtain, review and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that development meet the floodway requirements of this section.

4) 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 A1-30 and 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 (1) foot at any point within the community.

4.10.8. 1) In special flood hazard areas, the Zoning Enforcement Officer shall determine the one hundred (100) year flood elevation in the following order of precedence according to the date available:

a) In Zones A, AE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.

b) In unnumbered A Zones, the Zoning Enforcement officer shall obtain, review, and reasonably utilize any one hundred (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).

2) The Zoning Enforcement Officer's one hundred (100) year flood elevation determination will be used as criteria for requiring in Zones A, AE that:

a) all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood elevation;

b) that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the one hundred (100) year flood level; or together with attendant utility and sanitary facilities, shall:

i) be flood proofed so that below the one hundred (100) year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;

c) all 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 level; and be securely anchored to resist flotation, 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; recreational vehicles placed on site within Zones A1-30, AH and AE shall either: (Added March 1994)

i) be on the site for fewer than one hundred eighty (180) consecutive days;

ii) be fully licensed and ready for highway use; or

iii) meet all standards of Section 60.3 (b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.

d) for all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) The enclosed area is unfinished or flood resistant, usable solely for the

parking of vehicles, building access or storage; (2) The area is not a basement; (3) 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 registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) 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.

e) proposed structures to be located on slopes in special flood hazard areas, Zones AH and AO shall include adequate drainage paths to guide flood waters around and away from the proposed structures.

4.10.9. VARIANCES AND APPEALS:

1) Any order, requirement, decision or determination of the Zoning Enforcement Officer made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

2) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33 1(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

b) 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;

c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3) The Zoning Board of Adjustment shall notify the applicant in writing that (i) the issuance of a variance to construct below the base flood level 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 level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

4) The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE V - PERFORMANCE STANDARDS

These standards shall apply to all uses of land and buildings, which are governed by this Ordinance. Prohibited uses include all uses which would be obnoxious or injurious because of glare, dust, smoke, refuse matter, fumes, noise, vibration, or which would be dangerous to the health or safety of the community or to the community's disturbance or annoyance, notwithstanding any other provisions of this Ordinance and applicable State and Federal laws and regulations. Customary agricultural uses are expressly excluded.

Plans for the effective control and/or elimination of same shall be presented to the Planning Board for approval. When the effects of use are uncertain, the Planning Board, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to ensure compliance with all requirements of this Section specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town prior to their undertaking.

BASIC REQUIREMENTS:

5.1 TRAFFIC

The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, inter-sections, schools, and other traffic generators. "Curb cuts" shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.

5.2 NOISE

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume at the lot lines. Without limiting the foregoing,

- a) No person shall engage in, cause or permit any person to be engaged in construction activities on a site abutting any residential use between the hours of 7 pm of one day and 7 am (8 am on weekends and holidays) of the following day, if such construction activities generate any noise that can be heard off site.
- b) The following uses and activities shall be exempt from the provisions of this article:
 - 1) Home maintenance activities (for example, mowing lawns, cutting one's own firewood, etc.);
 - 2) The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity; and

3) Traffic noise on existing public roads, railways or airports.

(Amended March 2006)

5.3 DUST, FUMES, VAPORS AND GASES

Emission of dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of any establishment creating that emission shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

5.4 GLARE

No land use or establishment shall be permitted to produce strong, dazzling light or reflection of that light beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall also comply with applicable Federal and State regulations.

5.5 STORM WATER RUN-OFF

Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by his project. The natural state of watercourses, swales, floodway, or rights-of-way shall be maintained as nearly as possible. The design period is the fifty (50) year storm.

5.6 EROSION CONTROL

Soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.

- a) Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.
- b) The duration of exposure of the disturbed area shall be kept to a practical minimum.
- c) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
- d) Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical after construction ends.
- e) Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board.
- f) The top of a cut or the bottom of a fill section shall not be closer than (10) feet to an adjoining property if in the Village or Commercial Node districts and shall not be closer than fifty (50) feet to an adjoining property in other districts, unless approved by the Planning Board upon determination that the design effectively

precludes the threat of instability, erosion, sedimentation, or diverted storm water adversely impacting the adjacent premises. Excavation operations (sandpits, etc) shall not be permitted except as provided for in Ossipee Earth Excavation and Restoration Regulations.

g) During grading operations, methods of dust control shall be employed, wherever practicable.

5.7 HAZARDOUS MATERIALS

The purpose of this section is to protect, preserve and maintain the existing and potential ground water supply and surface waters in the Town of Ossipee.

5.7.1. The manufacture, storage, transport, use or disposal of hazardous materials shall comply with the provisions of this Ordinance, all other applicable local regulations and shall be in accordance with the New Hampshire Hazardous Waste Management Act, RSA 147 as amended.

5.7.2. Any substance deemed a "hazardous waste" under Section 3001 of the Resource Conservation and Recovery Act of 1976, as amended, 40 C.F.R., Part 261, shall be deemed a hazardous material for the purpose of this Ordinance.

5.7.3. The manufacture, storage, transport, use or disposal of hazardous material in the Town of Ossipee shall be permitted only by Special Exception.

5.8 EXPLOSIVE MATERIALS

No highly flammable or explosive liquids or gases in an amount of 1000 gallons or more shall be stored above ground, unless located in anchored tanks at least seventy five (75) feet (or forty feet for underground tanks) from any lot line, town right-of-way, residence, and interior roadway. In addition, all relevant Federal and State regulations shall be met. (Amended March 2006)

5.9 WATER-QUALITY

All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials shall be located on impervious pavement, and shall be completely enclosed by and impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this area during a fifty (50) year storm, so that such liquid shall not be able to spill onto a seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and vehicle fuel, not exceeding a total of five hundred fifty (550) gallons, shall be exempt from this requirement, in situations where neither a high seasonal water table (within fifteen (15) inches of the surface) nor rapidly permeable sandy soils are involved.

5.10 PRESERVATION OF LANDSCAPE

The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. All parking or outdoor storage areas shall

be separated from any public road by a landscaped buffer strip.

5.11 REFUSE DISPOSAL

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's disposal method and/or disposal area (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

ARTICLE VI - ZONING DISTRICT REGULATIONS

6.1 PERMITTED USES

For each district are shown in Table 1 Article XXXIV.

6.2 SPECIAL EXCEPTIONS

For each district are shown in Table 1 and Articles 4.8, 5.7, 7.1, 15.1, 19.5, 23.2 and 23.3.

6.3 LOT REQUIREMENTS

Minimum lot requirements shall be determined by soils and slopes, as shown in Table 3, except as provided below:

6.3.1. LOT SIZE AND BUILDABLE AREA:

Each lot shall have a minimum contiguous buildable area as determined by soils and slopes as set forth in Table 3 contained herein, unless there is assurance that sewage disposal will be provided by a municipal treatment facility, an off-site effluent disposal system, whether shared or not, or an on-site disposal system using innovative alternative technology acceptable to the New Hampshire Department of Environmental Services for lots of the proposed size, based upon the requirements of Env-Ws 1024.

6.3.2. WASTEWATER DISPOSAL APPROVAL AREA:

Wastewater Disposal Approval Area for non-residential uses on any lot shall be adequate for disposal of waste generated by said uses in accordance with WS 1000 of the Water Supply and Pollution Control Division, unless employing an on-site disposal system using innovative alternative technology acceptable to the New Hampshire Department of Environmental Services for lots of the proposed size, based upon the requirements of Env-Ws 1024.

6.4 SETBACKS

For the purposes of promoting health and the general welfare and to preserve an environmentally aesthetic community, the following setback requirements are established (for the purposes of this section, setback will be measured from the road right-of-way, property line, or nearest normal high water mark of a water course or body of water).

6.4.1. FRONT SETBACK AREA:

- a) No part of any building, except uncovered steps, and no other structure, other than a sign, or landscaping articles, shall be placed in the front setback area, measured from road right-of-way to setback line. (Also see Article 8.3);
- b) In case of corner lots, the front setback line applies to each bordering street;
- c) For lots with frontage on a water course or a body of water, the front setback shall be the distance from the normal operating level of the water course or the body of water, and the rear setback shall be the distance from the road right-of-way.

6.4.2. SIDE AND REAR SETBACK AREA:

- a) No structure is allowed in the required side setback area, the space from side lot line to side setback line as specified in Table 2; (Amended March 11, 1997)
- b) Rear setback area shall be the area enclosed by the rear lot line, the side lines, and a line parallel to the rear lot line a distance from the rear lot line as specified in Table 2;
- c) Ornamental features, eaves, cornices, etc., may project up to two (2) feet into the required side or rear setback area. Accessory buildings may be built in the rear setback area with height up to twelve (12) feet, no closer than ten (10) feet from rear lot line or other buildings, and covering no more than thirty percent (30%) of the setback area.

6.5 LOT COVERAGE

Lot coverage is the percent of the total lot area which may be covered by all impervious surfaces, including, but not limited to, sidewalks, paved parking areas, paved drives, and structures. For the purpose of this subsection, a portion of a lot is covered by a structure if it has a roof, or if it has any part of any structure above it in a vertical line. All remaining land except unpaved drives and parking areas, or open recreation areas shall be considered green space and shall be landscaped in compliance with Article 8.2

as such. All efforts shall be made by the applicant to place green space as buffer between the proposed use and the street, and the abutting property.

The maximum lot coverage in Table 2 may be increased by not more than twenty-five percent (25%) of said coverage when adequate systems for on-site storm water drainage are designed by a qualified professional engineer. Such increase shall not reduce the setback areas or buffer strips.

ARTICLE VII - WATERFRONT ACCESS

7.1

In addition to other provisions of this Ordinance, the following specific terms and conditions shall, by Special Exception apply to all property in the Town of Ossipee with frontage on or over which deeded or other rights of access to public bodies of water in the Town of Ossipee are granted.

7.2

Every lot or parcel of waterfront property to be used in common shall contain a minimum area of forty-four thousand (44,000) square feet plus three thousand (3,000) square feet for each additional dwelling unit. The area required for the beachfront, water access lot shall not be occupied by any dwelling unit. No portion of the waterfront lot may be counted to satisfy minimum lot size for construction or subdivision.

7.3

Minimum lot dimensions for each waterfront lot shall be as follows:

- 7.3.1. Minimum shore frontage shall be one hundred (100) feet for the first dwelling unit to be granted access;
- 7.3.2. An additional fifty (50) feet of frontage is required for each additional dwelling unit after the first unit;
- 7.3.3. The same frontage may not be allocated more than once.

7.4

For each dwelling unit to be granted rights of access to the water, one (1) parking space shall be provided at the common use beach area for each such dwelling unit located more than 2 mile (by road) from the public body of water.

7.5

Waterfront lots may be divided into boating areas and swimming areas and must comply with standards of the State of New Hampshire and all regulations of agencies of the State of New Hampshire applicable thereto.

7.6

One (1) toilet facility for every twenty (20) dwelling units or portion thereof shall be provided in accordance with all applicable state and local regulations.

7.7

A rubbish collection facility shall be provided.

7.8

A detailed erosion and sediment control plan shall be submitted for all waterfront developments.

ARTICLE VIII - SETBACKS AND BUFFERS

8.1

In reference to the dimension requirements of Table 2, the setback and buffer areas shall be provided as follows¹:

SETBACK AREA, INCLUDING THE SCREENING OR BUFFER AREA:

- 8.1.1. Where land used industrially abuts any other land use.....50 feet
- 8.1.2. Where Commercial land abuts Industrial land use.....25 feet
- 8.1.3. Where land used Commercially abuts a Residential usage.....25 feet
- 8.1.4. Where Commercial land use abuts Commercial land use.....10 feet
- 8.1.5. Where Roadside Commercial use abuts other Commercial or Roadside Commercial land use.....25 feet

8.2 BUFFERED AREAS

The buffered or screened area shall provide a visual buffer sufficient to minimize any adverse impact on abutting land use and be densely planted with shrubs or trees which are at least three (3) feet high at the time of planting and are of a type which may be expected to form a year round dense screen at least five (5) feet high within three (3) years, such buffers shall not obstruct the view of oncoming traffic when entering or exiting from the property. The plant material shall be maintained in a healthy condition. Plants which die shall be replaced within one (1) growing season. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, a four (4) foot high visually solid fence or masonry wall may be substituted, provided that:

¹Except in the Commercial Node District, Roadside Commercial District, Corridor District, and Village District, in which case the setbacks included in Table 2 shall apply.

- 8.2.1. The land required for screening is included in the setback.
- 8.2.2. Required planting shall take place prior to occupancy or, if not possible because of the season of the year, at the next planting season.
- 8.2.3. The finished side of a fence must face the abutter.

8.3

All setback areas not covered by the screened area shall be landscaped (retained natural woodland shall be the preferred landscaping) or covered with grass, shrubs or ground cover, and shall not be paved or used for parking.

ARTICLE IX - LIGHT INDUSTRIAL FLOATING ZONE & PERFORMANCE STANDARDS

9.1

Ossipee encourages the location of light industries in town. Potential sites for non-polluting industries are scattered throughout town. If they are selected for industrial use, the use must blend with the existing development in town and respect the town's capacity for development. Therefore, many performance standards must be met.

9.2

Permitted Light Industrial Use: Manufacturing, research and testing, assembly, fabrication, processing, reproducing, packaging, packing or bottling, provided that all resulting cinders, dust, gases, odors, refuse matter, smoke, vapors, electromagnetic or radio-active emission shall be completely and effectively confined within a building or so regulated as to prevent any nuisance or hazard to the public health or safety, and further provided that no objectionable noise, vibration, or other disturbance is noticeable at the boundary of the premises.

