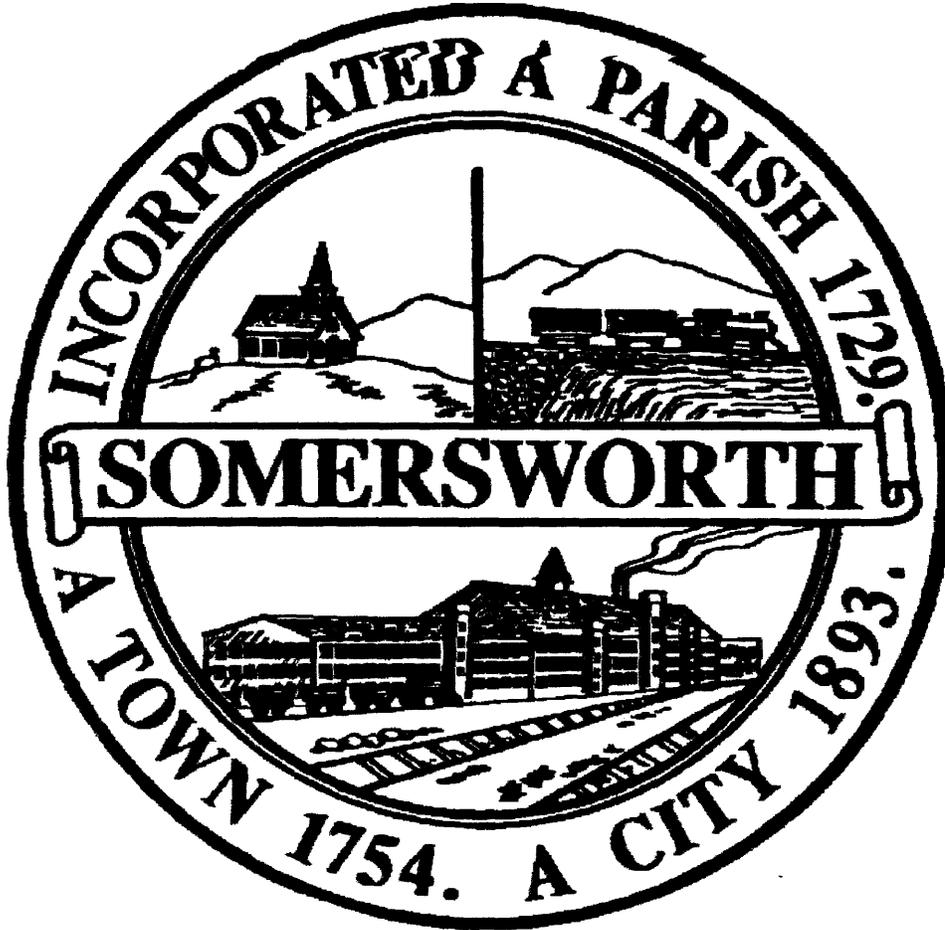


CITY OF SOMERSWORTH, NEW HAMPSHIRE

CHAPTER 19 - ZONING ORDINANCE



ADOPTED BY SOMERSWORTH CITY COUNCIL - AUGUST 30,1989

AMENDED:

MARCH, 1990	OCTOBER, 1995	OCTOBER 21, 2002	FEB 17, 2009
AUGUST, 1990	JANUARY, 1996	MAY 3, 2004	OCT 25, 2010
SEPTEMBER, 1990	JULY 15, 1996	MARCH 21, 2005	DEC 13, 2010
JANUARY, 1991	JUNE 2, 1997	SEPT 6, 2005	APR 4, 2011
APRIL, 1991	APRIL 6, 1998	APRIL 17, 2006	AUG 15, 2011
MAY, 1991	JUNE 1, 1998	SEPTEMBER 5	SEP 17, 2012
SEPTEMBER, 1991	JANUARY 18, 1999	2006	MAR 18, 2013
MAY, 1992	OCTOBER 19,1999	APRIL 16,2007	JUL 15,2013
SEPTEMBER, 1992	JANUARY 10, 2000	AUG 13, 2007	SEP 16, 2013
JULY, 1993	APRIL 17, 2000	JAN 22, 2008	APR 21, 2014
SEPTEMBER, 1993	AUGUST 14, 2000	OCT 6, 2008	MAY 5, 2014
FEBRUARY, 1994	DECEMBER, 2000	NOV 17,2008	
APRIL, 1994	MARCH, 2001	DEC 15, 2008	
JULY, 1994	MAY 21, 2001	FEB 2. 2009	
FEBRUARY, 1995	OCTOBER 7, 2002		

CITY OF SOMERSWORTH

CHAPTER 19 – ZONING ORDINANCE

Amended March, 1990:

Pages 1, 2, 3,13,14, 52, 56,60 through 74. 83. 84, 85. Also, tables 4.A.1; 4.A.2; 4.A.3; 4.A.4; 4.A.5. Note #5; 5.A.1.;5.A.2.

Amended August, 1990:

Section 7, pages 16 thru 23.

Amended September, 1990:

Section 17, pages 63 thru 67. Table 5.A.1 and Table 5.A.1 Notes.

Amended January 7, 1991:

Section 20, page 89 - Zoning Board of Adjustment.

Amended April 1, 1991:

Section 18.C.4.e. - Political Signs.

Amended May 20, 1991:

Section 3.D., Page 5 - Commercial/Industrial District; Table of Uses, Tables 4.A.2; 4.A.3; 4.A.4; 4.A.5; 5.A.1.

Amended September 16, 1991:

Section 12, pages 46 thru 54 - Wetlands Conservation Overlay District.

Amended May 4, 1992:

Section 13, pages 53 thru 58 - Historic District.

Amended September 21, 1992:

Section 8, pages 24, 26 and 28 - Home Occupations.

Amended July 26, 1993:

Section 21, page 93 - Definitions; Table 4.A.4.

Amended September 7, 1993:

Section D.2., page 5 - Commercial/Industrial District.

Amended February 28, 1994:

Section 3. D.2., pages 5 & 6 - Commercial/Industrial District. Section 14, pages 60 thru 62 - Sexually Oriented Businesses (new). Section 18, page 71 on (19 pages) - Sign Regulations. Table of Uses - Table 4.A.5 (at end of chapter)

Amended April 4, 1994:

Table of Uses - Table 5.A.1 and Table 5.A.1 Notes.

Amended July 18, 1994:

Sections 11.B.4. & 11.B.5. (page 39); 11.B.8.f.& 11.B.9. (Pages 42 & 43); 11.c.(Pages 45 & 45A).

Amended February 21, 1995:

All pages renumbered to correspond with section numbers.

Table of Contents.

New Section added - "Section 15, Commercial Node District" (pages 15.1 thru 15.3).

Section 15 through Section 23 renumbered to Section 16 through Section 24.

Add Section 3.B.16. (page 3.3).

Add Section 3.D.8. (page 3.9).

Section 20.A.1. (page 20.1).

Section 20.B.3. (pages 20.1 & 20.2).

Section 20.B.3.h. (page 20.3).

Section 22 (pages 22.1 thru 22.9).

Tables 5.A.1&5.A.2

Amended October 2, 1995:

Added new Section 11 - Excavation of Earth Products (pages 11.1 to11.4)

Section 11 through Section 24 renumbered to Section 12 through Section 25.

Amended January 10, 1996:

Add Section 3.B. 15 (page 3.3).

Add new Section 16 - Recreation District (pages 16.1 thru 16.3).

Renumber all sections and pages after section 16 to reflect this change.

Section 24 (page 24.2).

Table 5.A. 1 Notes (page 8).

Amended July 15, 1996:

Delete Section 20 - Landscaping and Buffer Requirements, in its entirety.

Delete Section 22 - Circulation and Parking Regulations and replace with Section 21 – Circulation And Parking Regulations (page 21.1).

Renumber Section 23 through Section 26 to Section 22 through 25.

Amended June 2, 1997:

Section 8.D. (page 19:18)

Section 8.F.3. (page 19:18)

Section 8.F.6. (page 19:19) delete second paragraph

Table 4.A.3 & Note #6 (page 19:77)

Amended April 6, 1998:

Section 23 - Definitions (pages 68 and 70)

Table 4.A.3 and 4.A.5

Amended June 1, 1998:

Section 20 Sign Regulations - page 60.

Amended January 18, 1999:

Table 4.A.4 and 4.A.5

Amended October 19, 1999:

Added new Section 23 Naming of Public Streets and Rights of Way – pages 72-75

Renumbered Section 23 Definitions to Section 24 - pages 76-82. Renumbered Section 24 Administration & Enforcement to Section 25 - page 83. Renumbered Section 25 Interpretation, Conflicts & Separability to Section 26 - pages 84&85.

Amended January 10, 2000:

Section 8 Home Occupations - pages 18,19 & 21.

Section 10 Groundwater Protection District - pages 25 & 26.

Amended April 1, 2000:

Section 8 Home Occupations - pages 18,19 & 21.

Amended August 14, 2000:

Section 9 - Manufactured Housing District - pages 23 thru 24C. Table 4.A.5-pages 91 &92.

Amended December 11, 2000:

Section 12 - Flood Plain District - pages 32 thru 38A.

Amended March 19, 2001:

Section 3.A. - Districts - page 1.

Section 3.B.7. (deleted) - page 2.

Section 3.D.10. and 3.D.10.a. - (new) - page 7.

Section 24.NN. and 24.PP (delete) - page 79 and 80.

Tables 4.A.1. through 5.A.2 - pages 86 through 94.

Amended May 21, 2001:

Section 19.3.A. - Districts - page 1.

Section 19.3.B.14. - Purpose of Districts - page 3.

Section 19.3.D.11. - District Boundaries - page 7.

Section 19.3.D.12. - District Boundaries - pages 7 & 8.

Section 19.21. - Circulation & Parking Regulations - page 70.

Tables 4.A.1,4.A.2,4.A.3,4.A.4,4.A.5,5.A.1 - pages 85 thru 92.

Amended October 7, 2002:

Added new Section 24 Common Driveway Subdivision – pages 78 and 79.

Renumbered Section 24 thru Section 26 to Section 25 thru Section 27.

Amended October 21, 2002:

Table 4.A.3. – page 90

Amended 5/03/2004:

Section 7, Cluster Subdivision – pages 12 thru 17. Changed Cluster Subdivision to read Conservation Residential Development throughout Section.

Sections 20.D.2.a, 20.D.2.e, 20.D.2.f – page 68.

Section 20.D.4 – page 70.

Section 25, Definitions – pages 80 thru 84.

Added new Section 26, Telecommunication Facilities – pages 86 thru 93.

Amended Table of Uses (Table 4.A.3), page 98.

Amended Table of Uses (Table 4.A.5), pages 101 & 102.

Amended 3/21/2005:

Section 19.12.A. Flood Plain District, Applicability – page 34.

Section 19.14.H.2. Historic District, Appeal Process – page 52.

Section 19.20.B.13. Sign Regulations, Flashing Sign – page 61.

Section 19.20.C.2.e. Sign Regulations – page 63.

Section 19.20.C.4.a. Sign Regulations – Banner Signs – page 64.

Section 19.25.Y. Definitions, Dwelling Unit – page 82.

Section 19.25.DD. Definitions, Frontage – page 82.

Section 19.27.C. & 19.27.E. Administration & Enforcement – page 94.

Table 4.A.1. – page 96.

Amended 9/06/2005:

Section 19.25.JJ. Definitions, Height – page 83.

Table 5.A.2. – page 106.

Amended 4/17/2006:

Section 7, Conservation Residential Development – deleted in its entirety.

Section 24, Common Driveway Subdivision – deleted in its entirety.

Amended 9/05/2006:

Added New Section 29, Interim Growth Management Regulation, pages 88 & 89.

Amended 04/16/2007:

Section 25, Definitions, page 74.

Amended 04/16/2007:

Section 25, Definitions, page 75.

Amended 04/16/2007:

Table 5.A.1, Dimensional and Density Regulations, page 99.

Amended 08/13/2007:

Table 5.A.1, Dimensional and Density Regulations, Page 99.

Amended 01/22/2008:

Table 4.A.1, Table of Uses, Page, 90.

Table 4.A.2, Table of Uses, Page 91.

Table 4.A.3, Table of Uses, Page 92& 93.

Table 4.A.5, Table of Uses, Pages 95, 96 & 97.

Amended 10/06/2008:

Section 23 Naming of Public Streets and Rights of Way, Pages 69-71.

Amended 11/17/2008:

Replaced Section 29, Interim Growth Management Regulation in its entirety with new Section 29, Maximum Allowable Occupancy, Page 88.

Amended 12/15/2009:

Amend Section 19.3.D.8, Commercial Node District by deleting Section 19.3.D.8.a and Section 19.3.D.8.c and replacing with new Section 19.3.D.8.a and new Section 19.3.D.8.c, Page 7.

Amended 02/02/2009:

Replaced Section 20, Sign Regulation in its entirety with revised Section 20, Sign Regulations, pages 54-67.

Amended 02/17/2009:

Replaced Section 13, Wetlands Conservation Overlay District in its entirety with Revised Section 13, Riparian Wetland Buffer District Ordinance, pages 36-49.

Amended 10/25/2010:

Table 4.A.3 – Added OWHH to table and note #10 regarding OWHH's, page 104.

Amended 12/13/2010:

Amend Tables 4.A.3 and 4.A.4, pages 104 and 105.

Amended 04/04/2011:

Amend Section 13, Riparian and Wetland Buffer District Ordinance, pages 48.

Amended 08/15/2011:

Amend Section 19.3.D.1 District Boundaries, District, pages 3-4.

Amended 08/15/2011:

Amend Ordinance by replacing “Historic Mill”/“HD” with “MillYard District”/“MY” throughout; pages 58, 91, 99 and 100-112, including Table of uses.

Amended 08/15/2011:

Amend Section 19.3.B.3 Purpose of Districts, MillYard District, Page 3.

Amended 08/15/2011:

Amend Table of Uses 4.A.1, 4.A.2, 4.A.3, 4.A.4 and 4.A.5, pages 101-108.

Amended 09/17/2012:

Amend Table 5.A.1 Dimensional and Density Regulations, page 110-112.

Amended 03/18/2013:

Amend by adding new Section 30, pages 101-103.

Amended 07/15/2013:

Amend Chapter 19, Section 25 Definitions, page 87.

Amended 07/15/2013;

Amend Chapter 19, Table of Uses, Table 4.A.5, pages 111-113.

Passed 09/16/2013;

Add new Section 7, Conservation Subdivision Ordinance, pages 13-20.

Amended 04/21/2014

Amend Chapter 19, Table of Uses, Table 4.A.3.9, page 116.

Amend Chapter 19, Table of Uses, Table 4.A.3.10, pages 116-117.

Added 05/05/2014

Amend Chapter 19, Table of Uses, Table 4.A.5, pages 121-122.

Amended 05/05/2014

Amend Chapter 19, Definitions, pages 19:97, 19:98 and 19:99.

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# CHAPTER 19

## ZONING ORDINANCE

### Section 1 Authority

- 19.1.A. In accordance with New Hampshire Revised Statutes Annotated Chapter 674:16, as the same may be subsequently amended, the City of Somersworth hereby adopts the following zoning ordinance.

### Section 2 Purpose

- 19.2.A. This ordinance is enacted in accordance with the City of Somersworth Master Plan Reports and is designed to promote and protect the public health, safety, convenience and general welfare by:
- 19.2.A.1. Encouraging the most appropriate use of land;
  - 19.2.A.2. Preventing the overcrowding of land;
  - 19.2.A.3. Avoiding the undue concentration of population;
  - 19.2.A.4. Lessening congestion in the streets;
  - 19.2.A.5. Providing adequate air, light and sanitation;
  - 19.2.A.6. Securing safety from fires, panic and other dangers;
  - 19.2.A.7. Assisting in the economical provision, utilization and expansion of all public services;
  - 19.2.A.8. Conserving the value of land and buildings.

### Section 3 Establishment of Zoning Districts

- 19.3.A. DISTRICTS. For the purposes of this ordinance, the City of Somersworth is hereby divided into zoning districts as follows:

Agricultural	A
Residential Single Family	R-1
Residential/Duplex	R-2
Residential/Multi-Family	R-3
Residential/Single Family/A	R-1 A
Residential/Duplex/A	R-2A
Manufactured Housing	MH
Residential/Business	R/B
Residential/Commercial	R/C
Residential/Office	R/O
Business	B
Industrial	I
Commercial/Industrial	C/I
Historic Moderate Density	HMD
MillYard	MY
Recreational	R
Commercial Node	CN

(Section 3.A amended 3/19/2001, 5/21/2001 and 08/15/2011.)

There are also the following overlay zoning districts:

- Groundwater Protection District
- Flood Plain District
- Wetland Conservation Overlay District
- Hilltop Historic District
- Industrial and Commercial Historic District

19.3.B. PURPOSE OF DISTRICTS.

- 19.3.B.1. Agricultural (A). This district is provided for uses of bonifide agriculture, large lot single family detached housing, and for the protection of lands not suitable for development because of soils, slopes and permanent development easements.
- 19.3.B.2. Residential/Single Family (R-1). This district is provided for moderate density single family detached residential uses. Home occupations are allowed to the extent that they have no impact on the present or future residential character of the district.
- 19.3.B.3. Residential/Duplex (R-2). This district is provided for moderate density single family semi-detached residential uses. Home occupations are allowed to the extent that they have minimal impact on the present or future residential character of the district.
- 19.3.B.4. Residential/Multi-Family (R-3). This district is provided for residential uses including one and two family detached and semi-detached housing, multi-family attached housing, and appropriate accessory uses, including home occupations having minimal impact on the residential character of the district.
- 19.3.B.5. Residential/Single Family/A (R-1A). This district is established to promote the general welfare of the community in accordance with the Master Plan, by providing an area where moderate density single family detached and semi-detached residential units may co-exist. The regulations in the R-1A District are specifically designed to be compatible with the land uses which exist in the older sections of the City.
- 19.3.B.6. Residential/Duplex/A (R-2A). This district is established to promote the general welfare of the community in accordance with the Master Plan, by providing an area where moderate density single-family semi-detached residential units may co-exist. The regulations in the R-2A District are specifically designed to be compatible with the land uses which co-exist in the older sections of the City.
- 19.3.B.7. Business (B). This district is provided for retail, commercial and light industrial uses in areas where such uses historically have been located, and in which current use densities and features of the land make the rigid application of dimensional controls and parking requirements difficult to apply (i.e., in the Central Business District). Harmonious non-residential uses are encouraged throughout the district. Additional residential uses are allowed only where such use is clearly subordinate to non-residential use.
- 19.3.B.8. Industrial (I). This district is provided for manufacturing and similar uses which generally do not include the over-the-counter retail sales of goods or services as a significant portion of the business.

- 19.3.B.9. Residential/Business (R/B). This district is provided to allow for an area in which residential and low intensity business uses can co-exist.
- 19.3.B.10. Residential/Commercial (R/C). This district is provided to allow the commercial development of transitional areas where there is existing residential use, such that the existing residential uses are adequately protected from new non-residential uses. It is not the intention of this district to allow new residential construction.
- 19.3.B.11. Residential/Office (R/O). This district is provided to allow office uses within an area which is substantially residential, in such a manner as to preserve and protect the existing residential uses.
- 19.3.B.12. Commercial/Industrial (C/I). This district is provided to allow strip development of general commercial uses on road frontages, while allowing industrial uses throughout the district.
- 19.3.B.13. MillYard District. This district is provided to promote a mixed use district where retail, commercial, industrial, and multi-family residential uses can harmoniously coexist. The regulations of this district are specifically designed to maintain the historic character of the old mill area of the City and to encourage recreational access to and along the Salmon Falls River.<sup>4</sup>
- 19.3.B.14. Historic Moderate Density. This district is provided for residential uses that include single, duplex, and multi-family residential of a moderate density in a historical overlay district.<sup>1</sup>
- 19.3.B.15. Recreational (R). This district is provided for areas where there exists or may exist facilities privately, quasi-public and publicly owned which are devoted to or contribute to open space and recreational purposes for the benefit of the community as well as the general public.<sup>2</sup>
- 19.3.B.16. Commercial Node (CN). This district is provided to allow for an area where existing commercial uses, as well as appropriate new commercial use of property can harmoniously co-exist with moderate density single and two-family residential uses.<sup>3</sup>
- 19.3.C. ZONING MAP. The location and boundaries of the zoning districts are hereby established as shown on a map entitled "Zoning Map, City of Somersworth, NH", dated 1987, and as amended, which is hereby declared to be part of this ordinance.

When a written description of the boundaries of a district are contained in the text of this ordinance, the written description shall take precedence over the map.

<sup>1</sup> Passed 05/21/2001

<sup>2</sup> Passed 01/10/1996

<sup>3</sup> Passed 02/21/1995

<sup>4</sup> Passed 08/15/2011

19.3.D. DISTRICT BOUNDARIES.

19.3.D.1. Millyard District. The Millyard District begins at a point located at the northwest corner of Assessor's Map 11 Lot 190, thence running southerly along the westerly boundary lines of Assessors Map 11 Lots 190 and 190A to a point at the northwest corner of Assessor's Map 10 Lot 196, thence running southerly along the westerly boundary line of Map 10 Lot 196 to the southwest corner of Assessor's Map 11 Lot 189, thence running southerly along the easterly boundary line of Assessor's Map 11 Lot 181 to the northwest corner of Assessor's Map 9 Lot 280, thence running along the northerly boundary line of Map 9 Lot 280 to the north corner of Map 9 Lot 280, thence running southerly along the western boundary line of Assessor's Map 9 Lot 282 to River Street, thence running southerly along River Street to the southern corner of Map 9 Lot 282C, thence running northeasterly along the southern boundary lines of Map 9 Lots 282C and 282B to the Salmon Falls River, thence running northerly along the western shoreline of the Salmon Falls River to Map 11 Lot 189, thence running westerly along the northern boundary line of Map 11 Lot 190 to the point of beginning.<sup>1</sup>

19.3.D.2. Commercial/Industrial District. Except where noted below, the following description outlines all property included within the Commercial/Industrial District. The Route 108 Commercial/Industrial District begins at a point on the Dover City Limit 300 feet W (west) of Route 108 proceeding parallel to Route 108 with a depth of 300 feet to the S (south) boundary line of the property known now or formerly as Assessor's Map 61, Lot 14B, then running an additional depth of 1,700 feet, for a total of 2,000 feet coincident with the property boundary line, then turning N (north) and running parallel to Route 108 with a depth of 2,000 feet to the N boundary line of the property, then turning E (east) and running coincident with the property boundary line for a distance of 1,700 feet to a point 300 feet from Route 108, then turning N and running parallel to Route 108 with a depth of 300 feet to the S boundary of the so-called Somersworth (Interstate Road) Industrial Park, then with a depth of 1,000 feet to Whitehouse Road and then along Whitehouse Road to the Rochester City limit. The District continues along the Rochester City limit E to the Public Service Company of NH transmission line easement, then S along the easement line parallel to Route 108 to the boundary line of the Residential/Single Family (R-1) District on West High Street, then following rear property lines or the Public Service right-of-way (whichever is closer to Route 108) to the northern boundary of Pinewood Estates Subdivision, then along the westerly boundary of Pinewood Estates Subdivision to the S boundary of that subdivision, then parallel to Route 108 with a depth of 1,000 feet to the rear of lots fronting on the N side of Greenfield Drive, then parallel to Route 108 with a depth of 300 feet to the S lot lines of

<sup>1</sup> Passed 08/15/2011

lots fronting on the S side of **Kilda** Street, then southerly and easterly following the boundaries of Sherwood Glen Mobile Home Park to the Public Service right-of-way, following the western edge of the Public Service right-of-way to a point 200 feet S of **Blackwater** Road, then parallel to **Blackwater** Road at a depth of 200 feet to Peters Marsh Brook following Peters Marsh Brook then to the **SW** corner of the westernmost lot fronting on the S side of **Bernier** Street then along the rear lot of the lots on the S side of Bernier Street to the Residential/Commercial (**R/C**) zone, then southerly along the R/C zone line to Midway Park Subdivision then along the outside of Midway Park Subdivision to the SW corner of Midway Park Subdivision then to the **SE** corner of Map 36, Lot 3 to the Dover City Limit following a line 500 feet from **Willand** Pond.

This district encompasses Lot 2 on Map 57 (as continued on Map 49); Lot 20 on Map 45; and Lot 5 on Map 62 in their entirety.<sup>1</sup>

19.3.D.3. Residential/Commercial District. The High Street Residential/Commercial District begins at the Dover City limit and runs parallel to either side of High Street, to **Pinecrest** Drive on the **W** side and Sinclair Avenue on the **E** side, with a depth of 500 feet or to the rear lot line, whichever is less, excepting the following:

19.3.D.3.a. For property fronting on the E side of High Street between **Tri-City** Road and **Stackpole** Road, the Residential/Commercial District boundary shall be the rear property line.<sup>2</sup>

19.3.D.4. Residential/Office District. The Residential/Office District extends parallel to either side of High Street from **Pinecrest** Drive on the W side and Sinclair Avenue on the E side to Indigo Hill Road with a depth of 200 feet or to the rear lot line, whichever is less.

19.3.D.5. Residential/Business District. The Residential/Business District extends parallel to either side of High Street from Hamilton Street to Constitutional Way with a depth of 200 feet or to the rear lot line, whichever is less.

19.3.D.6. Hilltop Historic District.

19.3.D.6.a. Property Map 10. From the corner of Grand and Noble Streets proceed SW down the W side of Grand to Hamilton Street. SE down S side of Hamilton to the **NW** corner of Lot 123. Follow the border of Lot 123 to the southernmost corner of Lot 123. Proceed SW along the westernmost boundary of Lot 121 to High Street.

1 Passed 5/20/91 and amended on 8/17/92 & 2/28/94

2 Amended 1/10/96

Cross High Street to the junction of Lots 116/117. SW on the boundary of Lot 116 to Lot 115. SE on the border of Lots 115 and 116 to High Street. Cross High Street to the SW boundary of Lot 113. Proceed down the Pleasant Street boundaries of Lots 113 and 112 to the junction of Lots 112/95. NW on boundary of Lots 121,110,109, and 109A to the junction of Lots 109A/108. NW on this boundary across Washington Street to the southwestern corner of Lot 163. NW on the Washington Street boundary of Lot 163 to the junction of Lots 163/152. 38' NW on the boundary of Lots 163/152. Proceed NE across Lot 152 to the SE corner of Lot 162. Proceed NE on the SE boundaries of Lots 162,161,160, and 159 to the NE corner of Lot 159. NE across Lot 152 to the SE junction of Lots 153A/154 to Constitutional Way. NW on the Constitutional Way boundaries of Lots 154 and 155 to the intersection of High Street and Constitutional Way. N across High Street to the SE corner of Lot 62 (See Property Map 11).

19.3.D.6.b.

Property Map 11. From the NW corner of Lot 155 (See Property Map 10) across the intersection of Constitutional Way and High Street to the SE corner of Lot 62. W and N on the boundary of Lot 62 to Lord's Court on the boundary of Lots 62,63 and 63A to the junction of Lot 63A/64. NW on the S boundary of Lot 64 to the boundary of Lot 64/61. NE on the boundary of Lots 64 and 61 across the NW boundaries of Lots 64 through 69. Cross Beacon Street to the junction of Lots 77/80. NE on the NE boundary of Lots 77 and 78 to Prospect Street. Cross Prospect Street to the SE corner of Lot 90. NW on the NW boundary of Lots 90, 93 and 95B to the junction of Lots 95/95B. NW on the NW border of Lot 95B to the junction of Lots 95B/96/97. NW on the boundary of Lots 96 and 97 to Linden Street. NE on the Linden Street boundary of Lot 96 to the NE corner of Lot 96. SE on the boundary of Lot 96 to the junction of Lots 96/95. NE across Market Street to the Salmon Falls River. W by NH side of Salmon Falls River to junction with Property Map 12 (See Property Map 12).

19.3.D.6.c.

Property Map 12. Cross the property owned by the Boston & Maine (B&M) Railroad to the junction of Lots 18/19. Continue S on the boundary of Lots 18 and 19 to Winter Street. Cross Winter Street to the junction of Lots 23/24. S on the boundary of Lots 30 and 31 to Maple Street. Cross Maple Street to the junction of Lots 5/10 on Property Map 13 (See Property Map 13).

19.3.D.6.d.

Property Map 13. Commencing at the junction of Lots 5/10, S to the SE boundary of Lot 5. W along the S boundaries of Lots 5,6,7 and 8 to Rochester Street. Cross Rochester Street to the junction of Lots 16/17. NW along Lot 17 and Rochester Street to the junction of Lots 17/18. From the NW corner of Lot 17, SE to Lot 16 SW along Lots 18 and 18A to Lot 15. From the NW corner of Lot 16, NW to Maple Street and SW along Maple Street to the NE corner of Lot 20. SE along Lot 15 to Lot 40. NE to the NW corner of Lot 13. SE to the junction of Lots 12/13 and NE along Lots 12 and 13 to Noble Street. SE along Noble Street to the corner of Grand Street (See Property Map 10).

19.3.D.7. Industrial and Commercial Historic District.

19.3.D.7.a.

Property Map 10. From SW corner of Lot 205 (Property Map 11) proceed SE down Main Street to the SE corner of the intersection of Main and Washington Streets. Cross Main Street to the NE corner of Lot 188, continue E to the NW

corner of Lot 188. Proceed SE on the boundary of Lots 188/189 to the SE corner of Lot 189. Proceed SE on the boundary of Lots 189/190 to the SE corner of Lot 189 (Elm Street). Cross Elm Street to the NE corner of Lot 174. Proceed W on the Washington Street boundary of Lot 174 to the NW corner of Lot 174. Continue SE on the boundary of Lots 169/174 and Lots 171/174 to the junction of Lots 171/173/174. SW on the boundary of Lot 171 to the SW corner of Lot 171 (Green Street). Proceed S on Green Street to the NE corner of Lot 178 then E by S on the N Boundary of Lot 178 to Fayette Street. Cross Fayette Street to the NE corner of Lot 15. Proceed S to the West Alley border of Lots 14,12 and 11 to Franklin Street. Proceed SE on Franklin Street to the SE corner of Lot 10 (corner East Alley and Franklin Street). Go N on East Alley to NE corner of Lot 7 (corner of East Alley and Fayette Street). Cross Fayette Street to the SE corner of Lot 179 and proceed NW on the boundary of Lot 179 to the NE corner of Lot 179. Proceed E across Main Street and B&M Railroad property onto Lot 196 to a point 10 feet SE of the corner of the General Electric (GE) Building 44 (Personnel/Control Center). Proceed NW by N 10 feet from the E side of GE Building 44 to the NW corner of Lot 196. Proceed NE on the boundary of Lot 196 to the junction of Lots 196/199. Proceed NE on the N boundary of Lot 199 to the Salmon Falls River. Proceed N by NW on the shoreline of the Salmon Falls River (See Property Map 11).

19.3.D.7.b.

Property Map 11. Follow shoreline of Salmon Falls River NW around Lot 189 to junction with B&M Railroad property. Proceed NW on B&M Railroad property line to a point directly in line with the boundary of Lots 182 and 183. Proceed SW on the boundary of Lots 182/183 to the W corner of Lot 183 (Market Street). Proceed NW across Market Street to the N Corner of Lot 96. S on Lot 96 to the junction of Lots 96/97, SE on the boundary of Lots 96/97, 25B/97; to the SE corner of Lot 25B. Continue 63 feet SE on the boundary of Lots 95/98 and 95/99. NE 124 feet on the boundary of Lots 95/99; then SE on the boundary of Lot 95 to the NW corner of Lot 91. Proceed SE on the boundary of Lot 91 to the NW corner of Lot 90. SE on the boundary of Lot 90 to Prospect Street. SW across Prospect Street to the NW corner of Lot 78. SW on the boundary of Lots 78/79 and 77/79 to the SE corner of Lot 77 (Beacon Street). Continue SW across Beacon Street to the N corner of Lot 69. Proceed SW on the W boundaries of Lots 69 through 62 to Highland Street. Proceed SE on the boundary of Lot 62 to High Street, continue across High Street to the W corner of Lot 218 (Constitutional Way boundary) to the S point of Lot 218. Proceed NE on the boundary of Lots 218,217,216,215, 214 and 168C to the junction of Lots 168C/214/ 212. Proceed NW on the boundary of Lot 214 to High Street then NE on High Street to the intersection of High Street and Main Street (N corner of Lot 210). Proceed SE across Main Street to the Main Street junction of Lots 202/203. NE on the boundary of Lots 202/203 to the NE corner of Lot 202 (junction with B&M Railroad property). Proceed SE on the boundary of B&M Railroad property and Lots 203,204 and 205 to the SE corner of Lot 205. SE to the SW corner of Lot 205 (Main Street) See Property Map 10.<sup>1</sup>

19.3.D.8. Commercial Node District.<sup>2</sup>

<sup>1</sup> Historic District Boundaries passed 6/22/87

<sup>2</sup> Passed 2/21/95

- 19.3.D.8.a. Property Map 22. Starting at the NE corner of Lot 20 then W along the property boundaries of Lots 20 and 18 to the NW corner of Lot 18, then S along the property line of Lot 18 to the NW corner of Lot 17, continue S along the property line of Lot 17 to the intersection with Blackwater Road.<sup>1</sup>
- 19.3.D.8.b. Property Map 21. Continue across Blackwater Road to the northerly boundary of Lot 252, then W to NW corner of Lot 252. Continue S along boundaries of Lots 252 and 251, then E to High Street. Continue across High Street to the SW corner of Lot 4. Continue to NW corner of Lot 4, then N along front property lines of Lots 4,3,2 and 1 to intersection with Indigo Hill Road.
- 19.3.D.8.c. Property Map 15. Continue across Indigo Hill Road to SW corner of Lot 117, then E along Indigo Hill Road along the boundaries of Lots 118,119 and 120 to the SE corner of Lot 120. Proceed N along E boundary of Lots 120, 116,117,and 115 to NE corner of Lot 115, then W along boundary of Lot 115 to High Street, crossing to the beginning point at Map 22, Lot 20.<sup>2</sup>
- 19.3D.9. Recreational District - Willand Pond.<sup>3</sup>
- 19.3.D.9.a. Property Map 40. From the Dover City line at the SW corner of Lot 40 E to the SE corner then N along the property line to Lot 55, then 75 feet from the water's edge across Lots 55 and 55A to 61, then following the property line to its most northerly point 250 feet from the water's edge of Willand Pond.
- 19.3.D.9.b. Property Map 42. From Property Map 40, Lot 61, an area 250 feet from the water's edge of Willand Pond to Property Map 41, Lot 9.
- 19.3.D.9.c. Property Map 41. From the NW corner of Property Map 41, Lot 9, follow the property line to the Dover City line. Then along the Dover City line to the beginning point on Property Map 40.
- 19.3.D.10. Manufactured Housing District.<sup>4</sup>
- 19.3.D.10.a. Assessor's Map & Lot 44-1, 61-11A and 70-1.
- 19.3.D.11. Residential Single Family/A District- Hilltop Area.<sup>5</sup>
- 19.3.D.11.a. Property Map 10. From SE corner of Lot 128 proceed west to SW corner of Lot 124. Proceed north to NW corner of Lot 135 then across Grand and Noble Street intersection to SE corner of Assessor's Map 11, Lot 2. From SE corner of Lot 128 proceed north along existing R/B District boundary to SE corner of Lot 151.
- 19.3.D.11.b. Property Map 11. From SE corner of Lot 2 proceed north following the boundary line of the HMD District to the NW corner of Lot 131. Proceed east to NE corner

<sup>1</sup> Amended 12/15/2008

<sup>2</sup> Amended 12/15/2008

<sup>3</sup> Passed 1/10/96

<sup>4</sup> Passed 3/19/01

<sup>5</sup> Passed 5/21/01

of Lot 117. Cross Linden Street and along east side of Linden Street to the SW corner of Lot 81. Proceed east along Prospect Street to SE corner of Lot 89. Proceed north along Business District boundary to NW corner of Lot 96. Cross Linden and Winter Streets to SW corner of Lot 181-A. Proceed east to the NW corner of Lot 179.

- 19.3.D.11.c. Property Map 12. From the SE corner of Lot 121 proceed northwest to NW corner of Lot 15 then south to NW corner of Assessor's Map 13, Lot 8.
- 19.3.D.11.d. Property Map 13. From NW corner of Lot 8 proceed south along Rochester and Noble Streets to SE corner of Assessor's Map 11, Lot 2.
- 19.3.D.12. Historic Moderate Density District.
- 19.3.D.12.a. Property Map 10. From SE corner of Lot 151, north to SE corner of Assessor's Map 11, Lot 24. From Lot 151 east to SE corner of Assessor's Map 11, Lot 16.
- 19.3.D.12.b. Property Map 11. From SE corner of Lot 16 east to SW corner of Lot 15 then northeast to SW corner of Lot 17 then northeast to Grove and Grand Streets. Proceed north along Grand Street to NE corner of Lot 50. Continue north along easterly boundaries of Lots 113,114 to Maple Street then across to Lot 116 proceeding west to the SW corner of Lot 131. Proceed north to Lot 118 then east across Linden Street to Lot 100 then south to Prospect Street. Proceed east down Prospect Street to the NE corner of Lot 79 then south along the rear property lines of the lots fronting on High Street to Mt. Vernon Street.
- 19.3.D.12.c. Property Map 10. From the NE corner of Map 149 proceed south along the rear property lines of the lots fronting on High Street to Noble Street then west to SE corner of Assessor's Map 11, Lot 16.