9.3

Light industry may be allowed in the Roadside Commercial, Commercial, and Rural Districts by compliance with the performance standards in 9.4.

9.4 PERFORMANCE STANDARDS AND REQUIREMENTS

- 9.4.1. The minimum parcel size shall be no less than five (5) acres, with a minimum road frontage of four hundred (400) feet.
- 9.4.2. Parking space for one (1) automobile per employee shall be provided on the site. Parking shall not be closer than fifty (50) feet to any property line. Additional parking may be required under Site Plan review.
- 9.4.3. Roads shall be of sufficient size and condition to handle projected employee

and truck traffic.

- 9.4.4. The coverage of buildings, parking lots and drives shall be no more than forty percent (40%) of the parcel.
- 9.4.5. Side yard and rear yard setbacks shall be a minimum of fifty (50) feet.
- 9.4.6. All improvements shall have a minimum setback from the nearest roads right-of-way boundary of one hundred (100) feet.
- 9.4.7. Deleted from Ordinance, March, 1994.
- 9.4.8. Deleted from Ordinance, March, 1994.
- 9.4.9. Sight distances of four hundred (400) feet on the public road shall be maintained in each direction.
- 9.4.10. Landscaping, in compliance with Article VIII, must be provided on the property, whenever there is no natural woodland.
- 9.4.11. Disturbance of stone walls shall be minimized.
- 9.4.12. A maximum of two (2) access points to the property shall be provided for every eight hundred (800) feet of public road frontage.
- 9.4.13. The nature of septage and wastes must be disclosed and the proposed waste disposal facilities must be acceptable by the Water Supply and Pollution Control Division or applicable agency.
- 9.4.14. All effort must be made to protect exceptional views and vistas for the enjoyment of passers by on the public way.
- 9.4.15. Wetlands and soils classified as "poorly drained" and "very poorly drained" by the Soil Conservation Service must not be filled to accommodate the proposed development.

9.5

If the industrial use has not commenced within one (1) year, the approval for such use shall be null and void.

9.6

If the Industrial use is discontinued for one (1) year, the land reverts back to the original Zoning District.

ARTICLE X - ROADSIDE COMMERCIAL DISTRICT

Routes 16 and 25 are natural Roadside Commercial areas. Several commercial concentrations have occurred along these routes in recent years. They have been

recognized as Commercial Districts in the Zoning Ordinance. The addition of a Roadside Commercial District is to allow some continued commercial development along Routes 16 and 25, without going over the entire stretch of these highways to scattered strip development. By setting the following performance standards, the Town expects to encourage high quality commercial development that does not detract from the largely rural appearance, and which promises to eliminate the potential for conflict between commercial and abutting uses.

10.1

The minimum parcel size shall be no less than one (1) acre with a minimum road frontage of two hundred (200) feet. (Amended March 1995)

10.2

Commercial parking shall not be closer than fifty (50) feet to any adjoining property line (except as in Section 8.1.5.) The provisions are intended as minimum standards. Additional screening, or landscaping may be required in order to accomplish the purpose of minimizing the negative impacts of incompatible uses.

10.3

All performance standards in Sections 9.4.7 to 9.4.15 that apply to the Industrial Floating Zone shall also pertain to the Roadside Commercial District.

ARTICLE XI - CLUSTER DEVELOPMENT

For the purpose of this Ordinance, a cluster development is a division of land into lots used, or available for use, as residential building sites for single detached one family dwellings or other lawful buildings where such lots are clustered together into one or more groups, separated from adjacent property and other groups of lots by intervening common land.

11.1 PURPOSE

The purpose of rural cluster development, to which purposes it must adhere, are the following:

- a) To preserve the natural beauty of existing undeveloped land within the Town of Ossipee and to encourage less intensive residential development;
- b) To allow flexibility and diversity of housing opportunities, with open space areas and pedestrian and vehicular safety;
- c) To maximize environmental and aesthetic protection and promote the more efficient use of land, streets and utility systems.

11.2 GENERAL REQUIREMENTS

Cluster Developments may not be required to conform to the minimum frontage and lot size requirements of the Rural District, but may be designed as provided by the provisions of this Article.

- 11.2.1. The total land area included within the development shall be twenty (20) acres or more;
- 11.2.2. The total number of lots shall not exceed the number of lots normally permitted in the Rural District as determined by regular preliminary subdivision layout using Tables 2 and 3;
- 11.2.3. The parcel to be subdivided shall have a minimum of four hundred (400) feet of frontage on Class V or better road, and shall comply with the provisions of Article VII of this Ordinance regarding waterfront access, if applicable;
- 11.2.4. The cluster development shall be served by a community water and sewer system if not on the municipal water and sewer system, unless the soil conditions will permit individual on-site systems;
- 11.2.5. Individual lots shall comply with the dimensional requirements for the Residential District in accordance with Table 2 of this Ordinance;
- 11.2.6. The minimum width of common land between any cluster of lots and the property boundary, and between every two (2) clusters of lots within the development shall be no less than one hundred (100) feet and with no more than eight (8) lots in each cluster;
- 11.2.7. All developments shall have at least one (1) entrance upon a Class I thru Class V public road and no more than one (1) entrance per eight hundred (800) feet of frontage on said public road;
- 11.2.8. All roads within a development shall be constructed to Town standards;
- 11.2.9. Pedestrian walkways shall be provided, where practical, for separation of pedestrian and vehicular traffic;
- 11.2.10. The area which has not been built upon shall be consolidated into common open land accessible from a road and shall be held in corporate ownership by the owners of lots within the development;
- 11.2.11. The common open land shall be designed as an integral part of the development and used for recreation, conservation or park purposes. Such common land may be used to accommodate the community water supply and septic systems;
- 11.2.12. The developer shall include in the deed to the owners, beneficial rights in said common land, and an easement shall be conveyed to the Town of Ossipee against development of said land and the erection thereon of any structures other than for neighborhood non-commercial recreational use.

11.3 PLAN APPROVAL

The Planning Board shall study the plan with respect to the requirements of this article and the Subdivision Regulations and approval under this article includes subdivision approval.

- 11.3.1. Each application for cluster development shall be accompanied by plans prepared in accordance with the specifications of the Planning Board for subdivision approval with other details as may be deemed necessary by the Planning Board.

ARTICLE XII - (RESERVED)

ARTICLE XIII - MANUFACTURED HOME SUBDIVISIONS

To promote a balance of housing opportunities which will meet community needs, this section is intended to provide for affordable housing and encourage the development of attractive, convenient and safe neighborhoods which harmonize with the general environment.

13.1

The total land area included within the development shall be ten (10) acres or more.

13.2

All building lots shall be individually owned.

13.3

Plans for subdivisions created for the placement of manufactured housing must comply with the requirements set forth in the Subdivision Regulations of the Town of Ossipee.

13.4

Placement of manufactured housing on lots shall be located on permanent foundations and comply with the provisions of Article VI contained herein.

13.5

All manufactured homes installed after the passage of this Ordinance must comply with the most recent specifications and standards established by the US Department of Housing and Urban Development. (24 CFR CHXX)

13.6

Any owner of a manufactured home installed on land in the Town of Ossipee as of the date of enactment of this Ordinance desiring to replace his present property, on the

same site, by the installation of a replacement manufactured home shall be permitted to do so.

ARTICLE XIV - MANUFACTURED HOME PARK

This section is intended to promote health, safety, economic and social wellbeing, convenience and general welfare. It is further intended to secure safety from fire and other dangers, to provide adequate light and air, to prevent overcrowding on the land and to facilitate the adequate provision of water, sewerage, parks and recreation. Good civic design should encourage the proper use of natural resources and minimize the impact of potentially incompatible land uses. A manufactured home park shall be considered a subdivision and the Planning Board shall insure the plan is in compliance with the performance standards of this article.

14.1 LOCATION AND SIZE

All manufactured home parks shall be located in conformance with Table 1. The manufactured home park shall be a minimum of ten (10) acres and shall be graded to insure adequate and sanitary drainage of surface water and sewage. All such parks shall be in areas free of wetlands, swamps, or other potential breeding places for insects and rodents.

14.2 DENSITY DETERMINATION

The land submitted for a manufactured home park shall first be submitted to the Ossipee Planning Board as a standard residential lot subdivision, complying with all subdivision regulations including, but not limited to: minimum lot area (as determined by soils and slopes), road and water frontages, road layout and access to determine density. Conditional approval by the Planning Board would then be granted. Upon receiving conditional approval from the Planning Board, the applicant shall submit plans for such parcel of land for approval under the minimum manufactured home park performance standards Article 14.3. The number of manufactured home sites shall not exceed twice the number of residential lots originally approved by the Planning Board.

14.3 MANUFACTURED HOME PARK PERFORMANCE STANDARDS

To receive approval, specific evidence and facts shall be shown that the plan of use and the development of all, or part, of the parcel as a manufactured home park meets the standards set forth in this article.

- 14.3.1. That the plan be consistent with the intent and purposes of this Ordinance to promote public health, safety and general welfare.
- 14.3.2. The manufactured home park grounds and appurtenant facilities shall be under single ownership but may be under such management or supervisory lease control as may be necessary to carry out the provisions of this article. The manufactured home may or may not be individually owned.

- 14.3.3. Service buildings to house toilet, bathing, laundry and other sanitary facilities shall be provided as prescribed by the applicable state regulations.
- 14.3.4. An attractive buffer strip of seventy-five (75) feet on all roadside boundary lines and fifty (50) feet on all other boundary lines in compliance with Article 8.2 and 8.3 shall be provided and maintained.
- 14.3.5. Landscaping, lawns and ground cover shall be provided where needed to prevent erosion and obtain a pleasant and attractive residential atmosphere. Trees and shrubs shall be required to the extent necessary to provide for screening, adequate shade and a suitable setting for the manufactured homes and other facilities.
- 14.3.6. Utilities including electricity, community water and sewage disposal shall be provided by the Manufactured Home Park owner. The water and sewer facilities shall be designed by a Sanitary or Civil Engineer, licensed in the State of New Hampshire in conformance with all local and state regulations. A copy of all data submitted to W.S.P.C.D. and all approvals from any state agency shall accompany the application for a manufactured home park.
- 14.3.7. Proper connections to each manufactured home lot shall be provided for electrical, water and sewer facilities. All electrical installations shall comply with the applicable provisions of the National Electrical Code. Underground installation of all utilities is preferred.
- 14.3.8. Every park shall be equipped at all times with fire extinguishing equipment in good working order, or such type, size and number and so located within the park as to satisfy applicable regulations of the Fire Department.
- 14.3.9. An area of usable land shall be provided for recreational purposes and shall be separated and protected from automobile traffic and parking areas. No single recreation area shall contain less than five thousand (5000) square feet. The recreation area requirements of no less than five hundred (500) square feet per manufactured home site shall be set aside and maintained for the joint use of all the occupants of the park.
- 14.3.10. The manufactured home park shall have a maximum of two access points per development.
- 14.3.11. All manufactured home sites shall abut a well-drained road which has unobstructed access to a public road. All such private roadways shall be maintained by the park owner or management and shall be constructed to Town standards.
- 14.3.12. The manufactured home park owner shall provide adequate individual storage buildings or common storage facilities to accommodate each site. An accessory building is permitted in the side or rear setback area.
- 14.3.13. Every owner, manager, or other person responsible for the operation of the manufactured home park shall maintain a register containing a record of all

mobile homes and occupants using the park. Such register shall be available to any authorized person inspecting the park. Such register shall contain:

- a) The names and permanent addresses of the owners of all mobile homes stopping in the park;
- b) The make, model, license number and other pertinent data of all manufactured homes in the park;
- c) The dates of arrival and departure of all manufactured homes.

14.3.14. A minimum of fifteen thousand (15,000) square feet shall be required for each manufactured home site and shall have a minimum road frontage of one hundred (100) feet. Water frontage, if applicable, shall also be one hundred (100) feet.

14.3.15. Each manufactured home site shall be provided with at least four hundred (400) square feet of off street parking space.

14.3.16. Each manufactured home shall be located on individual sites so that it is located at least thirty (30) feet from the right-of-way of the interior road and at least fifteen (15) feet from any other interior lot line of this site.

14.3.17. All manufactured homes installed after the passage of this Ordinance must meet the most recent specifications and standards established by the US Department of Housing and Urban Development. (24 CFR CHXX).

ARTICLE XV - RECREATION CAMPING PARK PERFORMANCE STANDARDS

A Recreational Camping Park shall be an approved lot on which two or more tents, recreational vehicles or trailers are used as temporary living quarters for recreation or education, and a fee is charged for such land use.

15.1

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

15.1.1. A recreational camping park shall have an area of not less than ten (10) acres. The minimum area shall not include slopes greater than twenty-five percent (25%) or soils on which septic systems are not permitted.

15.1.2. A minimum of eight hundred (800) square feet shall be provided for each tent site and sixteen hundred (1600) square feet shall be provided for each vehicle campsite with no on-site sewage disposal system. Any parking area shall be a minimum of an additional two hundred (200) square feet.

15.1.3. A strip of land at lease seventy-five (75) feet in width shall be maintained as a

landscaped area abutting any state or town road and fifty (50) feet abutting all other perimeter recreational camping park property lines. Expansion into side and rear setbacks, not to exceed twenty-five (25) feet may be permitted by Special Exception.