## Section 4 Use Regulations

- 19.4.A. PERMITTED USES. In each zoning district, land, buildings and other structures shall be utilized only as set forth in Table 4. A., entitled "Table of Uses".  
Any use not listed shall be construed as prohibited.  
Uses permitted by right or as a special exception shall be subject, in addition to use regulations, to all other provisions of this ordinance.
- 19.4.B. SPECIAL EXCEPTIONS.
- 19.4.B.1. Purpose. The inclusion of some uses as special exceptions to the terms of this ordinance allows for the compatible and orderly development of uses which may be suitable only in certain locations in a zoning district if developed in a specific way and/or only for a limited period of time. The receipt of a special exception does not exempt the applicant from complying with the requirements of the building code and/or other applicable ordinances.
- 19.4.B.2. Applicability. Review and approval by the Zoning Board of Adjustment is required for all special exceptions as set forth in Table 4.A., entitled "Table of Uses". At no time may a structure or property be adapted to a use identified as a special exception without first having received written approval to do so.
- 19.4.B.3. Review Process. The Zoning Board of Adjustment is specifically authorized to decide such questions as are involved in determining whether a special exception to the terms of this ordinance should be granted, and to grant special conditions and safeguards as are appropriate under this ordinance, or to deny a special exception when not in harmony with the intent and purpose of this ordinance.
- 19.4.B.4. Findings. Prior to granting a special exception, the Board, with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions fulfilled:
- 19.4.B.4.a. All requirements of this ordinance have been complied with, including any special regulations for the use which are set forth in this chapter;
- 19.4.B.4.b. The requested use will not impair the integrity or be out of character with the district or the immediate neighborhood in which it is located;
- 19.4.B.4.c. The proper operation of the use will be insured by the provision and maintenance of adequate and appropriate utilities, drainage, access, parking and loading, and other necessary site improvements;
- 19.4.B.4.d. The potentially adverse effects of the proposed use on nearby properties, including but not limited to noise, glare, or odor, will be eliminated or controlled through screening or buffering designed to alleviate such effects;
- 19.4.B.4.e. There is adequate and safe pedestrian and vehicular access to and into the site to accommodate anticipated traffic, such that the proposed use will not create unreasonable traffic congestion on continuous or neighboring streets;
- 19.4.B.4.f. The proposed use will not place an undue burden on any municipal service; and
- 19.4.B.4.g. There will be no significant adverse impacts resulting from such use upon the public health, safety, and general welfare of the neighborhood and of the City.

Upon finding all of the above conditions to be fulfilled, the Zoning Board of Adjustment must grant the special exception.

In approving or denying the special exception, the Board shall state all its reasons for approval or denial in writing to the applicant, a copy of which will be kept on file in the Department of Planning and Economic Development as a matter of public record.

## **Section 5 Dimensional & Density Regulations**

- 19.5.A. The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front setback, minimum side setback, minimum rear setback, maximum height of buildings, maximum number of stories and maximum building area shall be specified in Tables 5. A. 1 and 5. A. 2 entitled "Tables of Dimensional and Density Regulations", and subject to the further provisions of this ordinance.

## **Section 6 Non-Conforming Lots, Structures & Uses of Land**

### 19.6.A. NON-CONFORMING LOTS.

- 19.6.A. 1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any approved single lot of record at the effective date of the initial adoption or subsequent amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. These provisions shall apply even though such lot fails to meet the requirements for area or frontage, or both, that are generally applicable in the district, provided that:
- 19.6.A.1.a. Yard dimensions and requirements other than those applying to area or frontage, or both, of the lot shall conform to the regulations for the district in which the lot is located; and
- 19.6.A.1.b. Frontage on a City owned and maintained street shall be a minimum of fifty feet (50').
- 19.6.A.2. If two or more lots or combinations of lots and portions of lots with continuous frontage are in single ownership of record at the date of the initial adoption or subsequent amendment of this ordinance, and if all or any part of the lot or lots do not meet the requirements established for lot frontage and/or area, the lands involved shall be considered to be one undivided parcel for the purposes of this ordinance. No portion of that parcel shall be used or sold in a manner which diminishes compliance with the lot frontage and/or area requirements established by this ordinance, nor shall any division of any such parcel be made which would result in a lot with frontage and/or area below the requirements stated in this ordinance. However, the provisions of this section shall not apply to two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership of record at the date of the initial adoption or subsequent amendment of this ordinance, which meet the following criteria:
- 19.6.A.2.a. The lots are located in a district in which single-family dwellings are permitted;
- 19.6.A.2.b. A single-family dwelling and customary accessory buildings are proposed to be erected on an approved single lot of record; and

19.6.A.2.c. Lots comprising eighty percent (80%) or more of the block frontage have been developed, and the Building Inspector determines that the minimum frontage requirement is greater than the frontage common to the majority of the existing developed lots. In no case shall the frontage for a single lot be less than fifty feet (50').

19.6.A.3. The provisions of this section do not affect subdivision lots which are approved and of record in accordance with New Hampshire Revised Statutes.

19.6.B. NON-CONFORMING STRUCTURES.

19.6.B.1. When, at the effective date of the initial adoption or subsequent amendment of this ordinance, a structure exists that could not be built under the terms of this ordinance because of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, but that structure was lawful prior to the effective date of the initial adoption or subsequent amendment of this ordinance, such structure may continue as long as it remains otherwise lawful, subject to the following provisions:

19.6.B.1.a. No such non-conforming structure may be enlarged or altered in any way which would increase its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;

19.6.B.1.b. Should any non-conforming structure or portion of a non-conforming structure be destroyed by fire or other hazard, the structure may be restored to its former dimensions, provided that the restoration of the structure is begun within twelve (12) months after the act of destruction; and

19.6.B.1.c. Should any non-conforming structure be moved for any reason for any distance whatsoever, the structure must thereafter conform to the regulations for the district into which it is relocated.

19.6.C. NON-CONFORMING USES OF LAND.

19.6.C.1. When, at the effective date of the initial adoption or subsequent amendment of this ordinance, a use of land exists which could not be permitted in the district by the terms of this ordinance, but that use was lawful prior to the effective date of adoption or amendment of this ordinance, the use may be continued so long as it remains otherwise lawful, and provided that:

19.6.C.1.a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

19.6.C.1.b. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance; and

19.6.C.1.c. If any such non-conforming use of land ceases for any reason for a continuous period of twelve (12) months, any subsequent use of such land shall conform to the regulations and requirements of this ordinance for the district in which it is located. Any non-conforming use which is commercial in nature and which ceases for any reason for a continuous period of no more than twelve (12) months, shall be utilized for the same business as was formerly in operation at such land.

## SECTION 7 CONSERVATION SUBDIVISION ORDINANCE

### I. PURPOSE

This Conservation Subdivision Ordinance is intended to encourage environmentally sound planning to conserve open space, retain and protect important natural and cultural features, and provide for efficient use of land and community services to advance the goals stated in the master plan.

### II. OBJECTIVES

- To maintain rural character, preserving farmland, forests and maintaining rural viewsapes.
- To preserve those areas of the site that have the highest ecological value, including, for example, wildlife habitat, e.g., large unfragmented blocks of undeveloped land, areas of highest condition identified based on NH Fish and Game's Wildlife Action Plan, and water resources, e.g., drinking water supply areas and watersheds, wetlands, streams and rivers.
- To locate buildings and structures on those portions of the site that are the most appropriate for development and avoiding developing in areas ill-suited for development, including, for example, areas with poor soil conditions, a high water table, that are subject to frequent flooding or that have excessively steep slopes.
- To preserve historic, archeological, and cultural features located on the site.
- To create a contiguous network of open spaces or "greenways" by linking the common open spaces within the subdivision and to open space on adjoining lands wherever possible.
- To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.
- To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- To minimize the impact of residential development on the municipality, neighboring properties, and the natural environment.

### III. DEFINITIONS

For the purpose of this chapter, the terms used herein are defined as follows:

Applicant: The owner of land proposed to be subdivided or his representative.

**Buffer:** Land area within which adequate vegetation is maintained or provided to visibly separate or screen one use from another and/or to minimize potentially negative impacts on surrounding areas, e.g., shield or block noise, light or other nuisances, reduce water pollution. Also known as a “vegetated buffer.”

**Buildable Area:** Land area of a parcel excluding non-buildable area.

**Buildable Lot:** The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.

**Building Envelope:** Area of a building lot identified on a subdivision plan indicating the allowed limits of clearing and grading, and within which all structures, and, when applicable, the well and septic systems, including the tank and leach field, shall be located.

**Conservation Easement:** A permanent legal restriction against future development and other activities as specified in the conservation easement deed. An easement may be worded to permit or restrict public access, allow or disallow recreational uses, allow or disallow other uses, such as limited development, agriculture, or forestry. Easements are tied to the title of the land, regardless of subsequent ownership.

**Conservation Subdivision:** An alternative form of residential development where, instead of subdividing an entire tract into lots of conventional size, a similar number of housing units are arranged on lots of reduced dimensions, with the remaining area of the parcel permanently protected as designated open space. Also referred to as “open space subdivision.”

**Deed Restriction:** A restriction on the use of land usually set forth in the deed for the property. Also known as a “restrictive covenant.”

**Designated Open Space:** Reserved land that is permanently protected from further development and remains in a natural condition or is managed according to an approved management plan for natural resource functions, e.g., forestry, agriculture, habitat protection, passive recreation, or limited uses as approved by the Planning Board under this ordinance as part of a conservation subdivision.

**Easement:** The right or privilege that a person may have in another person’s property, often for the purposes of installing and maintaining utilities and drainage ways or allowing a right of passage.

**Homeowners Association:** A private corporation, association, or other legal entity organized in accordance with state law and established by the applicant or the member individuals for the benefit and enjoyment of its members, including oversight and management of common open space, designated open space, and/or shared facilities.

**Non-buildable Area:** Land area that cannot be counted toward the minimum lot size under a conventional subdivision, including areas with the following characteristics: wetlands or wetland soils as defined by RSA 482-A: 2, X; slopes greater than 20 percent as measured over a 10 foot interval; submerged areas; utility rights-of way; land area within the 100-year flood-plain; or land that is restricted from development by covenant, easement or other restriction.

Open Space Common: Land within or related to a development, exclusive of land dedicated as designated open space, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development and/or the town and may include such complementary structures and improvements as are necessary, appropriate and approved by the planning board.

Restrictive Covenant: A restriction on the use of land usually set forth in the deed for the property.

Sketch Plan: A preparatory sketch of the preliminary subdivision layout that does not include engineering details, which is used to support a general discussion with the Planning Board as to the form of the plat and the objectives of the zoning ordinance and applicable subdivision or site plan regulations.

#### IV. AUTHORITY AND APPLICABILITY

A. To facilitate the implementation of the goals of the master plan, all subdivisions for residential use shall use a conservation subdivision design approach, unless exempted under Section IV.B or granted a special use permit under Section IV.C.

B. Exemptions: Subdivisions meeting any one of the following criteria shall be exempt from the requirements of this section, unless a landowner elects to follow the standards of this section.

1. The subdivision creates lots that are, on average, equal to or greater than 479,160 square feet (11 acres) in size and provided the deed for each lot created contains a restriction prohibiting the further subdivision of the lot;
2. The parent parcel is nine acres or less in total size and the subdivision does not require a new road; or
3. The subdivision creates five or fewer dwelling units and does not require a new road.

C. Authorization to Issue a Special Use Permit: Notwithstanding other provisions of the Somersworth Zoning Ordinance, authority is hereby granted to the planning board, as allowed under RSA 674:2 1, II, to issue a special use permit to modify the requirements of this section as follows:

1. The Planning Board may issue a special use permit for the parcel to be developed as a conventional subdivision when it finds that:
  - a. The parcel is ill-suited for development using conservation subdivision design, or a conventional design provides greater or equal benefits to the community; and
  - b. The conventional subdivision design retains and protects important natural and/or cultural features identified by the planning board and/or the site inventory.

2. The Planning Board may issue a special use permit for a modified conservation subdivision design to allow for variations from certain requirements of this section as specified herein. Such modifications shall be consistent with the purposes and standards of this section; fall within the guidelines contained herein, and shall not be detrimental to public health, safety or welfare.

D. Sequential Subdivisions: The provisions of this ordinance shall apply to the sequenced development of a parent parcel over time through separate successive applications. When a subdivision is proposed that involves part of a larger parcel or includes lots that are capable of further subdivision, the planning board may require that a site inventory and a conceptual (non-binding) long-range plan be submitted for the entire parcel and used to evaluate the proposed subdivision.

E. Review Process: A subdivision application under this section shall comply with the subdivision regulations, except that sections of the subdivision regulations that are clearly not applicable to a conservation subdivision design shall not be imposed on the applicant by the Planning Board.

F. Legal Review: Prior to final approval by the planning board, the applicant shall submit for review by the City Attorney any restrictive covenants, condominium or cooperative agreements, conservation easement, deed restrictions, or other legal agreements proposed for use in the conservation subdivision. The City Attorney shall advise the planning board of the adequacy of such legal provisions. The applicant shall pay all associated costs of the legal review and establish an escrow account, in an amount determined by the City, prior to the review.

## V. MAXIMUM DEVELOPMENT DENSITY

A. Base Number of Development Units: The applicant shall choose one of the following methods for calculating the base number of dwelling units that may be constructed on the property unless a yield plan is required in accordance with V.3:

1. Formula Approach: Under the formula approach, the base number of dwelling units is determined by the following formula:

Example Formula

Base Number Dwelling Units =

$[(\text{Net Area}) \times (\text{Factor}) \div \text{Conventional Minimum Lot Size} (\# \text{ Dwelling Units/Lot})]$

Where Net Area =

Total Area of Parcel (sq. ft.) – “Non-Buildable Area” on the Parcel (sq. ft.)

Conventional Minimum Lot Size lot size determined for a single-family building, two-family building, or multi-family building (or combination of the above as permitted) based on the conventional zoning requirements.

Non-Buildable Area any area that cannot be counted toward the minimum lot size under a conventional subdivision or is restricted from development by covenant, easement or other restriction (see definition).

Factor number determined by the following:

Percentage of Parcel that is Wetlands and/or Steep Slopes*	Factor
0-<10%	0.75
10-<20%	0.70
20-<30%	0.65
30% or more	Use Yield Plan Approach

- Steep slopes are those greater than 20% as measured over a ten foot interval

The number of allowable dwelling units is determined based on the allowable number of units per building under the conventional zoning, where the result is rounded up for single family homes and down to the next whole number for buildings containing more than one dwelling unit.

If the subdivision involves only part of a parcel, the buildable area shall be calculated for that portion of the parcel proposed to be included in the subdivision. If a parcel is located in more than one district, the base number of allowable dwelling units will be determined for each portion of the parcel separately and added together and then rounded to the next whole number.

For example, for a 120 acre parcel in a 3 acre zone (i.e., 3 acre minimum lot size per single family home (1 dwelling unit per building)) with 30 acres of wetlands, the example formula approach above permits 20 dwelling units, as single family homes

$$[(120-30)*0.65] \sim 3 = 19.5 \text{ or } 20 \text{ single family homes.}$$

With a 4 acre minimum lot size per two-family building (each building containing two dwelling units), 14 two-family buildings are permitted

$$[(120-30)*0.65] \sim 4 = 14.6 \text{ or } 14 \text{ buildings,}$$

\*2 dwelling units per building = 28 dwelling units.

2. Yield Plan Approach: Under this approach, the applicant presents a yield plan to the planning board to determine the number of allowable buildings and dwelling units permitted within the conservation subdivision. The yield plan is a sketch plan for a conventional subdivision development that fully complies with the requirements for a conventional subdivision. The yield plan shall include all information the Planning Board deems necessary to determine that the conventional design could be built. At a minimum, the yield plan shall show all right-of-ways, drainage areas, existing topography at two-foot contour intervals, lot lines, lot areas, lot frontages, building envelopes, easements or other land restrictions, wetlands, riparian and wetland buffers, floodplains, steep slopes, access points, and any other information the planning board deems necessary to evaluate the yield plan. The yield plan shall be stamped by a NH certified professional engineer with a note stating that this conventional design could be built under professional engineering design standards and meets all applicable City of Somersworth land use regulations.

3. Exceptions

- a. If more than 30 percent of the area of the parcel consists of wetlands or steep slopes, then the applicant shall use the yield plan approach to determine the allowable number of buildings and dwelling units.
- b. The planning board shall require the preparation of a yield plan if the subdivision creates 20 or more dwelling units as determined by the Formula Approach.

VI. DIMENSIONAL AND LOT REQUIREMENTS

A. All individual residential lots shall meet the minimum requirements set forth below. All dimensional requirements not specifically listed below shall be governed by the underlying zoning district in which the subdivision is located.

- 1. Buildings in a conservation subdivision shall be located on individual residential lots.
- 2. Minimum Lot Size: 10,000 square feet. At its discretion, the planning board may authorize up to 30% of the lots to have a minimum of 8,000 square feet with 60 feet of frontage.
- 3. Minimum Lot Frontage: 80 Feet\*
- 4. Minimum yard setbacks for principal structures:

Front – 15 Feet

Side – 5 Feet

Rear – 5 Feet

- 5. Minimum yard setbacks for accessory structures\*:

Front – 15 feet **or** at or behind the front of the principal structure, whichever is greater\*\*

Side – 0 Feet

Rear – 0 Feet

\*As set forth in 2 above, the planning board may authorize up to 30% of the lots to have a minimum of 60 feet of frontage

\*\*Accessory structures 440 square feet or larger shall comply with the setbacks for principal structures

\*\*\* The intent of this provision is to require all accessory structures to be placed in line with or behind the front of the principal structure.

- 6. Lots may be irregular in size and shape provided they conform to the natural topography and features of the parcel (e.g., the lot lines follow an existing stone wall, stream, or other natural dividing feature).

7. Each individual lot shall have a minimum of two trees with a minimum 2” caliper in the front yard. Existing trees located in front yard areas can be utilized to meet this requirement provided that they are adequately protected during construction.
8. The Planning Board may authorize variations from the above standards by up to 50 percent by special use permit issued pursuant to Section IV.C.2, for the purpose of providing flexibility in the design of the subdivision to meet the objectives of this section or to support the creation or continuation of a traditional village-style development pattern.
9. Design Standards for Developed Areas: Subdivision plans shall comply with any additional applicable standards found elsewhere in this ordinance and as set forth in the Subdivision Regulations.

## VII. OPEN SPACE REQUIREMENTS

- A. At least 35 percent of the buildable area and 80 percent of the non-buildable area of the parcel shall be permanently protected as designated open space subject to the additional conditions below. The planning board may authorize a slight reduction in the area of designated open space by special use permit, when it finds that (1) the reduction is necessary to enable the use of the conservation subdivision approach based on the characteristics of the parcel, and (2) the proposed subdivision adequately meets all other requirements of this ordinance. In no case, shall the designated open space represent less than 25 percent of the total area of the parcel.
- B. Portions of the parcel that comprise part of an individual house lot, roadway, driveway, access road, roadway right-of-way, other new or existing right-of-way, utility easement, private or community leachfields or other components of a wastewater management system, stormwater management structures, or are part of a required buffer between any new structure and an existing right-of-way, or any area that is less than 100 feet wide in any direction shall not count toward the calculation of the designated open space.
- C. Any use of the designated open space is subject to approval of the planning board with a recommendation from the conservation commission and shall demonstrate that such uses shall not negatively impact the natural and/or cultural amenities preserved through the conservation subdivision design.
- D. The following uses generally are permitted in the designated open space, unless specifically prohibited or restricted as a condition of subdivision approval for the purposes of protecting important natural features or characteristics of the parcel:
  1. Forest management.
  2. Agricultural cultivation and pastures.
  3. Passive (non-motorized) trails and recreational uses.
  4. Snowmobile trails.
- E. Up to 50 percent of the designated open space may be permitted by special permit issued by the planning board to be used for the following. The Planning Board may impose specific criteria or restrictions on such uses as deemed necessary to support the goals of this section:

1. Agriculture involving animal husbandry and/or boarding.
2. Active outdoor recreation uses, including formal playgrounds and fields.
3. Parking areas for access to the designated open space. Parking areas shall not occupy more than 10% of the designated open space.