- 15.1.4. Every recreational camping park shall have facilities for sewage disposal, meeting applicable state and local laws and regulations. The water supply source must meet all local and state regulations.
- 15.1.5. Each recreational camping park shall provide one (1) or more service buildings containing flush-type toilets. Separate toilet areas shall be provided for males and females in accordance with all applicable state and local laws. There shall be an average of one (1) toilet for every six (6) campsites with a minimum of one (1) toilet for males and one (1) for females. Toilet rooms shall contain one (1) lavatory with running water for each two (2) toilets, but in no case shall any toilet room be without at least one (1) lavatory with running water.
- 15.1.6. Each park must maintain at least ten percent (10%) of its area as common land, exclusive of individual campsites, roadways, and sanitation areas.
- 15.1.7. No site shall be used as a permanent or primary residence.
- 15.1.8. Within campgrounds all roads shall be well drained, graveled, or hard-surfaced, and maintained in good condition. All two-way roads shall be a minimum width of twenty (20) feet traveled way, and all one-way roads shall be a minimum width of twelve (12) feet of traveled way.
- 15.1.9. Management quarters, recreational facilities, showers, laundry facilities and other uses and structures customarily incidental to operation of a campground are permitted as accessory uses.

ARTICLE XVI - (RESERVED)

ARTICLE XVII - TELECOMMUNICATIONS

(Added March 2001)

17.1 PURPOSE AND GOALS

This article establishes general standards for the siting, construction and development of telecommunications facilities through the enhancement and fulfillment of the following specific purpose and goals which are in addition to those stated in Article I of this ordinance:

- a. Further the goals, objectives and recommendations of the Ossipee Master Plan, and preserve the authority of the Town of Ossipee to regulate land uses including telecommunication facilities;

- b. Provide reasonable opportunities for the siting of telecommunication facilities;
- c. Reduce adverse impacts such facilities may create, including, but not limited to impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;
- d. Require cooperation and co-location to the highest extent possible between competitors where practical and consistent with goals of this Ordinance in order to reduce the cumulative negative impacts upon the Town of Ossipee;
- e. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;
- f. Provide constant maintenance and safety inspections for all facilities;
- g. Provide for the removal of abandoned or discontinued facilities that are no longer inspected for safety concerns and Code compliance. Provide a mechanism for the Town of Ossipee to remove such facilities to protect the public from imminent harm and danger; and
- h. Provide for the removal or upgrade of facilities that are technologically outdated.

17.2 APPLICABILITY

This Article applies to all construction and expansion of Telecommunication Facilities, except as provided below.

- a. The following are exempt from the provisions of this Article.
 - (1) Emergency Telecommunication Facility. Temporary Telecommunication Facilities for emergency communications by public officials.
 - (2) Amateur (ham) radio services. Amateur (ham) radio services licensed by the Federal Communications Commission (see RSA 674:16).
 - (3) Parabolic (dish) antenna. Parabolic antenna that is accessory to a residential use of property.
 - (4) Maintenance, repair or reconstruction. Maintenance and repair of a Telecommunication Facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- b. Essential Services and Public Utilities. Telecommunication facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting

for telecommunication facilities is a use of land, and is addressed by this Article.

c. Telecommunication Facilities shall be considered either a principal or a secondary non-residential use. Such facilities shall not be deemed an accessory use. A different use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

17.3 SITING STANDARDS

a. Location of facilities and use-generally. Applicants seeking approval for Telecommunication Facilities shall comply with the following general criteria:

(1) If feasible, Telecommunication Facilities shall be located in or on existing structures, including but not limited to buildings, water towers, existing telecommunication facilities, utility poles and towers and related facilities, provided that such installation preserves the character and integrity of those structures. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. Licensed carriers shall share Telecommunication Facilities and sites where feasible and appropriate, thereby reducing the number of stand-alone Telecommunication Facilities within the Town of Ossipee. All applications for Special Exception shall demonstrate a good faith effort to co-locate with other carriers. If an applicant does intend to co-locate or to permit co-location, the applicant shall provide drawings and studies to both the Planning Board and Zoning Board of Adjustment which show the ultimate appearance and extent of operations. If the Zoning Board of Adjustment approves co-location for a Telecommunication Facility, the decision shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the decision shall not require further approval from the Zoning Board of Adjustment. However, the addition of any facilities not specified in the Special Exception approval shall require a new approval.

(2) If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence can consist of:

(a) Substantial Evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

(b) Substantial Evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.

(c) Substantial Evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

(d) Substantial Evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(e) Substantial Evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(f) Substantial Evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.

The applicant proposing to build a new tower shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town of Ossipee, and grounds for a denial.

b. Historic buildings. Any Telecommunications Facility located on or within an historic structure shall not alter the character defining features, distinctive construction methods, or original materials of the building.

c. Sensitive natural resources. Specific natural resource characteristics as may be present throughout the Town of Ossipee that are fundamentally incompatible with new tower construction: (1) slopes of 25% or greater, (2) wetlands, (3) deer wintering habitat areas as inventories by the New Hampshire Department of Fish and Game, (4) threatened, rare or endangered flora as determined by the New Hampshire Natural Heritage Inventory. Telecommunication Facilities shall be located and designed so as to avoid or mitigate impacts to the above-referenced natural resources.

17.4 DIMENSIONAL REQUIREMENTS

a. Classification of facilities. For purposes of distinguishing between different Telecommunication Facilities, the following classification shall apply:

Class 1. Antenna location or co-location on an existing structure; including but not limited to a church steeple, building roof or water tower.

Class 2. Antenna location or co-location on an existing tower.

Class 3. New tower construction or tower expansion – applicable to tower facilities used primarily for purposes of establishing or improving a capacity service facility, a residential service facility or as an alternative coverage

facility.

Class 4. New Tower construction or tower expansion – applicable to tower facilities used primarily for purposes of establishing a coverage service facility.

b. Height. The requirements set forth in this section shall apply only to Telecommunication Facilities and shall preempt all other height limitations required by the Town of Ossipee Zoning Ordinance.

(1) Class 1 Facilities – An antenna may be located or co-located on an existing structure (such as a building, church or water tower) which shall not project more than 10' above the height of the building or structure.

(2) Class 2 Facilities – Antenna may be located or co-located on an existing tower which does not increase the height of the tower nor violate the terms or conditions of any previous local approval.

(3) Class 3 Facilities – The maximum tower height shall be 100 feet above ground level. Actual, permissible tower heights shall be determined on a case-by-case basis by the Zoning Board of Adjustment pursuant to the Special Exception review process.

(4) Class 4 Facilities – The maximum tower height shall be 140 feet above ground level. Actual permissible tower heights shall be determined on a case-by-case basis by the Zoning Board of Adjustment pursuant to the Special Exception review process.

Phased Vertical Expansion – An applicant may request and/or the Zoning Board of Adjustment may require, that towers be engineered so as to be capable of vertical expansion in phases. The general purpose of such a request or requirement shall be to provide a tower/antenna height that is initially proportionate to the tree line at the time of construction, while providing an option for future vertical expansion in a manner that is incrementally consistent with the vertical growth of the surrounding vegetation. All subsequent phases of vertical tower expansion shall be subject to the Special Exception application review process. The review of such a subsequent application shall be limited in scope to the proposed vertical expansion as it relates to the terms and provisions of this Ordinance.

c. Setbacks. All Telecommunication Facilities and their equipment shelters shall comply with the building setback provisions of the underlying zoning district in which the facility is located.

In addition, the following setbacks shall be observed:

(1) In order to ensure public safety, the minimum distance from the base of any tower to any property line, road, dwelling, business, institution or public recreational area shall be equal to two-thirds of the height of the tower. This setback shall be known as the fall zone.

(2) In the event that an existing structure is proposed as a mount for a Telecommunication Facility, a fall zone shall not be required.

(3) In reviewing an application for Special Exception, the Zoning Board may reduce the required fall zone and/or setback distance of the zoning district up to 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Zoning Board of Adjustment shall consider both the visual and safety aspects of the proposed use.

(4) Tower Separation. No tower facility (Class 3 or Class 4) shall be located within two thousand feet (2000 ft.) of another tower facility (Class 3 or Class 4). Distance separating two facilities shall be measured as a straight, horizontal line between two points.

17.5 PERFORMANCE STANDARDS

All telecommunications facilities shall be subject to the provisions of this Ordinance and the standards contained within and as applied under the Site Plan Review Regulations and other applicable ordinances and regulations.

a. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.

b. Building Codes and other safety considerations. To ensure the structural integrity of towers and antennas, the owner of the facility shall ensure that it is constructed, attached and maintained in compliance with standards contained in the local building code applicable to non-residential structures and facilities. Prior to the issuance of a Certificate of Use and Occupancy, the applicant shall submit to the Code Enforcement Officer written certification that any antenna installation or tower construction meets or exceeds the applicable codes.

c. The installation and/or construction of all Telecommunication Facilities subject to this Ordinance shall require a building permit and a Certificate of Use and Occupancy. No Telecommunication Facility shall operate prior to the issuance of a Certificate of Use and Occupancy.

17.6 SPECIAL EXCEPTION REVIEW PROCEDURES

a. Application Requirements – Applications for Special Exception shall include, at a minimum, the following additional information:

- (1) Written evidence that the proposed use/facility will comply with the FCC regulations regarding radio frequency exposure.
- (2) Written evidence that the proposed use/facility will meet the requirements of the National Environmental Policy Act.
- (3) Copies of any Environmental Assessment or Environmental Impact Statement produced in accordance with FCC or NEPA requirements.
- (4) An inventory of existing towers that are within the jurisdiction of the Town and those within two miles of the Town borders, including specific information about the location, height, design as well as economic and technical feasibility for co-location. Written evidence shall be presented that no existing structure can accommodate the applicant's proposed antenna in a manner that will achieve the required technical result.
- (5) Engineering information detailing the proposed size and coverage range together with the technical reasons for the facility design.
- (6) A description of the tree cover on the subject property and adjacent properties by dominant species and average height, as measured by or available from a verifiable source.
- (7) Representations, dimensioned to scale, of the proposed tower, antennas, equipment shelters including elevation drawings of all structures and the vegetative buffer.
- (8) A visual impact assessment including before-condition photographs and after-condition photographic simulations of the proposed facility showing what can be seen from any public viewpoint.

b. Criteria for Special Exception. It shall be the burden of the applicant to provide sufficient evidence to persuade the Zoning Board of Adjustment that all applicable criteria of this ordinance have been met and that the proposal does not represent unreasonable adverse impacts. An applicant's failure to satisfy the burden of proof shall result in the denial of an application. Additional factors considered in granting decisions:

- (1) Height of proposed tower or other structure.
- (2) Proximity of tower to residential development or zones.
- (3) Nature of uses on adjacent and nearby properties.
- (4) Surrounding topography.
- (5) Surrounding tree coverage and foliage.
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (7) Proposed ingress and egress to the site.

(8) Availability of suitable existing towers and other structures as discussed in this ordinance.

(9) Visual impacts on viewsheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.

(10) Availability of alternative tower structures and alternative siting locations.

c. Outside Technical Review. The Zoning Board of Adjustment may retain a technical expert in the field of radio frequency engineering to review and verify technical claims made by the applicant including but not limited to the co-location findings, alternative locations and innovative design opportunities. The cost of such technical review shall be borne by the applicant.

d. Conditions. In approving an application for Special Exception, the Zoning Board of Adjustment may impose such conditions as it deems appropriate to substantially secure the objectives, standards or requirements of this ordinance.

e. Site Plan Review by the Ossipee Planning Board is required for any proposal which includes the construction of a new tower or the construction or expansion of an equipment shelter.

f. Joint meetings and public hearings between the Planning Board and Zoning Board of Adjustment may be held in accordance with the provisions of RSA 676:2.

17.7 BONDING, SECURITY AND INSURANCE

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board, under Site Plan review, shall set the form and amount of security that represents the estimated cost for removal and disposal of abandoned towers in the event the tower is abandoned and the tower owner is incapable or unwilling to remove the tower. All security shall be maintained for the life of the tower. The Town as an administrative matter, may periodically require the amount of the security to be adjusted to cover the then current cost of removal and disposal. Proof of adequate insurance coverage for accident or damage shall be provided for all tower facilities prior to the issuance of a Building Permit. Said proof shall be submitted to the Town on an annual basis thereafter and be placed on file for public inspection with the Selectmen's Office. Failure to maintain adequate security for removal of an abandoned tower and/or adequate insurance coverage shall invalidate the Certificate of Use and Occupancy.

17.8 ABANDONMENT

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of current, satisfactory inspection by a qualified person to conduct such inspection. The owner shall remove the abandoned structure

within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such determination. A declaration of abandonment shall only be issued following a public hearing with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the Town shall have all necessary authority to execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

17.9 DEFINITIONS

- a. Antenna – any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.
- b. Co-Location – the use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
- c. Designated Historic Buildings and other Resources – historic resources listed in the National Register of Historic Places or determined to be eligible for listing in the National Register, individually or as a district.
- d. Equipment Shelter – an enclosed structure, cabinet, shed or box at or near the base of the mount within which are housed electrical equipment.
- e. FAA – an acronym that shall mean the Federal Aviation Administration.
- f. FCC – an acronym that shall mean the Federal Communications Commission.
- g. Fall Zone – the area on the ground within a prescribed radius from the base of a facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- h. Height – for the purposes of this article shall mean the vertical measurement from a point on the ground at the mean finished grade adjoining the foundation to the highest point of the building or structure. Measurement of tower height shall include antenna, base pad, footings and other appurtenances.
- i. Mount – the structure or surface upon which antennas are mounted, including the following types of mounts: roof mounted (roof of building), side mounted (side of building), ground mounted and structure mounted (other than a building).
- j. Planning Board – the Town of Ossipee Planning Board.
- k. Pre-existing towers and antennas – any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance.

l. Telecommunication Facilities – any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile services, unlicensed services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier exchange access services.

m. Tower – any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

n. Unreasonable Adverse Impact – the proposed facility would produce an end result which is excessively out of character with the designated resources affected.