F. The removal of soil, trees and other natural features from the designated open space is prohibited, except as consistent with conservation objectives or permitted uses as provided above.

G. The designated open space shall be retained in a natural, undisturbed state, except for those activities permitted and approved as provided above, or as required for active management according to an approved conservation agreement and management plan approved by the planning board.

Added 09/16/2013.

## **Section 8 Home Occupations**

19.8.A. PURPOSE. The purpose of this section is to permit home occupations as accessory uses, provided that they are compatible with the neighborhood in which they are located. The intent is to protect residential areas from adverse effects of activities associated with home occupations, while permitting residents of the community the opportunity to use the home as a workplace and as a source of livelihood under restrictive conditions.

19.8.B. DEFINITION. A "home occupation" for purposes of this section is a business, profession, occupation or trade which:

19.8.B.1. Is dearily incidental to, secondary to or accessory to the residential use of the dwelling;

- 19.8.B.2. Is conducted entirely within a dwelling or an accessory building by one or more occupants of such dwelling and no more than one employee who does not reside in such dwelling;
- 19.8.B.3. Does not alter the residential character and appearance of the dwelling and accessory building; and
- 19.8.B.4. Is not injurious or detrimental to the residential character of the area in which it is conducted.
- 19.8.C. PROHIBITED USES. The following occupations and uses, and those with similar general characteristics, are prohibited as home occupations in all residential districts:
- 19.8.C. 1. Antique shop;
- 19.8.C.2. Bed and breakfast, inn, boarding house;
- 19.8.C.3. Contractor's yard or heavy equipment repair, storage or sales;<sup>1</sup>
- 19.8.C.4. Dance studio; exercise studio;<sup>1</sup>
- 19.8.C.5. Funeral home or mortuary;<sup>1</sup>
- 19.8.C.6. Gift shop;
- 19.8.C.7. Kennel or other boarding of animals; veterinary clinic or animal hospital;
- 19.8.C.8. Medical or dental clinic, hospital, nursing home;
- 19.8.C.9. Motor vehicle repair, storage or sales;
- 19.8.C.10. Nursery school or kindergarten;
- 19.8.C.11. Restaurant or cafe;<sup>1</sup>
- 19.8.C.12. Repair or testing of internal combustion engines;
- 19.8.C.13. Welding or machine shop.
- 19.8.D. PERMITTED USES. A home occupation for which a permit has been granted is permitted in all residential districts, except where otherwise restricted by this ordinance

<sup>1</sup>Amended 1/10/2000

- 19.8.E. APPLICATION. An application for a permit for a home occupation shall be submitted to the Department of Development Services on forms available for that purpose. The applicant shall remit a non-refundable filing fee of \$75.00 at the time the completed application is filed.<sup>1</sup>
- 19.8.F. CRITERIA AND CONDITIONS. In order to grant a permit for a home occupation, the Department of Development Services must find that the proposed use complies with all codes and ordinances of the City and that it satisfies the following conditions and requirements. A permit when granted will be deemed to have all of the following

conditions attached to it. The applicant has the burden of proving to the Department's satisfaction that the proposed home occupation meets all of the criteria herein stated.<sup>1</sup>

19.F.1. Area. The proposed home occupation must be conducted entirely within the dwelling unit or within a structure which is accessory to the dwelling. In order to insure that the proposed home occupation is clearly incidental and subordinate to the principal residential use of the dwelling unit, it cannot occupy more than 25% of the total floor area of the dwelling unit, included in the 25% such portions of the dwelling unit as may be used for storage of materials and/or products. For purposes of this section, the floor area of a dwelling unit shall be the floor area of ad heated and ventilated and thereby habitable rooms and areas, including basement and attic areas.

An accessory building may be used for a proposed home occupation provided that the accessory building does not have an area in excess of 300 square feet. If an accessory building is to be used, the area of that building shall be included in determining whether the 25% limitation is exceeded.

No addition to a residential structure shall be permitted if the purpose of such addition, in whole or in part, is to accommodate a home occupation.

19.8.F.2. Employees. No more than one person who does not reside in the dwelling unit shall be employed in the dwelling unit in the conduct of the home occupation. In the case of a hair stylist, there shall be only one person, the proprietor of the business, employed in the dwelling unit in the conduct of the home occupation.<sup>3</sup>

19.8.F.3. Hours of Operation. The home business or profession, except in the case of a child care home, shall not service customers or clients on the premises between the hours of 9:00 pm one day and 8:00 am the next day, nor shall it receive or ship any materials or products during those hours.

19.8.F.4. Traffic and Parking. The receipt or delivery of merchandise, goods or supplies for use in the home occupation shall be limited to the United States Mails, a similar parcel delivery service, or private passenger automobile.

No additional parking space shall be added to the lot or property on which the home occupation is to be conducted. No parking space shall be used that was not customarily used prior to the application for a permit. The application for approval shall show a

<sup>1</sup> Amended 4/17/2000.

<sup>3</sup> Amended 9/21/1992.

sketch of the parking spaces customarily in use at the time of the application and the applicant shall agree that parking shall not be increased during the period the permit may be in effect. No motor vehicle shall be parked in an area not represented as a parking space on the sketch attached to the application.

The home occupation shall not displace nor impede the use of required parking spaces. This shall include the prohibition of any business storage in required garage parking areas.

One additional on-site parking space is required above the normal parking requirement where two or more clients or customers are likely to concurrently visit the premises.

- 19.8.F.5. Signs. A sign utilized at the site of the home occupation shall be limited to one flush-mounted sign on the main residential structure which shall not exceed one square foot in area. Such sign shall not be lit, and non-reflecting materials shall be used. The legend shall show only the name of the occupant and the type of occupation. Color shall be consistent with the residence.
- 19.8.F.6. Group Size. If the home occupation is the type in which classes are held or instructions given, there shall be no more than four students or pupils at any given time. The Board may approve up to six students if it finds that the additional students will not generate additional traffic. Such approval shall be stated in the permit.
- 19.8.F.7. Outside Appearance. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises. There shall be no change in the outside appearance of the building or premises, or other visible evidence that the residence is being operated as a home occupation, except for the sign permitted in subsection 5.
- 19.8.F.8. Potential Nuisances. No home occupation shall be operated in such a manner as to create offensive traffic, noise, odor, smoke, heat, vibration, electronic interference or other interference with the appropriate use and enjoyment of adjacent properties, or otherwise constitute a nuisance or safety hazard to adjacent persons or properties.
- 19.8.F.9. Number of Home Occupations. The total number of home occupations within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit shall not be greater than the impact of one home occupation. This will be determined by using the home occupation criteria; for example, the combined uses will not occupy more than 25% of the total floor area.
- The total number of home occupations within a structure which contains more than one dwelling unit shall be limited to the number of existing exits which discharge directly onto a public way, or into a yard, court, or open space. In addition, the cumulative occupancy of all home occupations conducted within a structure which contains more than one dwelling unit shall not exceed twenty-five percent (25%) of the total floor area of the primary residential structure.
- 19.8.F.10. Utilities. The home occupation shall not cause a substantial increase in the use of any one or more public utilities (water, sewer, garbage collection, etc.). The combined total

use of the dwelling unit for residential and home occupation purposes shall be consistent with the average for other residences in the neighborhood.

- 19.8.F.11. Retail Activity. Retail sales shall be prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the home occupation or the retail sales of products or goods which are dearly and directly accessory to the home occupation.<sup>1</sup>
- 19.8.F.12. Manufacturing Activity. Any product produced or fabricated on-site for sale must be hand manufactured or grown using only hand tools or domestic mechanical equipment. Such domestic equipment shall not exceed approximately two horse power per piece of mechanical equipment and shall not exceed a total of approximately six horsepower, or a single kiln not to exceed approximately eight kilowatts or the equivalent in a gas-fired fixture.
- 19.8.G. PERMITS.
- 19.8.G.1. The Department of Development Services may grant a permit, with or without conditions, or deny a permit. Any conditions which the Department of Development Services may attach shall be designed to achieve the standards and objectives of this section.<sup>1</sup>
- 19.8.G.2. A permit when granted, with or without conditions, is personal to the applicant and cannot be transferred or assigned. Further, a permit shall apply only to the dwelling unit described in the application and shall not be transferable to any other site.
- 19.8.G.3. No expansion of the scope of any home occupation for which a permit is granted shall be permitted without prior Department approval of such expansion and the granting of a revised permit therefore.<sup>3</sup>
- 19.8.G. 4. A permit shall expire on September 30<sup>th</sup> of each year. A permit may be renewed by filing a form for that purpose with the Department of Development Services and the payment of the annual renewal fee of \$25 on or before October 1<sup>st</sup> of each year. Failure to file the application for renewal and/or failure to pay the annual fee permit shall cause the permit to lapse. Thereafter, the home occupation can be resumed only by filing an application for a permit as if it were a new proposed use.<sup>1</sup>
- 19.8.G.5. A permit for a home occupation may be revoked by the Code Enforcement Officer for violation of any provisions of the Zoning Ordinance or for violation of the above conditions or any additional conditions as imposed by the Department of Development Services. Appeals of the Code Enforcement Officer's decision to revoke the permit shall be made to the Zoning Board of Adjustment.<sup>2</sup>
- 19.8.H. EXCEPTIONS. For the purposes of this ordinance, the following situations shall not in and of themselves be considered to mean that a person is engaging in a home occupation:
- 19.8.H.1. The listing of the premises in a telephone book or similar directory, in a handbill or newspaper, or on television or radio, whereby a business name is used;

<sup>1</sup> Passed 09/21/1992.

<sup>2</sup> Amended 01/10/2000.

<sup>3</sup> Amended 04/17/2000.

- 19.8.H.2. The wholesaling, jobbing or retail business, if said activity is conducted entirely by mail and/or telephone and no materials are delivered to or stored upon the home premises;
- 19.8.H.3. Private lessons or other types of instruction, provided that the same is limited to one pupil at a time;
- 19.8. H.4. Rummage/garage sales, provided that the following conditions are met:
- 19.8.H.4.a. No more than three sales per year are conducted;
- 19.8.H.4.b. Sales shall not last longer than three days, excepting the weekends including Memorial Day, the Fourth of July and Labor Day, when sales shall not last longer than four days. Sales are conducted on the owner's property; and
- 19.8.H.4.c. Multiple family sales are permitted if they are held on the property of one of the participants; and
- 19.8.H.5. The sale and distribution of products not manufactured in the home, where marketing of said products is through off-site, home-oriented sales, on an appointment basis, such as sales of Amway, Avon or Tupperware.
- 19.8.I. EFFECTIVE DATE. This section shall be effective upon adoption by the City Council of the City of Somersworth; provided, however, that it shall not apply to permits which were formally accepted by the Planning Board prior to the first legal notice of the first public hearing on this proposed ordinance. It shall apply to any application for a permit which was not formally accepted prior to the first legal notice of this ordinance.

## Section 9 Manufactured Housing District<sup>1</sup>

### A. PURPOSE

This district is intended to establish minimum standards for the placement of manufactured housing in accordance with the provisions of RSA 674:32 Manufactured Housing, as the same may be subsequently amended, to restrict the location of older mobile homes and trailers, to require that manufactured housing, as defined in this ordinance, be aesthetically compatible in terms of design standards with site-built homes and to provide alternatives for the location of affordable and safe housing within the City.

### B. LOCATION

1. The Manufactured Housing Districts are those sections of Somersworth shown on a district map on file in the Planning Office.

### C. DEFINITIONS

1. Manufactured Housing - Any structure, transportable in one 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 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, electrical heating systems contained therein.
2. Modular Building - Any building of closed construction, which is made or assembled in manufacturing facilities off the building site, for installation, or assembly and installation, on the building site. This definition shall not be construed to include any structure labeled in accordance with the Federal Manufacturing Housing Construction and Safety Standards Act of 1974, nor shall it include any recreational vehicle or park trailer as defined in American National Standards Institute A119.2, Standard for Recreational Vehicles, or At 19.5, Standard for Park Trailers, or any building type not subject to the Requirements of nationally recognized model building codes.
3. Site-Built Home - A building constructed on-site which is designed to be used as a dwelling on foundations, when connected to the required utilities.
4. Older Mobile Homes. Trailers - Any factory-built home which fails to meet the definition of manufactured housing and more specifically, it shall mean any mobile constructed prior to June 15, 1976. These units shall be restricted to approved mobile home parks.
5. Use.
  - a. Permanent and Temporary Use Defined: Permanent use of manufactured housing is defined to mean occupancy while in a parked position for any purpose permitted by Section 9.D.1. and 9.D.2. including storage.

<sup>1</sup>Passed 08/14/2000.

Manufactured housing units and mobile homes must meet all Federal, State and Municipal codes. Temporary use of manufactured housing, mobile homes, trailer homes and office trailers must be recorded with the Code Enforcement Officer and a permit issued for each period of use prior to the beginning of such use.

- b. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch or means of mobility are removed and regardless of nature of the foundation provided.

#### D. PERMITTED USES

The use of manufactured housing, mobile homes, trailers and office trailers is prohibited except as follows:

1. As permanent single-family residences in approved manufactured housing developments;
2. As permanent single-family residences on individual lots in the Manufactured Housing (MH) Districts (applies only to manufactured housing units that meet all Federal, State, and Municipal Codes);
3. As permanent single-family residences in approved mobile home developments (applies to mobile homes only);
4. As temporary residences for farm laborers or supervisory personnel employed on a seasonal basis on the farm of their employer and limited to the period of such seasonal employment;
5. As temporary field headquarters or office space on construction sites for persons or firms actually engaged in construction work;
6. As temporary office space for persons or firms actually engaged in the business of selling manufactured housing, mobile homes and trailers;
7. As temporary living quarters for persons whose need arises from emergency resulting from loss of their homes through accident, natural disaster, or other physical causes. The period of occupancy permitted by this sub-section shall be limited to twelve (12) months together with any additional period during which a valid building permit for construction of replacement living quarters may be in effect (applies to manufactured housing only);
8. As temporary office space for a business enterprise during the period in which permanent office space is being constructed for which a valid building permit has been issued;
9. As temporary living quarters for employees of itinerant businesses such as carnivals during the period when such businesses are actually being conducted within the City and in no case for longer than thirty (30) days (applied to trailers only);
10. As temporary classroom space at an existing school facility for educational activities conducted by the SAD #56.

E. DESIGN STANDARDS

All dwelling units in this district shall be subject to the following minimum design standards:

1. Building Dimensions - No building shall be less than 14 body feet in width and shall contain not less than 700 square feet of habitable living space.
2. Roof Construction ~ All roofs shall be covered with standard asphalt shingles and have a minimum pitch of 3.5/12. Roofs covering manufactured housing shall provide certified engineering data to show that roof additions will meet the performance criteria of the Somersworth Building Code for snow and wind loads; the roof shall extend for the full length of the structure.
3. Exterior Walls - Exterior walls shall have traditional site-built appearance and may be materials such as clapboards, shingles and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes. Walls may also include masonry, wood board-and-batten, and Texture 111' exterior plywood, but shall not include artificial masonry or fake board-and-batten made from metal.
4. Skirting - Skirting is required except for dwellings placed on a frost wall or full foundations. Skirting shall meet the following criteria:
  - a. The material used is consistent with the materials permitted by subsection E.3.;
  - b. The skirting is extended either to the foundation or as close to the slab as possible that will still permit proper ventilation;
  - c. The skirting shall totally enclose the unit and be permanently affixed and fully supported by suitable framing to the unit.
5. Foundations - The foundation shall be a permanent concrete reinforced G" slab; concrete or masonry frost wall, wood or full basement. All foundations shall meet the performance criteria of the Somersworth Building Code.
6. Enclosed Additions - Additions shall have the same exterior wall material as Permitted by subsection E.3., except that glass may be used for greenhouse additions. All additions shall have an asphalt-shingled roof with a minimum pitch of 3.5/12.
7. Anchoring - All mobile homes shall be anchored to the foundation or slab by attaching the frame to six (6) inch eye bolts, set at the four comers of the foundation or slab, with steel cable or equivalent. All mobile homes shall be anchored to the foundation and elevated as required by Section 12.B.8.C of this Chapter.
8. Transportation Components - Appendages required for transportation, which shall include but not be limited to the tongue, axles and wheels shall be removed or enclosed so as not to be visible.
9. Siting – Dwellings shall be sited on the lot subject to the following conditions:

a. Dwellings Less Than 24 Feet in Width

- (1) Dwellings sited in excess of 15 degrees but less than 30 degrees shall have an enclosed addition equal to 15% of the floor area of the structure. The addition shall project out not less than 20% of the length of the structure at not greater than 60-degree angle. Additions shall not be permitted attached to and extended from the narrow side of the dwelling.
- (2) Dwellings sited in excess of 30 degrees but less than 45 degrees shall meet all of the criteria set forth in (1) provided that such addition be located on the street side area of the lot.
- (3) No dwellings less than 24 feet in width shall be allowed to be sited on a lot in excess of 45 degrees.

b. Dwellings 24 feet or greater in width shall not be subject to siting standards.

c. Additions shall include enclosed structure such as breezeways, garages and extensions to the interior living space. Carports, open breezeways, decks and patios shall not be considered as an addition.

d. Angles of siting are based upon the lot frontage being the horizontal or parallel line.

e. Dwellings to be located on a curve shall have the angle of siting determined by locating a tangent point at the midpoint of the curve arc. Lines shall then be drawn parallel and perpendicular to such point.

10. Fuel Storage Tank - Any fuel storage tank must be placed either in the basement, crawl space or in an attached addition or be screened so as not to be visible from adjacent properties or any street, within one (1) year of installation.

F. MANUFACTURED HOUSING AND MOBILE HOME PARK STANDARDS.

Manufactured Housing Parks and Mobile Home Parks shall meet all of the standards outlined in Chapter 23, MANUFACTURED HOUSING AND MOBILE HOME PARK STANDARDS.

## Section 10 Groundwater Protection District

- 19.10.A. AUTHORITY. In accordance with New Hampshire Revised Statutes Annotated (RSA) Chapter 4-C:22 III, as the same may be subsequently amended, the City of Somersworth hereby adopts the following Groundwater Protection District.
- 19.10.B. PURPOSE. The purpose of this ordinance is, in the interest of public health, safety and general welfare, to protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the known aquifer from adverse development, land use practices or depletion, and to allow for the restoration of degraded ground water by the establishment of a "Ground Water Management Zone".<sup>1</sup>
- 19.10.C. LOCATION.
- 19.10.C.1. The boundaries of the Groundwater Protection District shall be the outermost edge of the out wash deposits of the "Lily Pond Aquifer", as designated in the "Report on Aquifer Definition Lily Pond Aquifer Somersworth, New Hampshire," prepared by BCI Geonetics, Inc., and included in the Water Master Plan Update dated June 1984. The Ground Water Management Zone is designated by the Ground Water Management Zone Overlay Map included in the Preferred Remedial Action 100% Design and Demonstration of Compliance Plan prepared by Beak International, Inc. and Geo Syntec Consultants International, Inc.<sup>1</sup>
- 19.10.C.2. When the actual boundary of the Groundwater Protection District is in dispute by any owner or abutter actually affected by said boundary, the Planning Board, at the owner/abutter's expense and request, may engage a professional geologist or hydrologist to determine more accurately the precise boundary of said Groundwater Protection District.
- 19.10.D. APPLICABILITY.
- 19.10.D.1. All land use activities and development conducted within the Groundwater Protection District shall be regulated by the standards established herein.
- 19.10.D.2. The standards established herein shall constitute the rules of an overlay zone and shall be superimposed over other zoning districts or portions thereof. The provisions herein shall apply in addition to all other applicable ordinances and regulations. In the event of a conflict between any provision herein and any other ordinance or regulation, the more restrictive requirement shall control.
- 19.10.E. DEFINITIONS.
- 19.10.E.1. Animal Feed Lots. A plot of land on which 25 livestock or more per acre are kept for the purpose of feeding.
- 19.10.E.2. Groundwater. Water in the subsurface zone at or below the water table in which all pore spaces are filled with water.
- 19.10.E.3. Groundwater Management Zone (GMZ). The subsurface volume in which ground water contamination associated with a discharge of a regulated contaminant is contained. (State of NH Groundwater Protection Rules - Env - WS410.)<sup>2</sup>

<sup>1</sup> Amended 1/10/2000.

<sup>2</sup> Passed 1/10/2000.

- 19.10.E.4. Hazardous and Toxic Materials. Those materials that pose a present or potential hazard to human health and the environment when improperly stored, transported or disposed of. These materials include those listed in the New Hampshire Hazardous Waste Regulations. Third Edition. Appendixes 1-4, 1985, New Hampshire Dept. of Environmental Services, Concord, as the same may be subsequently amended.
- 19.10.E.5 Impervious Surface. A surface covered by any material (such as pavement, cement, roofing) that prevents surface water from penetrating the soil directly.
- 19.10.E.6. Leachable Wastes. Waste materials including solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing waterborne contaminants to the surrounding environment.
- 19.10.E.7. Solid Waste. 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.
- 19.10.F. PROHIBITED USES. The following uses are expressly prohibited from the Groundwater Protection District:
- 19.10.F.1. Within the Lily Pond Aquifer<sup>1</sup>
- 19.10.F.1.a. The disposal of solid waste including landfills and sewage lagoons, excepting disposal of stumps and brush;
- 19.10.F.1.b. Storage of road salt or other deicing chemicals except in a property constructed shelter for use on site;
- 19.10.F.1.c. Dumping of snow containing road salt or other deicing chemicals;
- 19.10.F.1.d. Motor vehicles service or repair shops;
- 19.10.F.1.e. Junk and salvage yards;
- 19.10.F.1.f. Animal feedlots;
- 19.10.F.1.g. Commercial or industrial handling, disposal, storage or recycling of hazardous or toxic materials or wastes; and
- 19.10.F.1.h. Underground storage or petroleum or any refined petroleum product. All existing underground tanks, including those under 1,100 gallons, must be registered with the Somersworth Fire Department within six months of the enactment of this regulation. Existing tanks over 1,100 gallons are subject to Water Supply and Pollution Control Commission regulation, pursuant to New Hampshire Code of Administration No. W5411.
- 19.10.F.2. Within the Groundwater Management Zone:
- 19.10.F.2.a. The requirements, restrictions, and prohibition of the underlying Zoning District shall continue to apply to the extent that they are not inconsistent with the provision of this section; and<sup>2</sup>
- 19.10.F.2.b. Pumping of ground water from any well, trench, sump or other structure for residential, irrigation, agricultural or industrial purpose is prohibited.<sup>2</sup>
- 19.10.G. SPECIAL CONDITIONS. The following conditions shall apply to all uses in the Groundwater Protection District:

<sup>1</sup> Added 1/10/2000.

<sup>2</sup> Passed 1/10/2000.

- 19.10.G.1. A lot shall not be rendered more than ten percent (10%) impervious. A proposed development plan which will incorporate a stormwater drainage plan, approved by the City of Somersworth Planning Board and prepared by a professional engineer certified to practice in the State of New Hampshire shall be provided. The plan shall provide for the on-site retention and percolation of all development generated stormwater runoff from a ten (10) year storm. Furthermore, the stormwater drainage plan shall provide for the filtering of parking area runoff to remove oil, gasoline and other impurities prior to retention and percolation of the runoff;
- 19.10.G.2. Development or land use activities proposed within the Groundwater Protection District shall be connected to the municipal sewage disposal system and the municipal water system;
- 19.10.G.3. Any use retaining less than thirty percent (30%) of lot area, regardless of size, in its natural vegetative state with no more than minor removal of existing trees and vegetation shall require a special permit;
- 19.10.G.4. Mining operations, including sand and gravel removal, shall require an Earth Removal Permit, pursuant to New Hampshire Revised Statutes Annotated Chapter 155-E, which is herein incorporated by reference. Such excavation or mining shall in no case be carried out within eight (8) vertical feet of the seasonal high water table; and
- 19.10.G.5. The storage of petroleum or related products in a freestanding fuel oil tank within or adjacent to a residential structure which is used for the normal heating of said structure shall be permitted pursuant to the conditions outlined in subsection H below, and all applicable state regulations. All tanks shall be protected from internal and external corrosion and shall be of a design approved by the Somersworth Fire Department. All freestanding tanks shall be placed on an impermeable surface such as a concrete pad. No tank may be abandoned in place. A tank shall be disposed of after emptied of all hazardous materials if it has been out of service for a period in excess of twelve (12) months. The product and the tank shall be disposed of by the property owner as directed by the Somersworth Fire Department and all applicable state laws. All leaking tanks must be emptied by the owner or operator within twelve (12) hours after detection of the leak and removed by the owner and/or operator as per above.
- 19.10.H. ADMINISTRATION.
- 19.10.H.1. Development or land use activities proposed within the Groundwater Protection District that require a special permit, as provided in subsection G above, shall be reviewed by both the Planning Board and the Somersworth Conservation Commission. The Planning Board shall either approve, conditionally approve or disapprove a special permit only after it determines that the proposed land use development and/or activities comply with the purpose of this regulation. In making such a 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 if the control measures failed.
- 19.10.H.2. Development or land use activities proposed within the Groundwater Protection District that require subdivision or site plan approval from the Planning Board shall also be reviewed by the Somersworth Conservation Commission. The Planning Board and the Conservation Commission shall verify that the proposed activity will conform to the provisions of this regulation ordinance prior to action by the Planning Board to approve, conditionally approve or disapprove the application.

- 19.10.H.3. The Building Inspector shall not issue a building permit for development or land use activities until such time as he/she verifies that the proposed activity will conform to the provisions of this ordinance. The Building Inspector may consult with the Planning Board and/or Conservation Commission as he/she deems necessary.
- 19.10.H.4. Land use activities that do not require the receipt of Planning Board approval or building permits shall nonetheless be subject to the requirements and standards established herein.
- 19.10.H.5. A hydrogeologic study may be required by the Planning Board and/or the Conservation Commission to investigate the impacts a proposed development or land use activity will have on an existing or future groundwater supply. A qualified professional hydroiologist or geologist shall be chosen by the City of Somersworth and the applicant for approval shall pay any and all costs incurred.
- 19.10.H.6. For all freestanding fuel oil tanks as permitted per Section 7. F., the property owner shall file with the City of Somersworth the following information prior to the installation of a tank:
- 19.10.H.6.a. The size of the tank;
  - 19.10.H.6.b. The type of tank;
  - 19.10.H.6.c. The type of material being stored and its quantity;
  - 19.10.H.6.d. The location of each tank on the premises, complete with a sketch map; and
  - 19.10.H.6.e. The age of each tank.
- 19.10.I. ENFORCEMENT. If the Planning Board and/or the Building Inspector finds that any of the requirements and standards established herein are in violation, the Building Inspector shall order the owner, in writing, to make such corrections as he/she deems necessary to bring the development and activities into compliance with the provisions of this ordinance. Such order shall be complied with within twenty-four (24) hours of the original notice to the owner. Where the owner fails to comply with the order of the Building Inspector, a fine of one hundred dollars (\$100) per day, or the maximum amount which is authorized by statute, may be levied against said owner. The fine shall be retroactive and shall begin to accrue on the date on which the property owner receives written notice from the Building Inspector that he/she is in violation of this ordinance.

## Section 11 Excavation of Earth Products<sup>1</sup>

- 19.11.A. PURPOSE. The purpose of this section of the Zoning Ordinance is to ensure that the health and safety of the public is protected; the natural assets of soil, water, forests and wildlife are preserved; and that the aesthetic features of the environment are maintained as stated in RSA155-E,
- 19.11.B. APPLICABILITY. There shall be no excavation or removal of any earth, sand, gravel, stone or construction aggregate or any other earth product from any tract of land within the City limits, except as provided in this section or as results from a legitimate act of construction, landscaping or agricultural operation, provided there are no harmful after-effects, all as more particularly defined in [RSA 155-E:2](#) and [RSA 155-2\(a\)](#).
- 19.11.C. CRITERIA AND CONDITIONS. The Planning Board shall grant a permit, after a public hearing, for the removal of earth, sand, gravel, stone or construction aggregate or any other earth products, not incidental to the aforementioned purposes, subject to the following conditions:
- 19.11.C.1. The owner and/or operator shall provide for proper drainage during the operation and shall take all necessary safeguards for the protection of any nearby surface water;
- 19.11.C.2. No excavation shall leave a bank exceeding a slope of one foot (1') vertical rise for every two feet (2') of horizontal distance nor shall any excavation take place within twenty feet (20') of any property line or within fifty feet (50')-of any disapproving [abutter](#);
- 19.11.C.3. No excavation shall be permitted within seventy-five feet (75') of any great pond, navigable river, or any other standing body of water ten (10) acres or more in area or within twenty-five feet (25') of any stream, river or brook which normally flows throughout the year, or any naturally occurring standing body of water less than ten (10) acres, prime wetland as designated in accordance with RSA 482-A:15(I) or any other wetland greater than five (5) acres in area as defined by the wetlands board;
- 19.11.C.4. At the conclusion of the operation, or of a substantial portion thereof, the whole area where removal has taken place shall be reclaimed by being covered by not less than four inches (4") of topsoil and seeded with a suitable cover crop. This requirements may be modified by the Planning Board where no practical purpose is accomplished by adherence to it; and
- 19.11.C.5. The site shall be maintained in a safe condition. No ponding of water, excessively steep slopes or any other potentially hazardous condition shall be permitted.
- 19.11.D. APPLICATION FOR PERMIT. To permit proper review, the Planning Board shall require the owner or the owner's [designee](#) to submit a site plan that contains at least the following information:
- 19.11.D.1. Name and address of the owner of the land, the excavator and all [abutters](#) to the land tract on which the excavation is proposed;

- 19.11.D.2. A sketch and description of the location and boundaries of the proposed excavation and the total number of acres involved in the project;
- 19.11.D.3. A sketch and description of the access and visual barriers to public right-of-ways to be utilized in the proposed excavation;
- 19.11.D.4. A description of the topographical grades in the area from which the material is to be removed along with the finish grades upon conclusion of the project;
- 19.11.D.5. Any and all information required by the City Engineer so that he/she may investigate whether an unreasonable acceleration of the deterioration of the highway and/or roads affected may occur from such excavation;
- 19.11.D.6. Elevation of the highest annual average **groundwater** table within or next to the proposed excavation;
- 19.11.D.7. A plan for the reclamation of the area(s) affected by the excavation, at least so as to comply with the conditions set forth in Subsection 11.C. Criteria & Conditions;
- 19.11.D.8. A list of specific actions to be taken by the applicant on the excavation site relative to fuel and chemical storage and handling, dust control, truck traffic, noise control and the site safety of any unauthorized persons; and
- 19.11.D.9. Other such information as the Planning Board may reasonable require.

19.11.E. EXISTING OPERATIONS.

- 19.11.E.1. Existing lawful excavations, having not already filed with the local regulator by August 4, 1991, as mandated by **RSA 155-E:2(1)(d)**, shall comply within sixty (60) days upon passage of this section.
- 19.11.E.2. Existing sand and gravel or other extractive operations specifically not exempted by **RSA 155-E** must conform to this ordinance with respect to any enlargement of the area on which such operations are conducted.
- 19.11.E.3. The criteria for determining whether an operation is exempt shall be in accordance with existing case law which shall include the following:
  - 19.11.E.3.a. Proof that excavation activities were actively being pursued at the effective date of this ordinance;
  - 19.11.E.3.b. Proof that the area to be excavated was clearly intended to be excavated as measured by objective manifestations of intent; and
  - 19.11.E.3.c. Proof that continued operations will not have a substantially different or adverse impact on the neighborhood.

19.11.F. ADMINISTRATION.

- 19.11.F.1. Excavations that require a special permit, as provided in Subsection C above, shall be reviewed by both the Planning Board and the **Somersworth** Conservation Commission, The Planning Board shall either approve, conditionally approve, or disapprove a special permit only after it determines that the proposed excavation complies with the purpose of this regulation. In making such a determination, the Planning Board shall give consideration to the effects of such removal on surrounding property and the future usefulness of the premises upon completion of the project.

- 19.11.F.2. Prior to the Planning Board approving an application for an excavation permit, a public hearing shall be held within thirty (30) days of such application. Within twenty (20) days of said hearing, or any continuation thereof, the Planning Board shall render a decision approving or disapproving the application, giving reasons for a disapproval.
- 19.11.F.3. The Planning Board may require the applicant to post a bond or other such surety with the City in an amount approved by the Board or its **designee** as sufficient to guarantee conformity with the provisions of this section. A copy of the permit shall be prominently displayed at the excavation site or principle access thereto. A permit shall not be assignable or transferable without written prior consent of the Planning Board, The Planning Board may place a time limit upon any permit granted, which in no case shall exceed two (2) years, Renewals may be granted by the Planning Board for additional two (2) year periods provided the operation remains in compliance with the required operational conditions and no environmental hazard exist. Upon approving the permit, the Planning Board shall file with the Code Enforcement Officer a copy of the approved plan of operation, so that no removal may take place except in conformity with this section.
- 19.11.G. ENFORCEMENT.
- 19.11.G.1. The Code Enforcement Officer shall have the right to inspect such excavations, as he/she feels necessary and shall document the operation as seen necessary.
- 19.11.G.2. If the Planning Board or the Code Enforcement Officer finds that any of the requirements and standards established herein are in violation, the Code Enforcement Officer shall order the owner, in writing, to take the necessary steps to bring the extraction operation into compliance with the provisions of this ordinance. Such order shall be complied with, within the time period specified in the original notice to the owner. Where the owner fails to comply with the order of the Code Enforcement Officer, fines and penalties shall be invoked in accordance with **NH RSA 676:17**.
- 19.11.H. FEES.
- 19.11.H.1. The applicant(s) shall pay an application fee to cover the costs of the hearing, posting, publishing and mailing of notices and site inspections.
- 19.11.H.2. If the Board approves the application for a permit, or an amendment, or renewal of a permit, the applicant shall pay a fifty-dollar (\$50) excavation fee.
- 19.11.H.3. The Board may set inspection fees to cover the costs of subsequent site inspections.

## Section 12 Flood Plain District

- 19.12.A. APPLICABILITY. The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Strafford County, **New Hampshire**" dated **May 17, 2005 or as amended**, together with the Flood Insurance Rate Map Panels numbered 217, 218, 219, 238, 239, 310, 327, and 330 dated May 17, 2005 or as amended, which are declared to be part of this ordinance and are hereby incorporated by reference. <sup>2</sup>
- 19.12.B. REGULATIONS.
- 19.12.B.1. All proposed development in any special flood hazard areas shall require a permit.
- 19.12.B.2. The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
- 19.12.B.2.a. 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;
- 19.12.B.2.b. Be constructed with materials resistant to flood damage;
- 19.12.B.2.c. Be constructed by methods and practices that minimize flood damages; and
- 19.12.B.2.d. Be constructed with electrical, heating ventilation, plumbing, 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.
- 19.12.B.3. Where new and replacement water and sewer systems (including **on-site** systems) are proposed in flood-prone areas, the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage 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.
- 19.12.B.4. For all new or substantially improved structures located in Zones A, A1-30, the applicant shall furnish the following information to the Building Inspector:<sup>3</sup>
- 19.12.B.4.a. The as-built elevation (in relation to **NGVD**) of the lowest floor (including basement) and included whether or not such structures contain a basement;
- 19.12.B.4.b. If the structure has been flood proofed, the as built elevation (in relation to **NGVD**) To which the structure was flood-proofed; and

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<sup>2</sup>Amended 03/21/2005.

<sup>3</sup>Amended 12/11/2000.

- 19.12.B.4.c. Any certification of flood-proofing. The Building Inspector shall maintain for public inspection and shall furnish such information upon request.
- 19.12.B.5. The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334, as the same may be subsequently amended.<sup>1</sup>
- 19.12.B.6. 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 Environmental Services Department and submit copies of such notification to the Building Inspector. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector.
- Within the altered or relocated portion of any water course, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.
- Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements and other development are allowed within the designated Regulatory Floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Building Inspector shall obtain, review and reasonably utilize any floodway data available from a Federal, State or other source as criteria for requiring that development meet the floodway requirements of this section.
- Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zone A1-30<sup>1</sup> on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- 19.12.B.7. In special flood hazard areas, the Building Inspector shall determine the one hundred (100) year flood elevation in the following order of precedence according to the data available:
- 19.12.B.7.a. In Zone A1-30, refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM;<sup>1</sup>
- 19.12.B.7.b. In unnumbered A Zones the Building Inspector shall obtain, review and reasonably utilize any one hundred (100) year flood elevation data available from Federal, State, development proposals submitted to the community (example subdivisions, site approvals, etc.) or other source; and
- 19.12.B.8. The Building Inspector's one hundred (100) year flood elevation determination will be used as criteria for requiring in Zones A1-30, and A that:<sup>1</sup>

<sup>1</sup> Amended 12/11/2000.