ARTICLE XVIII - (RESERVED)

ARTICLE XIX - WETLAND CONSERVATION DISTRICT

(Added March 13, 1990)

19.1 PURPOSE AND INTENT

The purpose of these regulations is to protect the public health, safety, and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables for extended periods of time.

It is intended that these regulations shall:

- a) Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage or toxic substances;
- b) Prevent the destruction, or significant changes to natural wetlands which provide flood protection;
- c) Protect unique and unusual natural areas;
- d) Protect wildlife habitats and maintain ecological balances;
- e) Protect potential water supplies and existing aquifers, (water bearing stratum) and aquifer recharge areas;
- f) Prevent expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands;

- g) Encourage those low-intensity uses that can be harmoniously, appropriately, and safely located in wetlands.

19.2 WETLANDS DEFINED

Wetlands are areas where a significant part of the vegetational community, and soil and land types consists of, but not limited to or do not necessarily include all of the following:

- a) Swamps: are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community consists mostly of trees and woody shrubs such as:

Alders	Poison Sumac
Arrow-wood	Red Maple
Atlantic White Cedar	Rhodora
Black Ash	Sphagnum Moss
Black Gum	Spicebush
Black Spruce	Sweet Pepperbush
Buttonbush	Tamarack (Larch)
Common Elder	Willows
High-bush Blueberry	Winterberry

- b) Marshes: are treeless wetlands dominated by soft- stemmed herbaceous plants. The surface of the marsh is covered with water year round, though seasonal fluctuations in water depth are expected. Marshes range from the wet meadows variety to deep marshes which can be covered with several feet of water. The vegetational community is made up of some or all of the following:

Arums	Leatherleaf
Bladderworts	Pickereel Weeds
Bur-reeds	Rushes
Cat-tails	Sedges, including
Duckweeds	Bulrushes, cotton Eelgrass
Grasses	Wool Grasses
Frog's-bit	Smartweeds
Horsetails	Sweet Gale
Hydrophylus Grasses	Water Milfoil

- c) Bogs: consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants which are adapted to the bog's highly acidic conditions. The water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants are:

Atlantic White Cedar	Pale Laurel
Black Spruce	Pitcher-plants
Bladderworts	Rhodora
Bog or Buckbean	Sedges
Bog-Laurel	Sheep Laurel
Bog-Rosemary	Sphagnum Moss
Cotton Grass	Sundews

High-bush Blueberry Sweet Gale
Leatherleaf

d) Soil series and land types commonly associated with wetlands, as described by the Soil Survey of Carroll County, New Hampshire dated December, 1977, include the following "very poorly drained" and "poorly drained" soils listed below or as described in "High Intensity Soil Maps for NH", 1987 (or as amended), drainage class 5 and 6.

"VERY POORLY DRAINED" SOILS INCLUDE:

Alluvial Land; wet (AW)	Muck and Peat (MU)
Chocorua Mucky Peat (CM)	Ossipee Mucky Peat (OT)
Fresh Water Marsh (FA)	Saco Silt Loan (SA)
Greenwood Mucky Peat (GW)	Whitman very Stony Loam (WC)

"POORLY DRAINED" SOILS INCLUDE:

Limerick Silt Loam (LK)	Limerick Variant (LM)
Naumberg Loamy Sand (NA)	Raynham Variant (RA)
Ridgebury Series (RG)(RI)	

19.3 DISTRICT BOUNDARIES:

a) Wetlands Conservation District Defined: The Wetlands Conservation District is defined as those areas as defined in Section 19.2. The Wetlands Conservation District also includes those areas such as swamps, marshes, and bogs that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation adapted for life in saturated soil conditions.

b) Establishment of a District: The limits of the Wetlands Conservation District are hereby determined to be areas subjected to high water tables for extended periods of time and includes, but are not necessarily limited to, all such areas delineated as wetlands on the Ossipee Wetlands Map, which is on file in the Ossipee Town Hall.

c) Wetlands Incorrectly Delineated: Where it is alleged that an area has been incorrectly delineated as a wet- land or that an area not so designated meets the criteria for wetlands designation, the Planning Board shall determine whether the regulations contains herein have application.

The Planning Board shall make its judgment under this article only upon the determination by a certified soil scientist(s) and/or plant scientist(s), on the basis of additional on-site investigation or other suitable research, that the information contained on the Wetlands Map is correct. This evidence shall be acceptable only when presented in written form by said scientist(s) to the Planning Board. Any necessary soil testing procedures/research shall be conducted at the expense of the landowner.

19.4 PERMITTED USES

Permitted uses are those which will not require the erection or construction of any structures or buildings, will not alter the natural surface configuration by the addition of fill or by dredging and uses that otherwise are permitted by the Zoning Ordinance. Such uses may include the following:

- a) Forestry-tree farming, using the best management practices in order to protect streams from damage and to prevent sedimentation;
- b) Cultivation and harvesting of crops according to recognized soil conservation practices, including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;
- c) Wildlife refuges;
- d) Parks and recreation uses consistent with the purpose and intent of this Ordinance;
- e) Conservation areas and nature trails;
- f) Open spaces as permitted or required by the Subdivision Regulations or Zoning Ordinance if applicable.

19.5 SPECIAL EXCEPTIONS

Special Exceptions may be granted by the Board of Adjustment for undertaking the following uses in the Wetlands Conservation District.

The application shall be referred to the Planning Board, the Conservation Commission, and to the Health Officer for review and comment within thirty (30) days.

- a) Streets, roads, and other access ways and utility right- of-way easements, including power lines and pipe lines, if essential to the productive use of land and if so located and constructed as to minimize any detrimental impact of such uses upon the wetland;
- b) Water impoundments;
- c) The undertaking of a use not otherwise permitted in the Wetlands Conservation District, if it can be shown that such proposed use is not in conflict with any and all of the purposes and intentions listed in Article 19.1.
- d) The requirements for Special Exceptions as set forth in Article 26.2 shall not apply to a Special Exception granted under this section. The only requirements and standards to be applied shall be as described herein.

19.6 SPECIAL PROVISIONS

- a) Deleted March 11, 1997.
- b) No part of a wetland may be considered as part of the minimum size requirement of any lot.

19.7 CONFLICT WITH OTHER REGULATIONS

Where any provisions of this Ordinance is in conflict with State Law or other local Ordinance, the provision which imposes the greater restriction or higher standard shall be controlling.

ARTICLE XX - WATER RESOURCE PROTECTION DISTRICTS

(Added March 14, 1989)

The purpose of the Water Resource Protection Districts is to protect public health by preventing contamination of both current and future ground and surface water resources capable of providing water to the Town of Ossipee, New Hampshire, in accordance with the authority of RSA 674:21.

20.1 ESTABLISHMENT OF DISTRICT

The Water Resource Protection Districts are herein established as overlay districts. The Water Resource Protection Districts include the Watershed Recharge area of Dan Hole Ponds, the community water supplies and the stratified drift material as described in the U.S. Geological Survey Study by John E. Cotton, 1977. The Water Resource Protection Districts, are described on an official map entitled "Water Resource Protection Districts, Town of Ossipee, New Hampshire" located in the Ossipee Town Hall and on file with the Town Clerk.

Where the bounds of the Water Resource Protection Districts are in doubt or dispute, as delineated on the Water Resource Protection Districts map, the burden of proof shall be upon the owner of the land in question to show where they should properly be located. At the request of that landowner(s), the Town may engage a professional hydrogeologist to determine more accurately the location and extent of the recharge area, and may charge the owner for the cost of the investigation.

20.2 USE REGULATIONS

Within the Water Resource Protection Districts the permitted uses in Table 1 and dimension requirements of Table 2 of the underlying districts continue to apply, except that uses are prohibited where indicated by a "N" in this section, and require a Special Use Permit where indicated by a "SUP" even where the underlying district requirements are more permissive. Where there is no entry to this section, the underlying district controls.

20.2.1. PRINCIPAL USES

- a) Manufacture, storage, transport, use or disposal of hazardous materials as a principal activity.....N
- b) Sanitary landfill, septage lagoon, waste water treatment facility for municipal or industrial wastes.....N
- c) Junkyard, salvage yard.....N
- d) Road salt stockpile.....N
- e) Truck terminal with more than ten (10) trucks.....N
- f) Gasoline station, car wash, auto repair, auto body.....N

20.2.2 ACCESSORY USES

- a) Underground storage of hazardous materials, fuel oil, or gasoline.....N
- b) Hazardous materials storage, above ground, in quantities greater than associated with normal household use.....SUP
- c) Any use generating hazardous wastes in quantities greater than associated with normal household use.....SUP

20.2.3 OTHER USES

- a) Mining Operations, including sand and gravel operations.....SUP
- b) Animal feed lots, manure storage lots.....SUP
- c) Commercial spraying or spreading of chemical fertilizers or pesticides. (See Article 20.7.6).....SUP
- d) Rendering impervious more than twenty percent (20%) of the total lot area, regardless of size.....SUP
- e) Any use retaining less than thirty percent (30%) of total lot area in its natural vegetative state with not more than minor removal of the existing trees and vegetation.....SUP
- f) Any use, other than a single family dwelling, having an estimated sewage flow greater than six hundred (600) gpd, regardless of lot size.....SUP
- g) Seasonal home conversion (see Article 20.7.7).....SUP

20.3 SPECIAL USE PERMIT GRANTING AUTHORITY

Pursuant to RSA 674.21 this innovative zoning shall be administered by the Planning Board which shall be the Special Use Permit Granting Authority (SUPGA). Such Special Use Permit shall be granted if the Planning Board determines that the intent of this regulation as well as the specific criteria of 20.5 is met. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed. The Planning Board shall explain any departures from the recommendations of other town agencies in its decision.

20.3.1. The completed application for a Special Use Permit shall be submitted to the Planning Board at a regularly scheduled meeting and accompanied by a site plan drawn to an indicated scale and showing the location and dimensions of all significant structures and uses present and proposed. A reasonable fee established by the Planning Board may be required to accompany the application to cover processing costs. The Planning Board shall hold a public hearing within thirty (30) days of acceptance of a completed application, and shall cause notice of date, time, and place of such hearing to be given to the applicant, abutters, and all property owners within two hundred (200) feet of the boundaries and to be published in a newspaper of general circulation in the municipality, the date of the first publication to be at least ten (10) days prior to the hearing.

20.3.2. The Planning Board shall, within thirty (30) days of a public hearing or within sixty (60) days of accepting a completed application, or within such other time limit as may be otherwise mutually agreed to issue an order denying or granting approval of the application. Both the approval and the denial of an application for a Special Use Permit by the Planning Board shall be in writing and shall state the reasons for that decision. The Planning Board may impose such additional permit conditions as it finds reasonably appropriate to serve the purpose of this Ordinance.

20.3.3. Upon acceptance of the completed Special Use Permit application, the Planning Board shall transmit one copy each to the Board of Selectmen, Fire Department, Zoning Board of Adjustment, and Conservation Commission for their written recommendations.

Failure to respond within thirty (30) days shall indicate approval of said agencies. The copies necessary to fulfill this requirement shall be furnished by the applicant.

20.3.4. The Planning Board may engage such professional assistance as it requires to assist in the evaluation of the Special Use Permit application prior to making a determination and may charge the owner(s) or agent for all or part of the evaluation.

20.4 PERMIT AMENDMENT

If adherence to the permit conditions cannot be maintained, the owner shall apply to the Planning Board for a permit amendment. An application shall be completed and submitted to the Planning Board in the manner provided in Article 20.3 of this Ordinance.

20.5 SPECIAL USE PERMIT CRITERIA

Special Use Permits under 20.3 shall be granted only if the Planning Board determines, in conjunction with comments and recommendations of the other agencies specified therein, that ground and surface water quality resulting from on-site wastewater disposal or other operations on-site shall not fall below federal or state standards for drinking water, or, if existing ground and surface water quality is already below those standards, on-site disposal or operations shall not be more deleterious to any existing, proposed or likely improvement programs or proposals.

- 20.5.1. In considering an application for a Special Use Permit, the Planning Board shall evaluate the immediate and long range impact of the proposed use on the ground and surface waters and the possible effects of the proposed use upon the maintenance of safe and healthful conditions. The Planning Board may request the Conservation Commission to review any proposal and make recommendations.
- 20.5.2. In making such a determination, the Planning Board shall consider the following: the amount and type of waste to be generated by the proposed use and the adequacy of the proposed disposal system, the capability of the land and water to sustain use without degradation, the topography and drainage of the proposed site, susceptibility to flooding, and evaluation of information submitted in accordance with the provisions of Articles 20.6 and 20.7.
- 20.5.3. The Planning Board in approving an application for a Special Use Permit, may impose such reasonable conditions concerning the location and site of waste disposal area, the quantity of potential pollutants to be permitted on site within a Water Resource Protection District, and like matters, as it deems advisable in order to protect the quality of the groundwater.

20.6 SUBMITTALS

An application for a Special Use Permit shall include a site plan indicating the following information:

- 20.6.1. All proposed subsurface disposal of waste materials.
- 20.6.2. Proposed excavations and/or earth moving operations which alter the slope or composition of the soil.
- 20.6.3. Proposed methods of conveying water from roads, and paved surfaces.

- 20.6.4. Any proposed diversion of ground or surface waters on or adjacent to the site.
- 20.6.5. 20.6.5.A surface drainage plan which considers the kind and extent of contaminants that may be carried off in surface runoff. The plan should also specify the methods, such as holding basins, oil and grease skimmers and filters, that will be used to protect the groundwater from surface runoff. The plan should show evidence that runoff will be recharged on site by diversion towards areas covered with vegetation for surface infiltration to the maximum extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants.

20.7 OTHER INFORMATION

In addition to the site plan, the Planning Board may require all or some of the information listed below, at its discretion, to be submitted as per Section 20.3:

- 20.7.1. A complete list of all chemicals, pesticides, fuels, or other potentially hazardous materials to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers or facilities from vandalism, corrosion, and leakage, and to provide for the control of spills.
- 20.7.2. A description of all potentially hazardous wastes to be generated, including provisions for storage and disposal methods as described in subsection 20.7.1 above.
- 20.7.3. For above ground storage of hazardous materials and wastes, evidence of qualified professional supervision of design and installation of such storage facilities or containers.
- 20.7.4. For on site waste disposal systems, other than a single family dwelling, all plans less than twenty- five hundred (2500) gpd must be prepared by a professional licensed designer. Plans for systems greater then twenty-five hundred (2500) gpd must be designed by and bear the stamp of a Civil or Sanitary Engineer licensed in the State of New Hampshire. All design plans shall include capacity, daily flow volume, minimum distances and narratives assessment of nitrate, coliform, and types of wastes impact on the ground water quality.
- 20.7.5. For mining operations, including sand and gravel operations, such excavation or mining activity shall be in compliance with the Town of Ossipee Earth Excavation and Restorations Regulations.
- 20.7.6. Commercial use of pesticides, herbicides, fertilizers, manure and other potentially dangerous leachables shall be in compliance with RSA 430:222 and PES 100-900 of the New Hampshire Code of Administrative Rules as regulated by the New Hampshire Department of Agriculture.
- 20.7.7. For seasonal home conversion served by on-site sewage disposal systems,

evidence that such system will support year round use by approval of the Water Supply and Pollution Control Commission that the system design has met the requirements as outlined in WS1000.

- 20.7.8. For manure storage, evidence of qualified professional supervision of design and installation of such storage facilities and a description of the measures proposed to prevent leaching and vandalism.

ARTICLE XXI - (RESERVED)

ARTICLE XXII - (RESERVED)

ARTICLE XXIII - NON CONFORMING STRUCTURES, LOTS AND USES

This Ordinance is intended to regulate land uses so areas will contain compatible uses on adequate lots with proper structures. The Ordinance shall be administered so that deleterious affects of non-conforming lots, buildings, and uses shall be reduced and eventually eliminated.

23.1 NON-CONFORMING LOTS

A lot is not contiguous to another lot owned by the same party that has less than the prescribed minimum area or frontage, may be built upon provided that all other regulations of this Ordinance are met and that lot, before the adoption of the requirements which have made it non- conforming:

- a) was lawfully laid out by plan or deed duly recorded in the Carroll County Registry of Deeds, or
- b) was shown as a subdivision plan approved before 1988 under the Subdivision Regulations of the Town of Ossipee, or
- c) was otherwise exempt from such regulations by the provisions of statute, and provided that such lot conforms to the area and frontage requirements of the Zoning Ordinance applicable at the time of said recording or approval.

23.1.1. A pre-existing lot, as described in 23.1 above, which does not conform to the minimum area and/or frontage standards in Table 2 may be built upon, and shall conform to all other provisions of this Ordinance, provided that approval for the design of an on-site sewage disposal system is obtained from the New Hampshire Water Supply and Pollution Control Division.

23.1.2. Non-conforming adjoining lots of less than one (1) acre under the same ownership shall only be developed with such adjacent lot.

23.2 NON-CONFORMING USES

If a lawful use exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the Zone under terms of this Ordinance, said use may be continued, so long as it remains otherwise lawful and subject to the other provisions of this Section.

- 23.2.1. DISCONTINUED USE: If a non-conforming use is discontinued for one (1) year or superseded by a conforming use, it shall thereafter conform to the requirements of the zone and the non-conforming use may not be resumed.
- 23.2.2. SUPERSEDING, NON-CONFORMING USE: A non-conforming use may not be superseded by another non-conforming use.
- 23.2.3. EXPANSION: A non-conforming use may be expanded within the limits of the property by Special Exception under Article 26.2 provided, the unity of the use is retained and other requirements of the Zone are complied with.

23.3 NON-CONFORMING STRUCTURES AND USES

If a lawful structure or use exists before this Ordinance is effective, which does not comply with the requirements contained herein, it may remain subject to the other provisions of this Ordinance. (Amended March 2006)

- 23.3.1. REPAIRS: Normal repairs, renovations, and maintenance may be made to any non-conforming structure. (Amended March 2006)
- 23.3.2 A NON-CONFORMING STRUCTURE: May be expanded or altered by Special Exception under Article 26.2, as the business or conditions warrant, providing, however, that such expansion does not make a conforming structure non-conforming or a non-conforming structure more non-conforming.
- 23.3.3 A NON-CONFORMING USE: The volume, intensity, or frequency of the non-conforming use (such as adding more tables to a restaurant) may be increased provided there is no substantial change in the use's effect on the neighborhood. However, expansion of the non-conforming use shall not be allowed (such as expansion of the non-conforming use into another part of the building which had not previously been used in a non-conforming manner). (Added March 2006)
- 23.3.4. GENERAL SAFETY: Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any building or part thereof upon order by any public official charged with protecting the public safety.

ARTICLE XXIV - ADMINISTRATION, ENFORCEMENT AND PENALTY

24.1 ADMINISTRATION

The Ossipee Board of Selectmen is the final authority in administration and enforcement of this Ordinance. The Board of Selectmen shall appoint a Zoning Enforcement Officer whose duty it shall be to represent the Board of Selectmen in administering and enforcing this Ordinance. The appointment of a Zoning Enforcement Officer does not supersede the Board of Selectmen's authority or obligation.

24.1.1. BUILDING AND ZONING PERMITS: (Added March 1995) No construction of more than one thousand dollars (\$1,000.00) can begin until a Building and/or Zoning Permit has been issued by the Town of Ossipee, NH. Applications for these purposes are available at the Town Hall. (Amended March 2006)

24.2 TECHNICAL STUDIES AND SURVEYS

The Board of Selectmen, Zoning Enforcement Officer, Zoning Board of Adjustment and/or Planning Board may require technical studies, surveys and any plot plans as necessary to assist it in administering and enforcing the provisions of this Ordinance. The cost for such studies or plans will be borne by the applicant and/or appellant.

24.3

The Board of Selectmen or its Zoning Enforcement Officer shall make inspections, as appropriate to ensure conformity with the provisions of this Ordinance.

24.4

Upon any well founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of same by seeking an injunction in the Superior Court, or by any other legal and appropriate action, however, failure to do so will not constitute a waiver of the Town's right to take such action.

24.5

Any person, firm or corporation, being the owner or occupant of or having control or the use of, or being engaged in the construction or moving of any structure or land or part thereof, found to violate any provision of this Ordinance may be punishable by either:

24.5.1. A civil fine of \$100.00 for each day of violation after the date the violator receives written notice from the Town, or after the conviction date, whichever date is earlier, or

24.5.2. A criminal penalty, which shall be:

- a) misdemeanor if the violation is committed by a natural person, or
- b) A felony if the violation is committed by any other person.

24.5.3. The Town may, in addition to other remedies, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent or enjoin or abate any violation. If the Town prevails in any legal actions brought hereunder it may recover reasonable attorney's fees and its costs, including but not limited to inspection fees, expert fees and investigatory expenses. Additionally, the Court may order, as an additional civil penalty, restitution for any public funds expended which are not otherwise reimbursed hereunder. Further, and alleged violator may be required to post bond, pursuant to RSA 676:17 IV.

ARTICLE XXV - BOARD OF ADJUSTMENT

25.1 TERM, MEMBERSHIP, AUTHORITY AND DUTIES

In accordance with the provisions of RSA 673:3 will elect a five member Zoning Board of Adjustment. The Zoning Board of Adjustment members who are elected shall be elected for the term provided under RSA 673:5. The terms of appointed members of the Zoning Board of Adjustment in the municipalities in office on the effective date of an affirmative decision to elect such board members shall not be effected by the decision. However, when the term of each member expires, each new member shall be elected at the regular municipal election for the term provided under RSA 673:5. Purpose: To enhance participation of people in Town affairs, to represent a broad spectrum of residents. (Amended March 8, 1994)

25.2 POWERS AND DUTIES

The Board of Adjustment shall have the powers assigned to it by RSA 674:33 and any other powers assigned by Ordinance and is the final authority in the interpretation in keeping with the purpose and intent of this Ordinance. The Board of Adjustment shall:

- 25.2.1. Notify the Planning Board, the Board of Selectmen and other relevant Town Boards at least two (2) weeks prior to taking action on Special Exceptions, Variances and Appeals.
- 25.2.2. Consider appeals brought by any person aggrieved or by any officer, department, board or commission of the municipality affected by any decision of the town officials, in the manner prescribed by RSA 676:5 as amended, within the time limit set by the Board of Adjustment according to said statute. The Board of Adjustment may reserve or affirm, wholly or in part, or may modify the decision, and to that end shall have all the powers of the official or board from whom the appeal is taken. All costs and fees shall be paid by the person making the appeal at the time of application.
- 25.2.3. Grant Special Exceptions to the Zoning Ordinance under the conditions and

procedures described in Article XXVI.

25.2.4. Grant Variances to this Zoning Ordinance under the conditions and procedures described in Article XXVII.

25.2.5. No Variance or Special Exception may be granted for premises on which outstanding violations of this Ordinance exist, unless the effect of such a Variance or Special Exception would be to remedy all such violations.

25.3 PROCEDURES

The Board of Adjustment shall conform to the provisions of RSA 676 and this Ordinance.

25.3.1. BYLAWS: The Board of Adjustment shall adopt rules governing its proceedings pursuant to requirements of RSA 676:1.

25.3.2. JOINT MEETINGS: The Board of Adjustment may hold joint meetings with other Town Boards and Commissions as provided in RSA 676:2.

25.3.3. MEETINGS AND HEARINGS: Meetings of the Board of Adjustment and public hearings on appeals being heard by the Board, shall be held as required by the bylaws of the Board. The concurring vote of three (3) members shall be necessary to decide in favor of any appeal or to reverse any action appealed from (RSA 674:33 III). Notice of public hearing shall be given at least five (5) days before the hearing date, by certified mail to the appellant, abutters, and all property owners within two hundred (200) feet of the boundaries and by placing notice in a newspaper of general circulation, as required by RSA 676:7, and also be provided to the Board of Selectmen, Zoning Enforcement Officer and other Town Boards and Commissions. Cost of giving notice shall be borne by the person at the time of application. The Zoning Enforcement Officer, unless prevented by good cause, shall attend all hearings and shall present to the Board of Adjustment all plans, photographs or other factual material which is appropriate to an understanding of the appeal.

25.3.4. REFERRAL TO PLANNING: The Board of Adjustment may, before taking final action on any matter, refer it to the Planning Board for review and recommendation. Where the approval of the Planning Board is required under this Ordinance, the Board of Adjustment shall, before taking final action on any matter, refer it to the Planning Board for review and recommendation. The action of the Planning Board shall be reported to the Board of Adjustment within thirty (30) days of such referral. Any recommendation received from the Planning Board shall be disclosed at the public hearing and shall become a part of the record of the matter.

25.3.5. NOTICE OF DECISION: The Board shall issue a final written decision with all reasons and conditions set forth for the record on each appeal heard. If the appeal is not approved, the decision shall state the reasons for disapproval (RSA 676:3 I). The decision shall be placed on file with the Town Clerk and

made available for public inspection within seventy two (72) hours after it is made (RSA 676:3 II). In addition, a copy of the decision shall be given to the appellant, Board of Selectmen, Zoning Enforcement Officer, and other Town Boards and Commissions and shall be published in local newspaper.

25.3.6. REHEARINGS: Within thirty (30) days after any order or decision of the Board of Adjustment, any party to the action or any person directly affected may apply for a rehearing, as provided in RSA 677:2.

a) A MOTION FOR REHEARING: A motion for rehearing shall set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. The Board of Adjustment shall within ten (10) days after a motion for rehearing is filed, either grant or deny the motion or suspend the order or decision complained of pending further consideration (RSA 677:3 II). The Boards decision to grant or deny a rehearing may be made at a regular or special meeting.

b) REHEARING PROCEDURE: If a motion for rehearing is granted, the procedure for public notice and for conduct of the rehearing shall be the same as for the original hearing, except that the Board may limit the rehearing to consideration of the grounds set forth in the motion for rehearing.

ARTICLE XXVI - SPECIAL EXCEPTIONS

Certain uses, structures or conditions are enumerated in this Ordinance as Special Exceptions. The Board of Adjustment shall review the application to insure that the proposed use meets the general purpose and intent of this Ordinance so as to affect the orderly and harmonious development of the District.

26.1 APPLICATION PROCEDURE

Before application for a Special Exception is made, a preliminary plan or site plan shall have been presented to the Zoning Enforcement Officer for review and comment to determine how the proposal relates to the overall zoning objectives. The proposal may also receive comments from the Selectmen, the Planning Board, Road Agent, Fire Department and Conservation Commission.