- 19.12.B.8.a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; and
- 19.12.B.8.b. That all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
- 19.12.B.8.b.i Be flood-proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- 19.12.B.8.b.ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- 19.12.B.8.b.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.
- 19.12.B.8.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;
- 19.12.B.8.d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:
- 19.12.B.8.d.i. The enclosed area is unfinished or flood-resistant, useable solely for parking of vehicles, building access or storage;
- 19.12.B.8.d.ii. The area is not a basement; and
- 19.12.B.8.d.iii. Shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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 openings having a total net area of not less than one 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 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 floodwaters.
- 19.12.B.8.e. Recreational vehicles placed on site within Zone A1-30, shall either:
- 19.12.B.8.e.i. Be on the site for fewer than 180 consecutive days;<sup>1</sup>
- 19.12.B.8.e.ii. Be fully licensed and ready for highway use; or

<sup>1</sup>Amended 12/11/2000.

- 19.12.B.8.e.iii. Meet all the standards of Section 60.3(b)(1) of the National Flood Insurance Program and elevation and anchoring requirements for "Manufactured Homes" in Paragraph (c)(6) of Section 60.3.<sup>1</sup>
- 19.12.B.9. The following procedures shall be required for a variance from the provisions of this section:
- 19.12.B.9.a. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5;
- 19.12.B.9.b. If the applicant, upon appeals requests a variance as authorized by RSA 674:33,i(b), the applicant shall have the burden of showing in addition to the usual variance standards under State law:
- 19.12.B.9.b.i. That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense;
- 19.12.B.9.b.ii. 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; and
- 19.12.B.9.b.iii. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 19.12.B.9.c. The Zoning Board of Adjustment shall notify the applicant in writing that:
- 19.12.B.9.c.i. The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance coverage up to amounts as high as \$25 for \$100 of insurance coverage; and<sup>1</sup>
- 19.12.B.9.c.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.
- 19.12.C. DEFINITIONS. For the purposes of this section, certain terms are defined as provided below.
- 19.12.C.1. Area of Special Flood Hazard means the land in the floodplain within the City of Somersworth subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A or A1-30.<sup>1</sup>
- 19.12.C.2. Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.
- 19.12.C.3. Basement means any area of the building having floors upgrade (below ground level) on all sides.
- 19.12.C.4. Building: see Structure.
- 19.12.C.5. 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

<sup>1</sup>Amended 12/11/2000.

- 19.12.C.6. 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 operations.
- 19.12.C.7. Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- 19.12.C.7.a. The overflow of inland or tidal waters; and
- 19.12.C.7.b. The unusual and rapid accumulation or runoff of surface waters from any source.
- 19.12.C.8. FEMA means the Federal Emergency Management Agency.<sup>1</sup>
- 19.12.C.9. Flood Boundary and Floodway Map (FLOODWAY) is an official map of the community, on which the Federal Emergency Management Agency 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.
- 19.12.C.10. Flood Elevation Study means an examination evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i. e. mudflow) and/or flood-related erosion hazards.
- 19.12.C.11. Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the rise premium zones applicable to the community.
- 19.12.C.12. Flood Insurance Study; see Flood Elevation Study.
- 19.12.C.13. Flood Plain or Flood-Prone Area means any land area susceptible to being inundated by water from any source (see definition of Flooding).
- 19.12.C.14. Flood Proofing means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 19.12.C.15. Floodway: see Regulatory Floodway.
- 19.12.C.16. Functional 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 facilities, port facilities that are necessary for the loading and unloading of cargo or passengers', ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- 19.12.C.17. Highest Adjacent Grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

<sup>1</sup>Added 12/11/2000

- 19.12.C.18. Historic Structure means any structure that is:
- 19.12.C.18.a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements of individual listing on the National Register;
  - 19.12.C.18.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;
  - 19.12.C.18.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
  - 19.12.C.18.d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by:
    - 19.12.C.18.d.i An approved State program as determined by the Secretary of the Interior; or
    - 19.12.C.18.d.ii Directly by the Secretary of the Interior in states without approved programs.
  - 19.12.C.18.e. 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
  - 19.12.C.18.f. Mean Sea Level means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
  - 19.12.C.18.g. 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 flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.
  - 19.12.C.18.h Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
  - 19.12.C.18.i. 100-Year Flood: see Base Flood.
  - 19.12.C.18.j. Recreational Vehicle means a vehicle which is:
    - 19.12.C.18.j.i. Built on a single chassis;
    - 19.12.C.18.j.ii. 400 square feet or less when measured at the largest horizontal projection;

- 19.12.C.18.j.iii. Designed to be self propelled or permanently **towable** by a light duty truck; and
- 19.12.C.18.j.iv. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- 19.12.C.18.k. Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as **floodways** on the Flood Boundary and **Floodway** Maps
- 19.12.C. 18.1. Riverine means relating to, formed by or resembling a river (including tributaries), stream brook, etc.
- 19.12.C.18.m. Special Flood Hazard Area means an area having special flood, mudslide (i.e., **mudflow**) and/or flood-related erosion hazards, and shown on a FIRM as Zone A, A 1-30, (see Area of Special Flood Hazard).<sup>1</sup>
- 19.12.C.18.n. 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.
- 19.12.C.18.o. Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- 19.12.C.18.p. Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage **occurred.**<sup>2</sup>
- 19.12.C.18.q. Substantial Improvement means any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should be:
- 19.12.C. 18.q.i. The appraised value of the structure prior to the start of the initial repair or improvement, or

<sup>1</sup> Amended 12/11/2000

<sup>2</sup> Added 12/11/2000

19.12.C. 18.q.ii. In the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. 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 structure listed on the National Register of Historic Places, provided that the alteration will not preclude the structure's continued designation as a "historic structure".<sup>1</sup>

1912.C.18.r. 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 of coastal or riverine areas.<sup>1</sup>

## **Section 13 Riparian and Wetland Buffer District Ordinance**

### **Section 1. Title and Authority**

19.13.1.A. Title: This Ordinance shall be known as the “Riparian and Wetland Buffer District Ordinance” of the City of Somersworth, New Hampshire.

19.13.1.B. Authority: Pursuant to the authority granted by RSA 483-B:8, Municipal Authority; RSA 674:17 I., Purposes of Zoning Ordinances; RSA 674:21, Innovative Land Use Controls; this ordinance is hereby adopted by the City of Somersworth, New Hampshire to protect the public health, safety, and general welfare.

### **Section 2. Purpose**

19.13.2.A. The purpose of this ordinance is to protect the quality of surface waters and wetlands; to protect riparian and aquatic ecosystems; and to provide for the environmentally sound use of land resources.

19.13.2.B. The streams and rivers of Somersworth supply much of the water required by Somersworth citizens for their drinking water supply and other municipal and industrial uses. The Somersworth City Council finds that the protection of the surface waters and wetlands of Somersworth is vital to the health, safety and economic welfare of its citizens. It is the desire of Somersworth to protect and maintain surface water resources by implementing these regulations for the establishment, protection, and maintenance of a vegetated buffer adjacent to all surface water bodies and wetlands within our jurisdictional authority.

### **Section 3. Intent**

19.13.3.A. It is therefore the intent of this ordinance to establish a riparian and wetland buffer of regulated development and limited land use adjacent to all surface water bodies and wetlands in Somersworth to preserve the economic values, public benefits and environmental resources provided by buffers including:

- 19.13.3.A.1. Protecting public and private water supplies;
- 19.13.3.A.2. Trapping sediment and other pollutants in surface runoff;
- 19.13.3.A.3. Providing groundwater recharge through infiltration of runoff;
- 19.13.3.A.4. Promoting bank stabilization and reduce erosion;
- 19.13.3.A.5. Protect riparian wetlands;
- 19.13.3.A.6. Minimizing the impact of floods;
- 19.13.3.A.7. Maintain stream base flow;
- 19.13.3.A.8. Protecting wildlife habitat by providing shade from tree canopy;
- 19.13.3.A.9. Generally maintaining water quality; and
- 19.13.3.A.10. Providing scenic value and recreational opportunity.

## Section 4. Applicability

- 19.13.4.A. Riparian and Wetland Buffer District. The Riparian and Wetland Buffer District of the City of Somersworth, New Hampshire is an overlay district superimposed over the existing conventional zoning districts of the municipality. It includes within its boundary a protected shoreland on either side of all 1st, 2nd, 3rd and 4th order and higher rivers and streams, a protected shoreland adjacent to all surface waters, and a buffer to all wetlands located within the municipality. The Riparian and Wetland Buffer District does not apply to fire ponds and farm ponds as defined in this ordinance.
- 19.13.4.B. District Boundaries. The boundaries of the Riparian and Wetlands Buffer District (“the District”) shall encompass all land within a horizontal distance of 100 feet perpendicular from the reference line of any surface waters and wetlands as defined by this Ordinance. It is the responsibility of an applicant to fully identify and delineate on a property all surface waters and wetlands.
- 19.13.4.C. Interpretation of District Boundaries. Where uncertainty exists as to the exact location of district boundary lines, the Code Enforcement Officer or designee shall be the final authority as to boundary locations.
- 19.13.4.D. This ordinance shall apply to proposed development, structures, uses, activities and disturbance, and changes in use on all parcels of land within the Riparian and Wetland Buffer District unless otherwise specified in this Ordinance.
- 19.13.4.E. This ordinance shall apply to all timber harvesting activities not permitted under RSA 227:J.
- 19.13.4.F. This ordinance shall apply to surface mining operations except those operations that are operating in compliance with an approved permit from the City of Somersworth under Section XI Excavation of Earth Products.
- 19.13.4.G. This ordinance shall not apply to the following:
- 19.13.4.G.1. Agricultural operations that are covered by an approved Natural Resources Conservation Service (NRCS) conservation plan that includes the application of best management practices (BMPs).
- 19.13.4.G.2. Footpaths and trails composed of pervious materials and limited to six (6) feet in width with minimal removal of vegetation and configured in a manner that will not concentrate storm water runoff or contribute to erosion.

## Section 5. Definitions

- 19.13.5.A. For the purposes of this chapter, the terms “shoreland” and “riparian” shall be used interchangeably to refer to uplands connected to or immediately adjacent to the shoreline or bank of a stream, river, pond, lake or reservoir and adjacent to wetlands. The terms

“riparian buffer” shall refer to the shoreline, floodplain or upland area adjacent to surface waters and “wetland buffer” shall refer to the upland area adjacent to wetlands in the Riparian and Wetland Buffer District.

- 19.13.5.B. **Best Management Practices (BMPs)** - a proven or accepted structural, non-structural, or vegetative measure the application of which reduces erosion or sedimentation, stabilizes stream channels, or reduces peak storm discharge, or improves the quality of stormwater runoff, or diminishes the quantity of stormwater runoff flowing to a single location by using multiple BMPs at separate and dispersed locations. BMPs also include construction site maintenance measures such as removing construction debris and construction waste from construction sites and disposing of debris and waste appropriately in order to reduce contamination of stormwater runoff.
- 19.13.5.C. **Base flow** – the groundwater contribution to stream flow arising from submerged springs and seeps.
- 19.13.5.D. **Canopy** – the more or less continuous vegetative cover formed by tree crowns in a wooded area.
- 19.13.5.E. **Development** is defined as:
- 19.13.5.E.1. The improvement of property for any purpose involving building;
- 19.13.5.E.2. Subdivision or the division of a tract or parcel of land into two or more parcels excluding condominium conversions; and,
- 19.13.5.E.3. The preparation of land for any of the above purposes.
- 19.13.5.F. **Disturbance** – an activity in which natural vegetation is removed, soil is exposed, removed, or the land surface is altered.
- 19.13.5.G. **Farm Pond** – a depression made in the land surface or constructed with berms, usually made of earth, to detain water for irrigation, waterfowl, other farm uses or activities, or for recreation.
- 19.13.5.H. **Fire Pond** - a depression made in the land surface or constructed with berms, usually made of earth, used to store water for the purpose of fire suppression or prevention.
- 19.13.5.I. **First Order Streams** – are intermittent and perennial streams identified as either dashed lines or solid lines on the New Hampshire Hydrography Dataset (NHHD) or the most recent edition of USGS topographic maps, where mapped.
- 19.13.5.J. **Ground Cover** – any herbaceous or woody plant which normally grows to a mature height of 2 feet or less, especially mat forming vegetation which stabilizes the soil.
- 19.13.5.K. **Headwater Streams** – intermittent streams and perennial streams of first and second order.
- 19.13.5.L. **Impervious Surface** – any areas covered by material that cannot absorb water or effectively infiltrate water into the soil. Examples of impervious surfaces include buildings, roofs, decks, patios, and paved, and gravel or crushed stone driveways, paths, parking areas, and walkways.
- 19.13.5.M. **Lot of Record** – a legally created parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.
- 19.13.5.N. **Natural Vegetation** – trees, shrubs, herbaceous plants and other woody plants.
- 19.13.5.O. **Non-Conforming Lot** – a single lot of record, which, at the effective date of adoption or amendment of this Ordinance, does not meet the dimensional requirements of the district in which it is located or a lot that does not meet the requirements of this ordinance.
- 19.13.5.P. **Non-Conforming Structure** – a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is

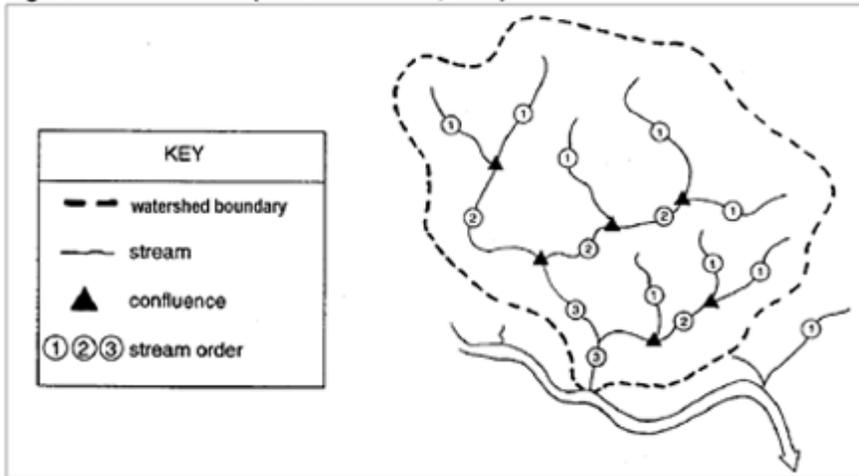
allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments take effect, or a structure that does not meet the requirements of this ordinance

- 19.13.5.Q. **Non-Conforming Use** – use of buildings, structures, premises, land or parts therefore which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments take effect, or a use that does not meet the requirements of this ordinance
- 19.13.5.R. **Nonpoint Source Pollution** - pollution that is generated by various land use activities rather than from an identifiable or discrete source, and that is conveyed to waterways through natural processes, such as rainfall, stormwater runoff, or groundwater seepage rather than by direct discharges.
- 19.13.5.S. **Ordinary High Water Mark** - the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.
- 19.13.5.T. **Reference Line** – is defined by this Ordinance as follows:
- 19.13.5.T.1. for natural fresh water bodies without artificial impoundments, the natural mean high water level (including the natural mean high water level for waterbodies as determined by the NH Department of Environmental Services in the List of Public Waters published by the Department pursuant to RSA 271:20.II.);
- 19.13.5.T.2. for artificially impounded fresh water bodies with established flowage rights, the limit of the flowage rights, and for water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest;
- 19.13.5.T.3. for third and fourth order and higher rivers and streams, the ordinary high water mark;
- 19.13.5.T.4. for first and second order streams, the extent of the defined channel; and
- 19.13.5.T.5. for wetlands as defined by this ordinance, the edge of wetlands
- 19.13.5.U. **Riparian and Wetland Buffer** - a vegetated area, including trees, shrubs, and herbaceous vegetation that exists or is established to protect a stream, river, lake, pond, reservoir, or wetland.
- 19.13.5.V. **Setback** – the horizontal distance from the reference line of a water body to the nearest part of a structure, road, parking space or other regulated object or area.
- 19.13.5.W. **Shoreland** – the area of land adjacent to the reference line of a stream, river, pond, lake, or other similar body of water.
- 19.13.5.X. **Stream, Ephemeral** – a drainage feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent stream.
- 19.13.5.Y. **Stream, Intermittent** – a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the conveyance of water. Intermittent streams (or portions thereof) are portrayed as dashed blue lines on a USGS topographic map, where mapped.
- 19.13.5.Z. **Stream, Perennial** - a stream that normally flows year round because it is sustained by

groundwater discharge as well as by surface water. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water. Perennial streams (or portions thereof) are portrayed as solid blue lines on a USGS topographic map, where mapped.

- 19.13.5.AA. **Stream Order** - a classification system for streams based on stream hierarchy based on the number of tributaries. The higher up in the watershed and the smaller the stream, the lower its numerical classification. For example, a first-order stream does not have tributaries and is a headwaters stream that originates from concentrated overland flow, springs and/or seeps. (See Figure 1.)

Figure 1: Stream Order (Source: Schueler, 1995)



- 19.13.5.AB. **Stream or River** – means a free-flowing body of water or segment or tributary of such water body (RSA 483:4, XVII.)
- 19.13.5.AC. **Structure** – anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on, at grade, or in the ground, excluding fences. The term includes structures temporarily or permanently located, such as but not limited to decks, patios, satellite dishes, stormwater management facilities, driveways, septic systems and parking lots.
- 19.13.5.AD. **Stormwater or Surface Water Runoff** – water that flows over the surface of land resulting from rainfall or snowmelt. Surface water enters streams and rivers to become channelized stream flow.
- 19.13.5.AE. **Stormwater Management Plan** – an analysis and plan designed in accordance with rules adopted by the NH DES under RSA 541-A for terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.
- 19.13.5.AF. **Surface Waters and Water Bodies** – those portions of waters of the state as defined by RSA 482-A:4, which have standing water or flowing water at or on the surface of the ground. This includes but is not limited to rivers, streams, lakes, and ponds (Env-Wt 101.88).
- 19.13.5.AG. **Surface Water Pollution** - contamination of surface water by introduction of sediment, nutrients, toxicants, chemicals, pesticides or fertilizer derived from a land use, activity or point source.
- 19.13.5.AH. **Vernal Pool** – an ephemeral shallow surface water body in a depression that lacks a permanent outflow, fills with water seasonally (mostly during spring and early summer),

and generally dries out for most of the year. (adapted from U.S. Fish & Wildlife Service and Vernal Pools: Natural History and Conservation by Elizabeth A. Colburn, 2004).

- 19.13.5.AI. **Water Dependent Use or Structure** – a use or structure that services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to a dock, pier, breakwater, beach, boathouse, retaining wall, or launching ramp. Hydroelectric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent structures; however, these uses are exempt from the requirements of this Ordinance.
- 19.13.5.AJ. **Wetland** - an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions (RSA 482-A:2). For the purpose of this ordinance, vernal pools shall be included in this definition.