26.1.1. The applicant shall submit to the Zoning Board of Adjustment the completed application and three (3) copies of plans for the proposed development or change in use of the site and other pertinent information that is necessary to determine that the proposed use meets the requirements and spirit and intent of this Ordinance.

26.1.2. The completed application, including the list of names of abutters and all property owners within two hundred (200) feet of the boundaries and addresses, and all applicable fees shall be submitted to the Zoning Board of Adjustment at least twenty one (21) days prior to the scheduled public meeting of the Board. The completed application shall be formally accepted by the Board only at such scheduled meeting.

- 26.1.3. An incomplete application will not be formally accepted by the Board nor will notices of a public hearing be posted, published or mailed.
- 26.1.4. Before reaching a decision under this Article, members of the Board may view the subject area. Said viewing shall be noted in their records.
- 26.1.5. If the Board finds that the requirements of Section 26.2 contained herein, have been met, it shall issue a written Building and Use Approval. In approving a Special Exception, the Board may impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose of this Ordinance. Informational copies shall be sent to the Selectmen, the Planning Board, and Zoning Enforcement Officer.
- 26.1.6. If a Special Exception is not activated within one (1) year of the date of approval, it shall be null and void. The Zoning Board of Adjustment shall note the expiration date for such Special Exception on the approval.
- 26.1.7. If the Board finds that the application fails to satisfy the requirements of Section 26.2, contained herein, it shall deny approval, stating in writing the reasons for its action. Informational copies shall be sent to the Selectmen, the Planning Board and the Zoning Enforcement Officer.

26.2 REQUIREMENTS FOR SPECIAL EXCEPTIONS

Before granting a Special Exception the Board of Adjustment shall determine that the proposal is found to be in compliance with the following requirements and other applicable requirements as set forth in this Ordinance.

- 26.2.1. That the use is a permitted Special Exception as set forth in Table 1 hereof or elsewhere in this Ordinance. (See Article 6.2).
- 26.2.2. That the use is so designed, located and proposed to be operated that the public health, safety, welfare, and convenience will be protected.
- 26.2.3. That the specific site is appropriate for the proposed use or structure.
- 26.2.4. No factual evidence is found that the property values in the district will be reduced, due to incompatible land use, by such use.
- 26.2.5. Adequate and appropriate facilities and parking will be provided for the proper operation of the proposed use or structure, as required herein.
- 26.2.6. There will be no undue nuisance or serious hazard to pedestrian or vehicular traffic.
- 26.2.7. The proposed use shall not violate the provisions of Article IV and V of this Ordinance.

- 26.2.8. There is no valid objection from the abutters based on demonstratable fact.
- 26.2.9. The applicant for a Special Exception shall, as a condition of the Special Exception, obtain Planning Board approval of the site plan, if required by site plan review regulations.

ARTICLE XXVII - VARIANCES

A Variance is a relaxation or setting aside, in a specific case, of certain specified terms of this Ordinance. In accordance with RSA 674:33 I(b), the Board of Adjustment may grant in specific cases such Variances as will not be contrary to the public interest if 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.

27.1 SPECIAL REQUIREMENTS

The Board of Adjustment may authorize a Variance where it finds that the following conditions apply:

- 27.1.1. The proposed use will not diminish surrounding property values.
- 27.1.2. Granting the Variance will not be contrary to the public interest.
- 27.1.3. The use will not be contrary to the spirit of the Ordinance.
- 27.1.4. By granting the Variance substantial justice will be done.
- 27.1.5. Denial of a Variance would result in unnecessary hardship. The hardship must exist which is inherent in the land in question and which is not shared in common with other parcels of land in the district.

27.2 ADMINISTRATIVE PROCEDURES

The Board shall consider granting Variances from this Zoning Ordinance by the following administrative procedures.

- 27.2.1. An owner of a parcel of land who wishes to use said parcel in a manner not permitted by this Ordinance, shall submit an application to the Zoning Board of Adjustment identifying the parcel and describing the proposed use, substantially in the manner required for Special Exceptions under Article XXVI.
- 27.2.2. Before applying for a Variance, appellant shall submit to the Board of Adjustment a determination that the proposed use is not permitted without a Variance. This determination may take any of the following forms:
 - a) A building permit denial;

- b) A notification in writing from the Planning Board that it lacks jurisdiction to grant a site plan or subdivision approval;
- c) A notification in writing from the Selectmen, Zoning Enforcement Officer, or other cognizant town board or official that the proposed use does not conform to the Ordinance.

27.3 APPLICATION DISPOSITION

The Zoning Board of Adjustment may approve, approve with conditions, or deny applications for Variances. All reasons and conditions must be set forth for the record. Informational copies shall be sent to the Selectmen, the Planning Board, and the Zoning Enforcement Officer.

27.4 EXPIRATION OF APPROVAL

If a Variance is not activated with one (1) year of the date of approval, it shall be considered null and void. The Zoning Board of Adjustment shall note the expiration date for such Variance on the approval.

ARTICLE XXVIII - APPEALS

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the town officials, in the manner prescribed by RSA 676:5, as amended, within the time limit set by the Board of Adjustment according to said statute. The cost of advertising and costs of mailing and the notices of a hearing shall be paid by the person making the appeal at the time of application.

ARTICLE XXIX - NOTIFICATION OF OTHER TOWN BODIES

The Board of Adjustment shall notify the Planning Board, the Board of Selectmen and other relevant town bodies at least two (2) weeks prior to taking action on Special Exceptions, Variances and Appeals.

ARTICLE XXX - RELATIONSHIP TO EXISTING ORDINANCES

Nothing contained in this Ordinance shall be construed as repealing or modifying any other Ordinance or regulation of this town, except as may be specifically repealed or modified by this Ordinance, but shall be in addition thereto.

30.1

Whenever the provisions of this Ordinance differ from those prescribed by any statutes, other Ordinance, or other regulation or restriction, that provision which imposes greater

restriction or the higher standard shall apply.

30.2

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not, in and of itself, invalid or unconstitutional.

ARTICLE XXXI - (RESERVED)

ARTICLE XXXII - (RESERVED)

ARTICLE XXXIII - DEFINITIONS

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

Words used in the present tense include the future tense.

The singular includes the plural.

The word "person" includes a corporation, as well as an individual.

References to the male gender includes the female gender.

The word "lot" includes the word "plot" or "parcel".

The term "shall" is mandatory; "may" is permissive.

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, designed to be used or occupied".

In this Ordinance the following terms have the following meanings:

ABUTTER: Any property owner whose property is located in New Hampshire and adjoins the boundaries or is directly across the street or stream from the land under consideration. For the purpose of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

ACCESSORY APARTMENT: Lodging as an accessory use to a single-family dwelling. The accessory apartment shall be an integral part of, or connected to, the single-family dwelling and be no larger than one thousand (1000) square feet or thirty (30) percent of the inhabitable floor area of the single-family dwelling, whichever is smaller. (Amended March 2005)

ACCESSORY BUILDING: A subordinate building incidental to and on the

same lot occupied by the main building or use.

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 or located on the same lot with such principal use.

AGRICULTURE: Agriculture shall mean cultivating the soil, producing crops, and raising livestock or poultry, exclusive of home gardens.

AMUSEMENT DEVICE: A mechanical device which is operated by the public through the insertion of a coin, token, slug or plate, or the paying of a consideration for the general purpose of a game, entertainment or amusement. Such devices may include but are not limited to: pinball machines, pool tables, electronic and/or video games, gaming devices or children's rides. Such devices shall not include pay telephones, cigarette machines, newspaper, food, beverage or product dispensing machines.

BED & BREAKFAST: See Lodging House.

BUILDING: Any structure having a roof and intended for shelter, housing or enclosure of persons, animals or property.

BUILDING HEIGHT: The vertical distance measured from the average level of the grade at the building, to the highest point of the roof, excluding chimneys, ventilators, silos, vent pipes, antennas, and other such accessory features.

CAMPING GROUNDS: Land rented for temporary occupancy by tents, tent trailers, campers or sleeping quarters of any kind, except dwellings and mobile homes, for recreational purposes according to the standards in Article XV.

COMMERCIAL: A use primarily concerned with the making of profit from the sale of goods or services.

COMMERCIAL/RESIDENTIAL MIXED: A building that contains both commercial and residential uses. This use definition only applies to the Commercial Node and Village Districts and to those uses specified in Table 1 COMMERCIAL USES as Bed and Breakfast, Business Offices, Veterinary Clinics, Schools/Day Care Facilities Restaurant, Retail Store, Warehouse/Storage Facilities/ Inns, Motels, Hotels, Personal Service Shops, Repair Shops.

DISCONTINUED USE: The visible or otherwise apparent intention of the owner to discontinue the use of the building or premises or the removal of characteristic equipment or furnishings used in the performance of any non-conforming use without its replacement by similar equipment or furnishings. The replacement of any non-conforming use of building by any conforming use or building.

DWELLING: A building or portion thereof designed for residential occupancy, including single family, two-family and multiple family, but not including hotels,

motels, or rented rooms in lodging houses or similar uses.

DWELLING, SINGLE FAMILY: A detached residential building other than a manufactured home, designed for and occupied by one family only. Presite built homes which are constructed on a conventional foundation are considered to be single family dwellings as distinct from "manufactured housing".

DWELLING, TWO FAMILY: A residential building designed for or occupied by two families living independently of each other in individual dwelling units, commonly referred to as a duplex.

DWELLING, MULTI-FAMILY: A residential building designed for or occupied by more than two (2) families living independently of each other in individual dwelling units, and not exceeding a total of six (6) dwelling units, with the number of families in residence not exceeding the number of dwelling units provided, and no more than 24 units on a lot. (Amended January 16, 2007)

DWELLING UNIT: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking, sanitary and sleeping facilities.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including pole, wires, mains, drains, sewer, pipes, conduit cable, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection therewith, but not including buildings, reasonable necessary for the furnishing of adequate service by such public utilities or municipal or other government agencies or for the public health or safety or general welfare.

EXCAVATION: Digging of any type.

EXISTING NON-CONFORMING USE: Any lawful use existing in a district where it is not allowed under Table 1 and which existed prior to the adoption of the Zoning Ordinance.

EXPANSION OF A NON-CONFORMING USE: Any increase in size, intensity of use or degree of non-conformity shall constitute an expansion.

FLOODPLAIN: (Also See Article 4.10.1) Land subject to a one percent (1%) or greater chance of flooding in any given year as delineated on the Flood Hazard Boundary Map for the Town of Ossipee, New Hampshire.

FLOODWAYS (Also See Article 4.10.1) The channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream.

FORESTRY: Commercial growing and harvesting of forest products.

FRONTAGE: The distance along a lot line on an approved private road or an improved public road, Class V or better, and on a body of water, if applicable.

FRONT SETBACK: Distance from a lot line on a road or water boundary.

HAZARDOUS MATERIALS: Any substance or combination of substances which because of quantity, concentration or physical, chemical or infectious characteristics, poses a significant present or potential threat to water supplies or to human health if disposed of into or on any land or water in this town. Any substance deemed a hazardous waste under Section 3001 of the Resource Conservation and Recovery Act of 1976, 40 C.F.R. Part 261, shall also be deemed a hazardous material for the purposes of the Ordinance.

HOME OCCUPATION: Any income-producing use conducted in a dwelling and/or accessory buildings by the residents and their employees that is secondary to the residential purposes and does not change the character of the building or the character of the neighborhood.

IMPERVIOUS: Impenetrable by surface water.

INDUSTRIAL: A use involving the manufacture of a product generally requiring many employees, extensive parking facilities, good routes of transportation and requiring other services not needed by commercial or light manufacturing uses.

INN (HOTEL OR MOTEL): A single structure affording accommodations such as lodgings, food and entertainment for transient guests.

JUNKYARD: Includes any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer operable or in condition for legal use on the public highways or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part or intended to be a part of any motor vehicles, the sum of which parts or materials shall be equal in bulk to two (2) or more motor vehicles. "Junkyard" shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof.

LIGHT INDUSTRY: A use involving a service or manufacturing process or activity that can be carried on totally within the industrial building itself. Such use shall, not require heavy, noisy, or otherwise objectionable machinery or generate excessive traffic conditions. Large structures for storage or other use outside the Principal structure shall not be permitted.

LODGING HOUSE: Any place consisting of a room or a group of rooms located on one premises where non-transient accommodations for sleeping or living purposes are provided for a price, with no cooking facilities in an individual room or apartment.

LOT: A lot is a parcel of land occupied or to be occupied by only one principal building (except that a multi-family use may allow more than one principal multi-family dwelling, where allowed) and the accessory buildings or uses customarily incidental thereto. 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. Such lot shall have frontage on an improved public road or on an approved private road or, in the case of backland, shall have a private right-of-way leading to it, and may consist of:

- 1) A single lot of record;
- 2) A portion of a lot of record;
- 3) A combination of complete lots of record, or complete lots of record and portions of lots of records, or of portions of lots of record;
- 4) A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance. (Amended January 16, 2007)

LOT MEASUREMENTS: Depth of a lot shall be the average distance between front and rear lot lines. Width of a lot shall be the average distance between the lot sidelines.

LOT OF RECORD: A lot which is a part of a subdivision approved by the Ossipee Planning Board and recorded in the Carroll County Registry of Deeds, or a lot or a parcel described by metes and bounds, the description of which was so recorded prior to the enactment of the present Zoning Ordinance.