## Section 6. Riparian Buffer and Wetland Buffer Requirements

- 19.13.6.A. The riparian buffer and wetland buffer shall consist of a strip of land extending 100 feet perpendicular from the reference line and along the full boundary of all surface water bodies and wetlands. As described in Section VI.B., the riparian and wetland buffer width shall be adjusted to include contiguous areas such as steep slopes or erodible soils, where development or disturbance may adversely affect surface waters and wetlands.
- 19.13.6.B. The riparian buffer and wetland buffer width shall be modified if steep slopes are within close proximity to or drain into surface water bodies and wetlands. In those cases, the riparian and wetland buffer width shall be expanded to include all contiguous slopes greater than 20 percent as measured over a 10-foot horizontal interval.
- 19.13.6.C. **Vegetated Buffer.** The following standards apply to maintenance of a vegetated buffer:
  - 19.13.6.C.1. The vegetated buffer shall be those protected shorelands within 0 to 50 feet of the reference line of all streams, lakes, ponds and wetlands. The purpose of this buffer shall be to protect the quality of public waters while allowing property owner discretion with regard to water access, safety, viewscape maintenance, and lot design.
  - 19.13.6.C.2. Within the vegetated buffer all of the following prohibitions and limitations shall apply:
    - 19.13.6.C.2.a. No chemicals, including pesticides of any kind or fertilizers of any kind except those specified in RSA 483-B:9, II(d) as amended from time to time, shall be applied.
    - 19.13.6.C.2.b. Rocks and stumps and their root systems shall be left intact in the ground.
    - 19.13.6.C.2.c. No natural ground cover shall be removed except as necessary for a foot path to water as provided herein.
  - 19.13.6.C.3. Starting from the northerly or easterly boundary of the property, and working along the shoreline, the vegetated buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree and sapling score of at

least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in the partial segment shall be proportional to that required of a full segment.

- 19.13.6.C.3.a. Tree and sapling diameters shall be measured at 4½ feet above the ground and are scored as follows:

Diameter	Score
1 inch to 6 inches	1
greater than 6 inches to 12 inches	5
greater than 12 inches	10

- 19.13.6.C.3.b. Dead, diseased, or unsafe trees or saplings shall not be included in scoring.
- 19.13.6.C.3.c. If the total tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then trees and saplings may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than 50 points. Trees and saplings may be removed from partial segments provided that the sum of the scores for the remaining trees and saplings in that partial segment is equal to or greater than the proportional point requirement.

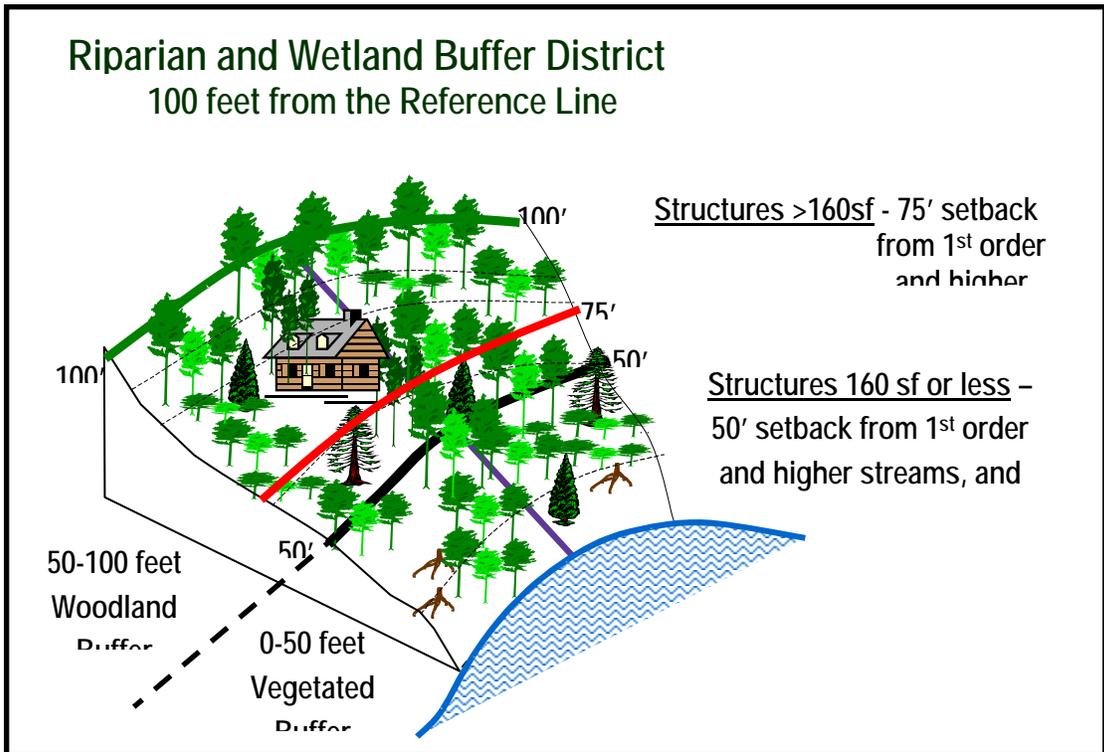
- 19.13.6.C.3.d. Any action that would result in a combined tree and sapling score less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the combined tree and sapling score where the segment does not initially meet the minimum score is not permitted.

- 19.13.6.C.3.e. Where the Planning Board, after review and comment by the Conservation Commission, determines that an analysis of the tree points on the property is not necessary to determine the merits of an application, it may waive the requirement that an applicant undertake such an analysis. Any waiver shall be provided in writing and shall be included in the application for a Conditional Use permit.

- 19.13.6.C.3.f. Owners of lots that were legally developed prior to the effective date of this ordinance may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the vegetated buffer. Conversion to or planting of cleared areas with native species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements.

- 19.13.6.C.4 Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views is permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom 1/2 of the trees or saplings.

- 19.13.6.C.5. When necessary for the completion of water-dependent construction activities, a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction.



- 19.13.6.D. Woodland Buffer. A natural woodland buffer shall be maintained from 50 to 100 feet of the reference line. The purpose of the natural woodland buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland. The following standards apply to maintenance of a woodland buffer:
- 19.13.6.D.1. At least 50 percent of the area outside of impervious surfaces shall be maintained in an undisturbed state. Owners of lots legally developed prior to the effective date of this ordinance that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an undisturbed state, except as may be required as part of a Conditional Use Permit. The percentage of area maintained in an undisturbed state on nonconforming lots shall not be decreased.
  - 19.13.6.D.2. Dead, diseased, or unsafe, trees, saplings, or shrubs that pose an imminent hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to the natural woodland buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.
  - 19.13.6.D.3. Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.
  - 19.13.6.D.4. Native species planting efforts that are beneficial to wildlife are encouraged.
- 19.13.6.E. The total area of impervious surface on any lot or portion of a lot within the Riparian and

Wetland Buffer District shall not exceed ten percent (10%). The percent impervious surface area shall be calculated based on the area of any parcel or lot located within the Riparian and Wetland Buffer District.

- 19.13.6.F. **Setbacks for Structures.** Within the Riparian and Wetland Buffer District, structures shall be located a minimum distance of 75 feet from the reference line of all first order and higher streams, lakes, ponds, reservoirs and wetlands. Structures of 160 square feet or less shall be located a minimum distance of 50 feet from the reference line of all first order and higher streams, lakes, ponds, reservoirs and wetlands.
- 19.13.6.G. All stormwater runoff from residential and commercial development must be treated before discharge within the Riparian and Wetland Buffer District in accordance with the standards of the City of Somersworth Site Plan Regulations and Subdivision Regulations.
- 19.13.6.H. A site plan, in accordance with the requirements of Section VIII, shall be submitted to the Code Enforcement Officer with all applications for a building, grading or clearing permit or other disturbance proposed within the Riparian and Wetland Buffer District.
- 19.13.6.I. Any development activities on any properties determined by the NHDES to be exempt from the requirements of the Comprehensive Shoreland Protection Act shall be required to secure a Conditional Use Permit from the Somersworth Planning Board in accordance with the provisions herein. The Planning Board shall have the authority to approve a Conditional Use Permit for these properties where full compliance with these provisions is impractical provided the Planning Board finds all the following criteria have been met:
  - 19.13.6.I.1. The proposed use is consistent with the stated purpose and intent of the district;
  - 19.13.6.I.2. All reasonably feasible measures have been taken by the applicant to protect adjacent surface waters and wetlands from adverse affects;
  - 19.13.6.I.3. All reasonably feasible measures have been taken by the applicant to comply with the provisions herein; and,
  - 19.13.6.I.4. A written recommendation on the proposal has been submitted by the Conservation Commission;
- 19.13.6.J. All municipal projects are exempt from the requirements of this ordinance.

## **Section 7. Riparian and Wetland Buffer District Regulations**

- 19.13.7.A. Prohibited Uses, Structures and Activities The following uses, structures and activities are prohibited within the Riparian and Wetland Buffer District:
  - 19.13.7.A.1. Establishment or expansion of salt storage yards, automobile junk yards and solid or hazardous waste facilities.
  - 19.13.7.A.2. Establishment or expansion of animal feedlot operations, dry cleaning establishments, and automobile service and repair shops.
  - 19.13.7.A.3. Laundry/car wash establishments not on municipal or public sewer.
  - 19.13.7.A.4. Disposal or land application of bio-solids, including septage, sewage sludge, animal

manure.

- 19.13.7.A.5. Subsurface disposal of pollutants from sewage treatment facilities, other than on-site septic systems.
- 19.13.7.A.6. Storage of hazardous waste and substances (as defined under RSA 147-A), including but not limited to road salt, de-icing chemicals, herbicides, pesticides, or fertilizer. Limestone may be used within 25 feet of the reference line of any property.
- 19.13.7.A.7. Twenty-five to one-hundred (100) feet beyond the reference line, only low phosphate, slow release nitrogen fertilizer or limestone may be used on lawns or areas with grass.
- 19.13.7.A.8. Bulk or temporary storage of chemicals above or below ground.
- 19.13.7.A.9. Bulk or temporary storage of petroleum products or hazardous materials above or below ground, excluding normal residential or business use of liquid petroleum products and heating fuels for on-premise use.
- 19.13.7.A.10. Sand and gravel excavations (as defined in RSA 155-E).
- 19.13.7.A.11. Mining or the processing of excavated materials.
- 19.13.7.A.12. Dumping or disposal of snow and ice collected from roadways or parking areas from outside the district.
  
- 19.13.7.B. Conditional Uses in the Riparian and Wetland Buffer District Any development, land clearing, removal of vegetation, grading, or alteration of the land surface within the Riparian and Wetland Buffer District shall require a Conditional Use Permit from the Planning Board unless specifically exempted from these provisions. The Planning Board may grant a Conditional Use Permit, concurrently with site plan or subdivision approval or before issuance of a building permit, after proper public notice and public hearing for the following uses and activities within the District:
  - 19.13.7.B.1. The undertaking of a use not otherwise permitted by right or exemption in the District, which may include the erection of a structure, dredging, filling, drainage or otherwise altering the surface configuration of the land.
  - 19.13.7.B.2. Any waiver or variance granted by the state from the requirements of the Comprehensive Shoreland Protection Act.
  - 19.13.7.B.3. Roads, driveways, bridges, access ways, and utilities in accordance with the following standards:
    - 19.13.7.B.3.a. The applicant shall be required to provide an analysis to ensure that no feasible alternative is available to avoid or minimize impacts to the riparian and wetland buffer.
    - 19.13.7.B.3.b. The right-of-way should be the minimum width needed to allow for maintenance and installation of an access way or utility right of way.
    - 19.13.7.B.3.c. The angle of the crossing shall be perpendicular to the riparian and wetland buffers in order to minimize clearing requirements and shall be located to minimize overall disturbance to the buffer.
    - 19.13.7.B.3.d. The minimum number of road crossings should be used within each subdivision, to provide access.
  - 19.13.7.B.4. Marinas developed in accordance with the following requirements:
    - 19.13.7.B.4.a. Minimum shoreland frontage shall be 300 feet with an additional 25 feet of shoreland frontage per boat slip.
    - 19.13.7.B.4.b. Off street parking shall be provided at a rate of 360 square feet per parking

- space.
- 19.13.7.B.4.c. Submission of an environmental impact study including measures to mitigate potential negative impact on the adjacent waters, including but not limited to:
- 19.13.7.B.4.c.i. Measures to prevent leakage or spills of fuels, lubricants, wastewater and other potential pollutants into the public waters;
- 19.13.7.B.4.c.ii. Assurances that impact on wetlands and other related sensitive areas have been avoided.
- 19.13.7.B.4.d. Submission of a site plan which includes locations of rest rooms, buildings, parking areas and all related support facilities with assurances that these facilities shall be permanently available to the project.
- 19.13.7.B.4.e. Receipt of a wetland permit from NH DES.
- 19.13.7.B.5. Water dependent uses and structures including, but not limited to, docks, wharves, boat ramps, etc. A Conditional Use Permit shall be approved only in accordance with the following requirements:
- 19.13.7.B.5.a. The use is in keeping with the purpose and intent of this Ordinance.
- 19.13.7.B.5.b. The least impacting route and methodology for the use have been selected as the best practicable alternative.
- 19.13.7.B.5.c. Canopies and seasonal covers extend only over the boat slips and shall be removed during the non-boating season.
- 19.13.7.C. Conditional Use Permit Applications.
- 19.13.7.C.1. Before the Planning Board undertakes a conditional use review, the applicant shall make application, on forms provided in the Department of Development Services, to the Conservation Commission for review and comment. The Planning Board shall review and make part of the record any comments or recommendations from the Conservation Commission with regard to the request for a conditional use.
- 19.13.7.C.2. The Planning Board may attach such conditions to the granting of a conditional use permit as it deems necessary to carry out the purposes of the Riparian and Wetland Buffer Ordinance. Such conditions may include but shall not be limited to:
- 19.13.7.C.2.a. Erosion control measures;
- 19.13.7.C.2.b. Modifications in project design to maintain natural hydrologic conditions of surface water bodies and wetlands, riparian and wetland buffers, and circulation of waters;
- 19.13.7.C.2.c. Dedication of easements to protect surface water bodies and wetlands, and riparian and wetland buffers;
- 19.13.7.C.2.d. Modification of waste disposal and water supply facilities;
- 19.13.7.C.2.e. Limitations on the total portion of any lot within the District that may be graded, filled or otherwise altered;
- 19.13.7.C.2.f. Requirements that structures be elevated on piles or otherwise protected from natural hazards; and
- 19.13.7.C.2.g. Planting or replanting of vegetation within the District and construction of new surface water bodies or wetlands equivalent to damaged or destroyed areas.
- 19.13.7.C.3. All applications for a Conditional Use Permit shall be accompanied by a site plan in accordance with the requirements of Section VIII.
- 19.13.7.C.4. The Planning Board shall act on a conditional use application within thirty (30) days

of the close of the public hearing. Except where additional information is required by the Planning Board, then such action may be extended by ninety (90) days. In acting on the application the Planning shall, in writing, deny, approve, or conditionally approve the proposed activity.

## **Section 8. Site Plan Requirements**

- 19.13.8. A. For all development proposed within the Riparian and Wetland Buffer District, a site plan shall be submitted and include an informative, conceptual, and schematic representation of the proposed activity by means of maps, graphs, charts, or other written or drawn documents so as to enable the Planning Board an opportunity to make a reasonably informed decision regarding the proposed activity.
- 19.13.8.B. All plans submitted and prepared for recording and all right-of-way plans shall clearly:
- 19.13.8.B.1. Show the extent of any forest buffer on the subject property;
- 19.13.8.B.2. Label all riparian and wetland buffers;
- 19.13.8.B.3. Provide a note to reference any riparian and wetland buffer stating "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the local and state regulations"; and
- 19.13.8.B.4. Provide a note to reference any protective covenants governing riparian and wetland buffers areas (if applicable stating: "Any riparian and wetland buffer shown hereon is subject to protective covenants that may be found in the land records and that restrict disturbance and use of these areas."
- 19.13.8.C. For all development proposed within the Riparian and Wetland Buffer District, a site plan shall be submitted and contain the following information:
- 19.13.8.C.1. A location or vicinity map;
- 19.13.8.C.2. The scale of plans should be 1"=50' to 1"=100' scale to provide sufficient detail of the project site and its features;
- 19.13.8.C.3. Field delineated and surveyed streams, springs, seeps, bodies of water, and wetlands (include a minimum of 200 feet into adjacent properties) with the direction of flow shown;
- 19.13.8.C.4. Field delineated and surveyed riparian and wetland buffers, with plans signed and stamped by a certified wetland scientist and a licensed professional surveyor;
- 19.13.8.C.5. Limits of the 100-year floodplain
- 19.13.8.C.6. Hydric soils mapped in accordance with the NRCS soil survey of the site area;
- 19.13.8.C.7. Slopes greater than 20 percent as measured over a ten foot interval for all lands within the Riparian and Wetland Buffer District;
- 19.13.8.C.8. Tree inventory in accordance with the standards of Section VI; and
- 19.13.8.C.9. A narrative of the species and distribution of existing vegetation within the buffer.
- 19.13.8.D. For all projects approved under a Conditional Use Permit, permanent markers in the form of signage approved by Planning Board shall be placed at the edge of the vegetated buffer to delineate the boundary. Markers shall be installed prior to any site work unless otherwise specified by the Planning Board.

## Section 9 Riparian and Wetland Buffer Management and Maintenance

- 19.13.9.A. Within the District, riparian and wetland buffers shall be managed to enhance and maximize the unique value of the resource. Management includes specific limitations on alteration of the natural conditions of these resources. The following structures, practices, and activities are permitted in riparian and wetland buffers without the need to obtain a Conditional Use permit:
- 19.13.9.A.1. Tree pruning, including the removal of dead, diseased, unsafe, or fallen trees, saplings, shrubs is permitted. Individual trees that are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the stream may be removed; however the required point score within the vegetated buffer shall be maintained (refer to the requirements of Section VI.C).
- 19.13.9.A.2. Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.
- 19.13.9.A.3. Planting and reforestation efforts to restore the natural vegetation is encouraged.
- 19.13.9.A.4. Stream restoration projects, facilities and activities approved by the state are permitted.
- 19.13.9.A.5. Water quality monitoring and stream gauging are permitted, as approved by the state.
- 19.13.9.A.6. Other timber cutting techniques may be undertaken under the advice and guidance of a state or federal forestry agency or the Natural Resource Conservation Service if necessary to preserve the forest from extensive pest infestation, disease infestation, or threat from fire.
- 19.13.9.A.7. No mechanized logging, no clear cutting of trees, and no removal of rocks or stumps, and no cutting or removal of vegetation or natural ground cover below three (3) feet in height shall be permitted with the exception of forest management that is not associated with shoreland development or land conversion, and is conducted in compliance with RSA 227-J:9 and a Notification of Forest Management or Timber Harvest Activities having Minimum Wetlands Impact Form (or its subsequent equivalent if there is a name change) has been submitted to the New Hampshire Department of Environmental Services.<sup>1</sup>
- 19.13.9.B. Riparian and wetland buffers may be allowed to grow into a vegetated state through natural regeneration, but methods to enhance the successional process such as active reforestation may be used when deemed necessary by the Somersworth Planning Board to ensure the preservation and propagation of the buffer area. Forest buffer areas may also be enhanced through reforestation or other growth techniques as a form of mitigation for achieving buffer preservation requirements.