MANUFACTURING: Any process whereby the nature, size, shape, finish or appearance of articles is changed or where articles are assembled or packaged in quantity.

MANUFACTURED OR MOBILE HOME: Any structure, transportable in one (1) or more sections, which in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on the site, is three hundred and twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical.

MANUFACTURED HOME OR MOBILE HOME PARK: A mobile home park

is land upon which two (2) or more manufactured homes (mobile homes) are parked and occupied for living purposes, regardless of whether or not a charge is made for such accommodations. A park remains in single ownership with lots offered on a rental basis. Permanent foundations are not required for mobile homes in parks.

MANUFACTURED HOME SUBDIVISION: An approved subdivision created by the developer for individual ownership and for the placement, for living purposes, of individually owned manufactured housing.

PARKING SPACE: An off-street space available for the parking of one motor vehicle, as defined in Article 4.6.

PERMANENT FOUNDATION: A foundation of cement, concrete block, granite or some other permanent material that supports the structure.

PRE-SITE BUILT HOUSING: Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purpose of this Ordinance, pre-site built housing shall not include manufactured housing, as defined in RSA 674:31.

QUALIFIED PROFESSIONAL: Individuals whose training, experience and professional certification are appropriate to accomplish the specific tasks with accuracy and proficiency. Reports, plans, or other materials submitted must bear the signature and seal of the individual who drafted or supervised the drafting of such documents.

RECREATIONAL FACILITIES: Major outdoor recreational facilities requiring large natural land areas such as ski slopes, trails, ball playing fields, and golf courses.

ROAD: Shall mean a Class V or better highway, a private road shown on a subdivision plat approved by the Planning Board; or a Class VI highway, provided that the requirements of RSA 674:41 I(c) are met.

SAFE SIGHT DISTANCE: A straight line view which encounters no obstruction measured between two points along the center line of the street entirely within the street right-of-way, each point to be at a height of four (4) feet above the road surface.

SETBACK: The minimum distance from the property lines, road right-of-way lines, or high-water mark of a waterbody, established by the requirements of this Ordinance for each Zoning District. It is a line which runs parallel to the property line. The area between the property line and the minimum setback line shall remain open space and unoccupied by any structure except as permitted herein.

SIGN: A device designed to inform or attract attention: (Amended March 1996)

ON-SITE: A sign with the subject matter related to the lot on which it is located.

OFF-SITE: Any sign other than an "On-Site" sign.

SPECIAL EXCEPTION: A Special Exception is a use that would not be appropriate generally or without conditions, but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare.

SOLID WASTES: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to, rubbish, garbage, scrap materials, junk refuse, inert fill material and landscape refuse.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings, walls, mobile homes, fences exceeding six (6) feet in height and bill boards. It shall not include minor installations such as mailbox, flagpole and fences or walls less than six (6) feet high. (Amended March 11, 1997)

TRAVEL TRAILER: A recreational vehicle that is towed by a car or truck. It is designed as temporary living accommodations and is usually outfitted for connecting with temporary utility hookups.

VARIANCE: A departure from the strict letter of the Zoning Ordinance as it applies to a particular piece of property permitting a property to be developed in a manner that conflicts with specific terms of the Zoning Ordinance, but for which approval is granted by the Zoning Board of Adjustment after public hearing and review.

ARTICLE XXXIV - PERMITTED USES & SPECIAL EXCEPTIONS

Uses designated "P" shall be permitted as a matter of right, subject to Footnotes (1) and/or (2).

Uses designated "SE" shall be permitted as a Special Exception, subject to Footnotes (1) and/or (2).

Uses designated "N" shall not be permitted in that district except by Variance.

Uses designated "PFZ" shall be permitted if Performance Floating Zone Standards are met.

TABLE 1 – CHART OF USES

	V I L L A G E	R E S I D E N T I A L	R C O O A M D M S E I R D C E I A L	C O M M E R C I A L	R U R A L	C N O O M D M E R C I A L	C O R R I D O R
<u>34.1 RESIDENTIAL USES (See also Article XXXV, Section 35.1)</u>							
a.	Single-family dwelling	P	P	P	P	P	P
b.	Two-family dwelling	P	P	N	N	P	P
c.	Multi-family dwellings	P	P	N	N	N	P
d.	Lodging Houses	P	P	N	N	SE	N
e.	Manufactured Home Parks	N	SE	SE	N	N	SE
f.	Manufactured Home Subdivisions	N	P	N	N	P	N
g.	Manufactured Homes	P	P	N	N	P	N
<u>34.2 COMMERCIAL USES (See also Article XXXV, Section 35.2)</u>							
a.	Amusement Facility	P	N	P(1)	P	N	P
b.	Automobile Service Station'	SE	N	P(1)	P	N	P
c.	Automobile And Truck Repair	SE	N	P(1)	P	N	P
d.	Bed and Breakfast	P	P	P(1)	P	SE	P
e.	Business Offices	P	SE	P(1)	P	PFZ	P
f.	Inns, Hotels and Motels	P	N	P(1)	P	N	P
g.	Junkyards	N	N	P(1)	P	SE	P
h.	Personal Service Shop	P	SE	P(1)	P	SE	P
i.	Repair Shop	P	N	P(1)	P	N	P
j.	Restaurant	P	N	P(1)	P	N	P
k.	Retail Store	P	N	P(1)	P	N	P
l.	Salesroom	N	N	P(1)	P	N	P
m.	Veterinary Clinic	N	SE	P(1)	P	SE	P
n.	Warehouse/Storage Facilities	N	N	P(1)	PFZ	N	P
o.	Fuel, oil, and propane dispensing & storage	SE	N	P(1)	P	SE	P
p.	Commercial/Residential Mixed	P	N	N	N	N	P
q.	Telecommunication Facilities	N	N	SE	SE	SE	SE
<u>34.3 INSTITUTIONAL USES (See also Article XXXV, Section 35.3)</u>							
a.	Churches	P	SE	SE	N	SE	SE
b.	Civic Uses	P	SE	SE	SE	SE	SE
c.	Convalescent Homes	P	SE	SE	N	N	SE

d.	Essential Services	P	P	P	P	P	P	P
e.	Group Homes	SE	SE	N	N	SE	N	N
f.	Organizations/clubs	P	N	P	P	P	P	P
g.	Schools/day care facilities	P	N	P	P	SE	P	P

TABLE 1 CHART OF USES (continued)

V I L L A G E	R E S I D E N T I A L	R C O O A M D M S E I R D C E I A L	C O M M E R C I A L	R U R A L	C N O O M D M E R C I A L	C O R R I D O R
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34.4 OPEN SPACE USES (See also Article XXXV, Section 35.4)

a. Agricultural Uses	N	N	P	P	P	P	P
b. Conservation Uses	P	P	P	P	P	P	P
c. Forestry	P	P	P	P	P	P	P
d. Recreational Facilities	SE	SE	SE	SE	SE	SE	SE
e. Stables and riding schools	N	N	SE	N	SE	SE	SE
f. Recreational Camping Parks	N	N	SE	N	SE	SE	SE

34.5 INDUSTRIAL USES (See also Article XXXV, Section 35.5)

a. Commercial Earth Excavation	N	N	N	N	P	N	N
b. Light Industry	N	N	PFZ	PFZ	PFZ	PFZ	PFZ
c. Printing and Publishing	SE	N	P	P	N	P	P(2)
d. Sawmills	N	N	PFZ	N	SE	PFZ	PFZ

34.6 ACCESSORY USES (See also Article XXXV, Section 35.6)

a. Accessory Buildings	P	P	P	P	P	P	P
b. Home Occupation	P	P	P	P	P	P	P
c. Outdoor Storage	P	P	P	P	P	P	P
d. Non-pets	P	P	P	P	P	P	P
e. Swimming Pools	P	P	P	P	P	P	P
f. Temporary Structures	P	P	P	P	P	P	P

(1) Commercial and Industrial uses are allowed only if either designated by a “P” or a “SE” and having a **total** Average Trip Rate for the Average Weekday Vehicle Trips of 1000.0 or below, including both pass-by and diverted trips, as determined from per 1000 sq. ft. of floor area from the latest edition of the Institute for Traffic Engineers *Trip Generation Manual*.

(2) Commercial and industrial uses are allowed only if both designated by a “P” and having afternoon peak hour vehicle trips per 1000 sq. ft. of floor area of 3.0 or below, including both pass-by and diverted trips, as determined from the latest edition of the Institute for Traffic Engineers *Trip Generation Manual*.

(3) Within the Commercial Node District any plan for development shall not contain more than sixty percent (60%) Single Family or Two Family development. At least forty percent (40%) of any development in the Commercial Node District must contain uses other than those listed under 34.1 “Residential Uses” in Table One. Commercial Use may encompass the entire one hundred percent (100%) of said lot. (Amended 2005)

ARTICLE XXXV – DESCRIPTION OF PERMITTED USES

The descriptions listed below are not to be interpreted as detailed definitions but rather as extensions, restrictions or examples of the permitted uses listed in Table 1. Permitted uses in the Roadside Commercial and Corridor Districts are additionally regulated according to vehicle trip generation as indicated in Footnotes (1) and (2) of Table 1.

35.1 RESIDENTIAL USES

a) Single Family Dwelling - A detached residential building other than a manufactured home, designed for and occupied by one family only. Pre-site built homes which are constructed on a conventional foundation are considered to be single family dwellings, as distinct from "manufactured housing."

1) Accessory Apartment – Lodging as an accessory use to a single-family dwelling The accessory apartment shall be an integral part of, or connected to the single-family dwelling and be no larger than one thousand (1000) square feet or thirty percent (30%) of the inhabitable floor area of the single-family dwelling, whichever is smaller. (Added March 2005)

b) Two Family Dwelling - A residential building designed for or occupied by two families living independently of each other in individual dwelling units, commonly referred to as a duplex. Lot size for the first unit shall comply with the dimension requirements of Table 2 with the additional lot size for the second unit complying with the requirements of Table 3. Any two family dwelling unit or conversion thereto shall be considered a subdivision and shall comply with the Subdivision Regulations of the Town of Ossipee.

c) Multi-Family Dwelling - A residential building designed for or occupied by more than two (2) families living independently of each other in individual dwelling units, and not exceeding a total of six (6) dwelling units, with the number of families in residence not exceeding the number of dwelling units provided, and no more than 24 dwelling units on a lot. (Amended January 16, 2007)

d) Lodging House - Shall be a room or group of rooms located on one (1) Premises where regular, non-transient-type accommodations for sleeping or living purposes, together with meals, are offered for compensation. The lodging house shall be occupied and operated conjunctively by the owner, and individual person or persons, and shall not have more than six (6) double-occupancy sleeping units with no cooking facilities in the individual rooms or apartments.

e) Manufactured Home Park - Shall comply with Article XIV.

f) Manufactured Home Subdivision - Shall comply with Article XIII.

g) All Manufactured Homes installed after the adoption of the amendment must comply with the most recent specifications and standards established by the U.S. Department of Housing and Urban Development (24 CFR Ch. XX).

35.2 COMMERCIAL USES

- a) Amusement Facility - Any commercial use which offers for hire to the general public, access to structures, vehicles, mechanical or electrical contrivances or other facilities which are intended primarily to provide entertainment, amusement, or recreation, and in which the patron is engaged on the premises as an active participant rather than as a spectator, and where such uses occupy in excess of twenty percent (20%) of the total interior or exterior public area.
- b) Automobile Service Station - Primarily concerned with the sale of fuel oil and grease, related products and services, not including major mechanical repairs.
- c) Automobile and Truck Repair - Garage providing the making of all but minor repairs being conducted wholly within a building sufficiently sound insulated to confine objectionable noise to the premises.
- d) Bed and Breakfast - Any place consisting of a room or a group of rooms located on one (1) premises where transient or semi*transient accommodations for sleeping or living purposes are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not leave more than six (6) double-occupancy sleeping units with no cooking facilities in the individual rooms or apartments.
- e) Business Offices - Professional and commercial. Office facilities intended for the rendering of a professional or commercial service and not in conjunction with a manufacturer or industrial facility.
- f) Inns, Motels and Hotels - Motel, hotel, tourist cottages, or similar use intended primarily for transient occupancy. All such uses must meet zone restriction on dwelling units per acre unless an easement has been granted to the Town preventing the conversion of the building to unit ownership.
- g) Junk Yards - No junk yard or private dump collection of two or more junk vehicles shall be operated or maintained in the Town of Ossipee unless in compliance with permit requirements of N. H. RSA 236:111 through :129.
- h) Personal Service Shop - Barber, or beauty shop, laundry or dry cleaning shop, shoe repair shop, self-service dry cleaning or laundry, rentals, pharmacy and similar commercial uses,
- i) Repair Shop - Business for repair of small appliances, radios, televisions, office equipment or similar use.
- j) Restaurant - lunch room, cafeteria, or other building whose primary purpose is the serving of food or beverages.
- k) Retail Store - A building where merchandise is primarily sold to customer for personal use.
- l) Salesroom - Business with the primary purpose to sell automobiles, boats,

motorcycles, trucks, snowmobiles, farm equipment or other large objects and which has outdoor display and storage of the objects.

m) Veterinary Clinics - Kennel, or place for the boarding or commercial raising of animals, pets, provided the kennel area is enclosed by a solid wall or fence which effectively screens all noise from adjoining property.

n) Warehouse - A building for the storage of materials, merchandise, products or equipment containing no assembly, repair, or other incidental facilities, provided that such use is not hazardous by reason of potential fire, explosion or radiation.

o) Fuel, Oil, and Propane Dispensing and Storage - Virgin petroleum products, propane, LP gas, or similar products, which shall comply with Article 5.8 of the Zoning Ordinance and all applicable State and Federal laws and rules.

p) Commercial/Residential B Mixed - A building that contains both commercial and residential uses.

q) Any structure, antenna, tower, or other device which provides radio/television transmission, commercial, mobile services, unlicensed services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier exchange access services.

35.3 INSTITUTIONAL USES

a) Church - A place for worship and related religious functions, not for habitation.

b) Civic Uses - Uses by agencies and departments of local, county, state and federal governments. The type of function of the governmental facility is stated below.

- 1) Office: Includes such functions as governmental office, laboratory, post office, clinic, assembly, and court.
- 2) Education: Includes such functions as elementary, middle, junior high schools, and high schools, college, vocational or technical schools, kindergarten, library and similar educational institutions.
- 3) Institution: Governmental and other facilities primarily engaged in public services such as education, health and research.
- 4) Public Safety: Includes such functions as fire, police, rescue and ambulance services.
- 5) Service: Includes such functions as garage, warehouse, vehicular repairs, outside storage for vehicles and supplies and similar uses.
- 6) Recreation: Includes such functions as recreation center, senior citizens center, gymnasiums, auditorium, and outdoor recreation facilities such as play fields, tennis courts, and golf courses.

- 7) Refuse Disposal: Includes areas or structures for disposal of sewage, solid waste and garbage under the control of a governmental unit, including sanitary landfills, incinerators, sewage treatment plants, and similar methods of disposal.
 - 8) Cemetery: Includes such functions as cemetery, cemetery vaults, and necessary maintenance structures.
 - 9) Parking: Includes but is not limited to, municipally owned parking facilities, available for use by the general public.
- c) Convalescent Home - A building where three (3) or more infirm or aged persons are housed for compensation and licensed by the State of New Hampshire including convalescent hospital, home for the aged, rest homes and similar uses.
- d) Essential Services - The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewer, pipes, conduit cable, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other government agencies or for the public health or safety or general welfare.
- e) Group Home - A facility wherein (a) the operator is not legally related to the individuals supervised and is licensed by the State and wherein (b) one or more individuals is provided with room, board, specialized and distinctive care and supervision in a family environment, or where five or more individuals reside and are provided with food, board, ordinary care and supervision in a family environment.
- f) Organization/Club - A facility devoted to meetings and functions of a private organization which may include indoor recreation and the preparation and service of meals and beverages.
- g) School Day Care Facility
- 1) Commercial School - a school for the teaching of a specific trade, trades, or skill, operated as a commercial venture for the profit of its owners.
 - 2) Day Care Facilities - A place for the care of more than five elementary school ages or younger children for payment. Play areas shall be separated from a major or collector street by a fence or barrier which the children cannot cross unaided.

35.4 OPEN SPACE USES

- a) Agricultural Uses - Orchard, market garden, nursery, dairy farm, commercial

animals, poultry, livestock, or other commercial agricultural activity. Home gardening is allowed in all districts as an accessory use.

- 1) Farm buildings to house livestock and poultry shall not be erected nor shall waste materials be stored or located closer than one hundred (100) feet from any property line.
- 2) The area used for grazing, exercising, or training of said animals shall be securely fenced to prevent the animals from straying.
- 3) The sale of garden products grown solely on the property upon the approval of the site plan by the Planning Board and subject to any reasonable restrictions placed upon the use by the Planning board.

b) Conservation Uses - Reservation, wildlife preserve, or other use of land which primary purpose is conservation of natural resources.

c) Forestry - Timber growing and harvesting, not including processing activities such as sawmills and assembly yards.

d) Recreational Facilities - Major outdoor recreational facilities requiring large natural land areas such as ski slopes, trails, ball playing fields, and golf courses.

e) Stables and Riding Schools - A facility with appropriate structures and fenced-in areas for the purpose of boarding, feeding, breeding, care of, and instruction of riding horses for recreation and show purposes.

f) Recreational Camping Parks - Includes organized summer camps, and shall comply with Article XV.

35.5 INDUSTRIAL USES

a) Commercial Earth Excavation shall be in compliance with the Town of Ossipee Earth Excavation and Restoration Regulations.

b) Permitted Light Industrial Use: Manufacturing research and testing, assembly, fabrication, processing, reproducing, packaging, packing or bottling, provided that all resulting cinders dust, gases, odors, refuse matter, smoke, vapors electromagnetic or radio-active emission shall be completely and effectively confined within a building or so regulated as to prevent any nuisance or hazard to the public health or safety, and further provided that no objectionable noise, vibration, or other disturbance is noticeable at the boundary of the premises and shall comply with Article IX.

c) Printing: commercial including job printing, newspaper printing and publishing.

d) Sawmill: A facility whose primary purpose is the processing (sawing) of forest products into timber for the building industry.

35.6 ACCESSORY USES

a) Accessory Building - Garage, child's playhouse, greenhouse, tool shed, or shelter, used primarily by occupants in the main building.

b) Home Occupations - Any home occupation shall be permitted as an accessory use in the zone where allowed, and shall be subject to the following criteria:

- 1) The home occupation is clearly an accessory use to the residential use of the property.
- 2) The home occupation is customarily incidental to the primary use of the property as a dwelling.
- 3) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two (2) employees living off-premises are permitted.
- 4) The home occupation shall be carried on only within the principal or accessory structure, and there shall be no obviously commercial interruption of the residential appearance of the area.
- 5) Not more than eight hundred (800) square feet of the floor area of the dwelling house or accessory buildings shall be devoted to such home occupation.
- 6) A home occupation may display a non-illuminated outdoor sign not exceeding three (3) square feet in size.
- 7) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood. All parking must be provided for on site.
- 8) The home occupation shall not display or create outside the building any external evidence of the operation of the home occupation except for the permitted sign.
- 9) Home occupations shall consist of those customarily traditional home occupations which are generally acceptable to be carried on in dwellings in a residential area.
- 10) In addition to the customarily traditional home occupation, the following are Permitted uses, providing they qualify under the other criteria: Physicians and dentists' offices, professional offices of attorneys, accountants and architects, studios, barber shops and beauty parlors, dressmaking, and child care.

c) Outdoor Storage - Outdoor storage of material and/or equipment not for sale, that is clearly necessary to the operation and conduct of a permitted principal use provided that it shall be completely hidden by dense growth, fence or wall,

maintained in good repair.

d) Non-Pets - The keeping of all non-pets shall conform with the following:

- 1) No barn, shelter, or other building used for the housing of said animals or the storage of feed and supplies shall be located within the setback area. Waste materials shall not be stored or located closer than one hundred (100) feet from any property line.
- 2) The area used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying or a suitable restraint shall be provided to prevent straying.

e) Swimming Pools - Any swimming pool must have an adequate enclosure, either surrounding the property or pool area, so it is inaccessible to small children. The enclosure, including gates, must extend at least four (4) feet above the ground, and must not be operable from the outside by small children.

Any above-the-ground pool four (4) feet or greater in height with a retractable staircase entrance or barrier meets the requirement of the paragraph.

f) Temporary structures – An applicant may receive a building permit for one (1) year for a temporary structure while building or re-constructing a residential structure if the temporary structure meets all New Hampshire, federal, and local requirements. The applicant may receive a one (1) year renewal of the building permit if in the judgment of the Code Enforcement Official the applicant has made substantial construction progress. For a second renewal, the applicant must apply to the Zoning Board of Adjustment for a Special Exception.

TABLE 2 – DIMENSIONAL REQUIREMENTS

<u>Zone</u>	<u>Minimum Lot Frontage/Ft.</u>	<u>Front Setback</u>	<u>Side/Rear Setback, Ft.</u>	<u>Maximum Lot Coverage % (*4)</u>	<u>Minimum Lot-Size(*1)</u>
Village	80	10	15 (*5)	50%	10,000 sq.ft.
Residential	200	40 (*2)	25	25%	44,000 sq.ft.
Roadside Commercial	200	40	50/25 (*3)	40%	1 acre
Commercial	200	50	25 (*3)	50%	44,000 sq.ft.
Commercial Node	80	10	15 (*5)	50%	10,000 sq.ft (*6)
Rural	200	40	25	25%	1 acre
Corridor	400	100	50	25%	4 acres
Performance Floating Zone	400	100	50	40%	5 acres

(*1) A larger lot size may be required by soil type and slope (see Table 3). However, that increase is not required in the Village District or the Commercial Node District if there is assurance that sewage disposal will be provided by a municipal treatment facility, an off-site effluent disposal system, whether shared or not, or an on-site disposal system using innovative alternative technology acceptable to the New Hampshire Department of Environmental Service for lots of the proposed size.

(*2) May be reduced to the minimum setback from the street line of principal buildings existing on the premises as of the effective date of this provision, or the average of the setbacks from the street line of buildings on adjoining lots, whichever is least restrictive.

(*3) See Article VIII.

(*4) See Article 6.5.

(*5) The requirements of Section 8.1 shall not apply.

(*6) No smaller than required by soil type and slopes (Table 3).

TABLE 3 – SOIL MAP

Soil Map Symbol	Soil Type	A 0-3% B 3-8%	Slope C 8-15%	D 15-25%
* Ac	Acton fsl	55,000	82,500	^
Ad	Acton vs fsl	55,000	82,500	^
Am	Adams ls	44,000	49,500	175,000
AW	Alluvial land, wet	NP	NP	NP
Bc	Becket vsfsl	55,000	82,500	175,000
Bs	Berkshire vsfsl	44,000	49,500	175,000
Bt	Berkshire xsfs	144,000	49,100	175,000
* Cf	Charlton fs	144,000	49,500	175,000
ci	Charlton vsfs	144,000	49,500	175,000
cm	Chocorua mucky peat	NP	NP	NP
Cn	Colton glfs	44,000	49,500	175,000
Cy	Croghan lfs	66,000	^	^
De	Deerfield lfs	66,000	^	^
Dn	Duane fs	166,000	^	NP
FA	Freshwater Marsh	NP	NP	NP
* Gl	Gloucester fs	144,000	49,500	175,000
Gs	Gloucester vsfs	144,000	49,500	175,000
Gt	Gloucester xsfs	144,000	49,500	175,000
GW	Greenwood Mucky peat	NP	NP	NP
Ha	Hadley vfl	NP	NP	NP
* Hf	Hermon fsl	44,000	49,500	175,000
Hm	Hermon vsfsl	44,000	49,500	175,000
Hn	Hermon xsfsl	44,000	49,500	175,000
Hs	Hinckley gls	44,000	49,500	^
Ht	Hollis-Clarlton fs	166,000	88,000	175,000
Hv	Hollis-Charlton vrfs	188,000	110,000	175,000
Hx	Hollis-Clarlton rock outcrop	88,000	110,000	175,000
Lf	Leicester-Walpole vsfsl	NP	NP	NP
LK	Limerick silt loam	NP	NP	NP
Lm	Limerick vfl	NP	NP	NP
Ln	Lyman-Berkshire vrfs	88,000	110,000	175,000
Ls	Lyman-Berkshire ro	88,000	110,000	175,000
* Ma	Marlow fsl	55,000	82,500	175,000
Md	Marlow vsfl	55,000	82,500	175,000
* Hi	Millis fsl	55,000	82,500	175,000
Ms	Millis vsfsl	55,000	82,500	175,000
MU	Muck and Peat	NP	NP	NP
Na	Naumburg ls	NP	NP	NP
* Nc	Nicliolville silt 1, s subsoil	66,000	^	^
* Of	Ondawa fsl	NP	NP	NP
* Oh	Ondawa fsl, high bottom	NP	NP	NP

TABLE - 3 - (continued)

Soil Map Symbol	Soil Type	A 0-3% B 3-8%	Slope C 8-15%	D 15-25%
*Os	Ondawa vfst	NP	NP	NP
OT	Ossipee mucky peat	NP	NP	NP
*Pa	Paxton fst	55,000	82,500	175,000
Pd	Paxton vfst	55,000	82,500	175,000
Pe	Peru vfst	66,000	99,000	175,000
*Po	Podunk fst	NP	NP	NP
Ps	Podunk fst, sandy subsoil	NP	NP	NP
Ra	Raynham silt loam	NP	NP	NP
Rg	Ridgebury fst	NP	NP	NP
RI	Ridgebury vfst	NP	NP	NP
*Sa	Salmon vfs	44, 000	49,500	175,000
Sd	Scituate vfst	66,000	99,000	175,000
Se	Skerry vfst	66,000	99,000	175,000
Sf	Suncook lfs	NP	NP	NP
*Sn	Sutton fst	55,000	82,500	^
Su	Sutton vfst	55,000	82,500	^
Wa	Waumbek vfst	55,000	82,500	^
WC	Wlaitman vsl	NP	NP	NP
Wd	Windsor ls	44, 000	49,500	175,000
*Wn	Winooski vfst	NP	NP	NP
*Wo	Woodbridge fst	66,000	99,000	175,000
W	Woodbridge vfst	66,000	99,000	175,000

ls	-	loamy sand	lfs	-	loamy fine sand
vr	-	very rocky	g	-	gravelly
vs	-	very stony	s	-	sandy
ro	-	rocky outcrop	fst	-	fine sandy loam
xs	-	extremely stony	l	-	loam

* prime Agricultural Soils

Septic systems not permitted on slopes over 25 percent - cannot be included in minimum lot size determination.

NP - Septic systems not permitted on these soils - cannot be included in minimum lot size determination.

^ - Soil types do not normally occur with these slopes. On-site determination required.