## Section 10. Non-Conforming Lots, Uses and Structures

- 19.13.10.A. General Purpose. It is the intent of this Ordinance to promote the conforming use of land located within the Riparian and Wetland Buffer District, except that non-conforming lots, structures and uses that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements as set forth in this section. Except as otherwise provided in this Ordinance, a non-conforming lot, use or structure shall not be permitted to become more non-conforming.

<sup>1</sup> Amended 04/04/2011.

- 19.13.10.B. Non-Conforming Lots. Non-conforming, undeveloped lots of record that are located within the Riparian and Wetland Buffer District shall comply with the following restrictions, in addition to any other requirements of the Somersworth Zoning Ordinance:
- 19.13.10.B.1. Except when otherwise prohibited by law, present and successive owners of an individual undeveloped lot may construct a building or structure on it, notwithstanding the provisions of this Ordinance.
- 19.13.10.B.2. Conditions may be imposed which, in the opinion of the Somersworth Planning Board, more nearly meet the intent of this Ordinance, while still accommodating the applicant's rights.
- 19.13.10.B.3. Building on non-conforming lots of record also include but not limited to docks, piers, boathouses, boat loading ramps, walkways, and other water dependent structures, consistent with this Ordinance.
- 19.13.10.C. Non-Conforming Uses. Existing uses, which are non-conforming under this ordinance, may continue until the use ceases to exist or the use is discontinued for a period of one year. Within the Riparian and Wetland Buffer District, an existing non-conforming use may not be changed to another non-conforming use and an existing nonconforming use may not be expanded. Existing non-conforming uses shall be required to meet the requirements of this ordinance to the maximum extent possible.
- 19.13.10.D. Non-Conforming Structures. Except as otherwise prohibited, non-conforming structures, erected prior to the effective date of this Ordinance or amendments thereto, located within the Riparian and Wetland Buffer District may be repaired, renovated, or replaced in kind using modern technologies, provided the result is a functionally equivalent structure. Such repair or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted. An expansion that increases the sewage load to an on-site septic system, or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it shall require NH DES approval. Between the primary building line and the reference line, no alteration shall extend the structure closer to the adjacent water body, except that the addition of a deck or open porch is permitted up to a maximum of 12 feet towards the reference line.
- 19.13.10.D.1. Any applicant requesting a variance shall meet with the Somersworth Conservation Commission prior to appearing before the Zoning Board of Adjustment. The Zoning Board of Adjustment may grant a variance from these provisions only after receipt of a written recommendation from the Conservation Commission.
- 19.13.10.D.2. All variance requests shall be accompanied by a conceptual plan depicting how the site could be developed in conformance with all provisions herein. The purpose of the conceptual plan will be to illustrate the potential of the parcel if it was required to be subject to all provisions of this ordinance.

## Section 12. Conflict With Other Regulations

- 19.13.11.A. Where the standards and management requirements of this buffer ordinance are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive shall apply. (Section 13- Replaced in its entirety 02/17/2009.)

## Section 14 Historic District<sup>4</sup>

- 19.14.A. **PURPOSE.** It is hereby declared as a matter of public policy that the recognition, preservation, enhancement and continued use of structures, sites, areas, and districts within the City of Somersworth having historic, architectural, cultural or design significance is required in the interest of the health, economic prosperity, cultural enrichment and general welfare of the community. The purposes of this ordinance are to:
- 19.14.A.1. Safeguard the heritage of Somersworth by providing for the protection of the structures and areas representing significant elements of its history;
- 19.14.A.2. Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles within Historic Districts reflecting unique and established architectural traditions;
- 19.14.A.3. Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;
- 19.14.A.4. Strengthen the economy of the City by protecting and enhancing the City's attractions to residents, tourists and visitors;
- 19.14.A.5. Stabilize and improve property values within the City; and
- 19.14.A.6. Promote the private and public use of structures and areas within Historic Districts for the education, prosperity and general welfare of the community.
- 19.14.B. **DESCRIPTION.** The Historic District is an overlay zoning district, meaning that it is a zoning district which is superimposed over other zoning districts. In all cases where the Historic District is superimposed over another zoning district, that district whose regulations are more restrictive shall apply.
- 19.14.C. **DISTRICT BOUNDARIES.** The location and boundaries of both the Hilltop Historic District and the Industrial and Commercial Historic District are hereby established as shown on a map entitled "Historic Districts, City of Somersworth, New Hampshire, January 1992", and as amended, which is hereby declared to be part of this ordinance.
- 19.14.D. **HISTORIC DISTRICT COMMISSION.** There is herein established a seven member Historic District Commission with the power and duties as set forth in New Hampshire Revised Statutes Annotated Chapter 674:46, as the same may be subsequently amended, and as may be needed to carry out the purposes of this section.
- 19.14.E. **SCOPE OF REVIEW.**
- 19.14.E.1. **Activities Requiring Review.** It shall be unlawful for any person to construct, alter, modify, repair, move or demolish any building, structure or improvement which lies within a Historic District without first obtaining a Certificate of Appropriateness from the Historic District Commission, or in the case of a project of minimal impact, the City Planner and the Building Inspector, in the manner prescribed in this section.

- 19.14.E.2. Exempt Activities. The following activities are not subject to review under this section.
- 19.14.E.2.a. Ordinary maintenance and repair of any architectural feature which does not involve a change in design, materials or outer appearance or involve removal thereof.
- 19.14.E.2.b. Painting or repainting of a building or structure in any color.
- 19.14.E.3. Projects of Minimal Impact. For the purpose of this section, the following activities shall be considered to be projects of minimal impact and shall be reviewed and approved, conditionally approved or disapproved by the Planner and the Building Inspector prior to the issuance of any building or demolition permit:
- 19.14.E.3.a. Erection, construction or repair of a fence, shed or garage provided the following criteria are met:
- 19.14.E.3.a.i. The exterior design, arrangement, texture and materials are compatible with the existing building or structure or if new construction, the surrounding area; and
- 19.14.E.3.a.ii. The scale and general size of the building or structure is compatible with the existing surroundings.
- 19.14.E.3.b. Alteration, including grading, excavating, tree removal and/or paving of a site, provided that the following criteria are met:
- 19.14.E.3.b.i. Parking areas, wherever possible, should be placed to the rear of buildings.
- 19.14.E.3.b.ii. Parking areas, wherever visible from the street, shall be screened by planting beds or hedges. Fences and low walls are also acceptable as long as they have **plantings** in front of them.
- 19.14.E.3.b.iii. The historic pattern of terracing shall be maintained. Landscape features shall be constructed to match the scale, texture and materials of existing elements; and
- 19.14.E.3.b.iv. Where appropriate, alterations of a site may be reviewed by the Chair of the Historic District Commission or his/her **designee**, the City Engineer, the Director of Public Works and/or the Conservation Commission.
- 19.14.E.3.c. Erection or alteration of a sign(s), provided the proposed **signage** adheres to the following criteria:
- 19.14.E.3.c.i. Signs shall fit within existing features of the facade. On most buildings, lintels or bands of decorative moldings create natural frames for signs.
- 19.14.E.3.c.ii. Projecting signs shall align with some horizontal element on the facade (i.e., top of sign aligns with top of window; bottom of sign aligns with bottom of window; bottom of sign aligns with top of lintel). Where possible, signs shall be aligned with other signs on adjacent buildings.
- 19.14.E.3.c.iii. Projecting signs shall be supported by black iron attachments to the building. Guy wires shall not be permitted as a principle sign support member. No support for the projecting sign shall extend above the cornice to which it is attached.
- 19.14.E.3.c.iv. Internally lighted signs shall be prohibited. Only shielded, indirectly lighted signs shall be permitted.

- 19.14.E.3.c.v. Traditional materials, such as wood, glass, bronze or iron shall be used. Plastic, aluminum, and vinyl are prohibited unless it can be demonstrated that their use is historically consistent with the architecture of the building.
- 19.14.E.S.c.vi. Signs on residential buildings should be mounted on the building itself near entry doors and in higher than the top of first floor elements. The size shall not be greater than one square foot. Exterior lighting is prohibited.
- 19.14.E.3.d. Siding or residing of structures provided that exterior architectural features (exclusive of existing siding material) are not removed, destroyed or covered and provided that the siding is similar in style and appearance to the original construction;
- 19.14.E.3.e. Storm doors or windows provided the size and shape of the opening of the replaced door or window remains the same and original architectural features are not removed, covered or destroyed. Storm doors and screen doors shall have plain stiles, rails and panels and shall not have false "historical" hardware; and
- 19.14.E.3.f. Essential outdoor mechanical equipment (ducts, fans, solar panels, etc.) provided they are installed in locations which create the least disturbance to the historical appearance of the building and which involve the minimum alteration to its structural integrity.
- At the discretion of the Director of Planning and Economic Development, any application for a project of minimal impact that is not in clear **conformance** with the above-outlined guidelines shall be referred to the Historic District Commission for review and action.
- The Planner and the Building Inspector shall have the final authority to approve, conditionally approve or disapprove applications for projects of minimal impact. However, if the Planner and the Building Inspector are not in full agreement about the disposition of the application, the application shall be forwarded to the Historic District Commission for full review and action. Furthermore, the decision of the Planner and the Building Inspector may be appealed to the Historic District Commission provided that notice of the appeal is filed within ten (10) work days of the staff's decision.
- 19.14.E.4. Projects of Major Impact. Development activity not specifically listed as an exempt activity or as a project of minimal impact shall be considered a project of major impact and shall go through the review process of the Historic District Commission as outlined in the subsections below.
- 19.14.F. REVIEW CRITERIA. In making a determination on an application for a project of major impact, the Historic District Commission shall take into account the purposes of this Section and give consideration to the following:
- 19.14.F.1. The historical, architectural or cultural value of the building(s) or structure(s) and its relationship and contribution to the setting;

- 19.14.F.2. The compatibility of the exterior design, arrangement, texture and materials proposed to be used in relationship to the existing buildings or structures and its setting, or its new construction, to the surrounding area;
- 19.14.F.3. The scale and general size of the buildings or structures in relationship to existing surroundings, including consideration of such factors as the building's overall height, width, street frontage, number of stories, roof type, facade openings (windows or doors, etc.) and architectural details;
- 19.14.F.4. The impact that the applicants proposal will have on the setting and the extent to which it will preserve and enhance the historical, architectural and cultural qualities of the district and community. The Commission shall be guided by the following:
- 19.14.F.4.a. Every reasonable effort should be made to provide a compatible use which will require minimum alteration to the structure and its environment;
- 19.14.F.4.b. Rehabilitation work will not destroy the distinguishing qualities or character of the structure and its environment. The removal or alteration of any historic material **or** architectural features should be held to a minimum;
- 19.14.F.4.c. Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in design, texture and other visual qualities, Repair or replacement of missing architectural features should be based on physical or pictorial evidence, rather than on conjectural designs of the availability of different architectural features from other buildings;
- 19.14.F.4.d. Distinctive stylistic features or examples of skilled craftsmanship which characterize historic structures and often **pre-date** the mass production of building materials should be treated with sensitivity;
- 19.14.F.4.e. Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment and these changes should be recognized and respected;
- 19.14.F.4.f. All structures should be recognized as products of their own time. Alterations to create an earlier appearance should be discouraged;
- 19.14.F.4.g. Contemporary design for additions to existing structures should be encouraged if such design is compatible with the size. Scares material and character of the neighborhood, structures, or its environment; and
- 19.14.F.4.h. Wherever possible, new additions or alterations to structures should be done in such a manner that if they were removed in the future, the essential form and integrity of the original structures would be unimpaired.

- 19.14.G. FINDINGS. For a project of major impact, a building or demolition permit shall not be issued until and unless a Certificate of Appropriateness is issued by the Historic District Commission in accordance with the provisions of this section. At the conclusion of its review, the Historic District Commission shall issue in writing one of the following:
- 19.14.G.1. If in the opinion of a majority of Historic District Commission members present and voting the applicant's proposal meets the purpose of this section, then the Historic District Commission shall issue a Certificate of Appropriateness signed by the Chair together with any changes, conditions and/or stipulations necessary to secure the public health, safety and general welfare. After the issuance of this Certificate, the Building Inspector may issue any building, demolition or other permit for the approved project; or
- 19.14.G.2. If in the opinion of the majority of the Historic District Commission members present and voting the applicant's proposal does not meet the purposes of this section, then the Historic District Commission shall issue a Notice of Disapproval in writing together with the reasons for such decision signed by the Chair and the Commission. The issuance of a Notice of Disapproval shall prohibit the Building Inspector from issuing a building, demolition or other permit.
- 19.14.H. APPEALS.
- 19.14.H.1. Resubmittal. If the applicant's proposal is denied, the applicant may, and is encouraged to, make modifications to the proposed plans and shall have the right to **resubmit** the application at any time after so doing.
- 19.14.H.2. Appeal Process. Any person aggrieved by a decision of the Historic District Commission shall have the right to appeal, by filing a motion for rehearing before the Historic District Commission. Such an appeal when taken shall stay all proceedings in furtherance of the action appealed, unless the Historic District Commission shall certify that by reason of facts stated in a certificate issued by it, a stay would cause imminent peril of life or property.
- The appeal shall be made within thirty (30) days after the decision of the Commission. The 30-day time period shall be counted in calendar days beginning with the date upon which the Commission issued the decision.<sup>1</sup> After appeal, if said person or persons are

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<sup>1</sup> Passed 03/21/2005.

still aggrieved by the Historic District Commission. They have the right to appeal that decision to the Zoning Board of Adjustment or to pursue any other remedy accorded by State law.<sup>1</sup>

## Section 15 Sexually Oriented Businesses<sup>2</sup>

### 19.15.A. PURPOSE.

It is the purpose of this ordinance to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the City of Somersworth. It is the intent to promote the health, safety and general welfare of the citizens of the City of Somersworth; and it is the intent of this ordinance that the regulations be utilized to prevent problems of blight, deterioration of property and increased criminal activity which accompany and are brought about by the concentration of sexually oriented businesses. The provisions of this ordinance have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials; including sexually oriented materials and it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

### 19.15.B. DEFINITIONS.

For the purposes of this Section, the following definitions shall apply. A sexually oriented business is any place of business at which any of the following activities is conducted:

- 19.15.B.1. Adult Bookstore or Adult Video Store. A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following:
  - 19.15.B.1.a. Books, magazines, periodicals or other printed matter or photographs, films, tapes, records, CD ROMs or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual content" as set forth in RSA 371-B:1;
  - 19.15.B.1.b. Instruments, devices or paraphernalia which are designed for use in connection

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<sup>1</sup> Section 13 renumbered Section 14, 10/02/1995.

<sup>2</sup> Passed 2/28/94

with "sexual misconduct" as defined in [RSA 571-B:1](#), other than birth control devices; and an adult bookstore or adult video store does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock and trade and does not devote more than 15% of the total floor area of the establishment to the sale of books and periodicals.

19.15.B.2. Adult Motion Picture Theater. An establishment with a capacity of five or more persons where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown and which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in [RSA 571-B:1](#) for observation by patrons. For purposes of this ordinance, substantial portion of the total presentation time shall mean the presentation of films or shows described above for viewing on more than seven (7) days within any fifty-six (56) consecutive day period.

19.15.B.3. Adult Motion Picture Arcade. Any place to which the public is permitted or invited

Wherein coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images, to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images 50 displayed is devoted to the showing of material which meets the definition of harmful to minors and/or sexual conduct as set forth in [RSA 571 -B: 1](#).

19.15.B.4. Adult Cabaret. A nightclub, bar, restaurant or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in [RSA571-B:1](#); and/or feature films, motion pictures, [videocassettes](#), slides or other photographic reproductions, A substantial portion of the total presentation time of which is devoted to showing of materials which meets the definition of harmful to minors and/or sexual conduct as set forth in [RSA 571-B; 1](#).

- 19.15.C. LOCATION AND LOCATIONAL RESTRICTIONS. Sexually oriented businesses, as defined above, shall be permitted by special exception only in the Commercial/Industrial (C/I) District provided that all other regulations, requirements and restrictions for the district in which the sexually oriented business is to be located are met; and
- 19.15.C.1. No sexually oriented business shall be permitted within one thousand feet (1,000') of another existing sexually oriented business or one for which a building permit or Certificate of Occupancy has been applied for; and
- 19.15.C.2. No sexually oriented business shall be permitted within one thousand feet (1,000') of a parcel of land containing an existing residential use; and
- 19.15.C.3. No sexually oriented business shall be permitted within one thousand feet (1,000') of any parcel of land containing a church, school, kindergarten, licensed daycare and/or day nursery, State approved day care center or public park or recreation area; and
- 19.15.C.4. No sexually oriented business shall be permitted within one thousand feet (1,000') of the City boundaries; and
- 19.15.C.5. No sexually oriented business shall be permitted within the A, R-1, R-1A, R-2, R-2A, R-3, RMH, B, I, R/B, R/C, R/O, MY and R Districts; and
- 19.15.C.6. No sexually oriented business shall be permitted to occupy any location which does not have a landscaped bufferyard along the side and rear property lines which provides opaque screening between ground level and six feet above average lot grade at the time of planting. The minimum width of the bufferyard shall be fifteen feet.
- 19.15.D. MEASURE OF DISTANCE. The distance between any sexually oriented business and other named point of reference shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall or temporary or permanent physical divider between each of the uses. When the measurement of distances involves a geographic boundary, the point of reference shall be deemed the boundary.<sup>1</sup>

<sup>1</sup> Section 14 renumbered to section 15, 10/2/95

## Section 16 Recreational District<sup>1</sup>

- 19.16.A. PURPOSE. It is the purpose of this district to preserve areas so designated for active or passive recreation. The activities for which the Recreational District is provided are normally and primarily conducted in the open air while related accessory uses may be in the open air or in a building or structure.
- 19.16.B. PERMITTED USES.
- 19.16.B.1. Permitted Principal Uses and Structures
- 19.16.B.1.a. **Bikeways;**
- 19.16.B.1.b. Non-motorized boat ramp;
- 19.16.B.1.c. Golf courses (including private, semi-private or public)\*;
- 19.16.B.1.d. Golf driving range\*;
- 19.16.B.1.e. Picnic area;
- 19.16.B.1.f. Swimming pool;
- 19.16.B.1.g. Tennis, badminton, **volleyball**, croquet courts;
- 19.16.B.1.h. Horseback riding\*, hiking and cross country skiing trails;
- 19.16.B.1.i. Archery ranges;
- 19.16.B.1.j. Skating rink;
- 19.16.B.1.k. All open land or fields used for baseball, football, track and field or other athletic games; and
- 19.16.B.1.l. Community facilities/structures.
- \* Not permitted in Recreational District around **Willand Pond**.
- 19.16.B.2. Accessory Uses. Any accessory use, building or other facility customarily a part of the above principal uses and which does not change the character of the principal use.
- 19.16.C. PROHIBITED USES.
- 19.16.C.1. Any business or commercial use not permitted as a principal use, except where meeting the requirements of an accessory use.
- 19.16.C.2. Any industrial or manufacturing use.
- 19.16.C.3. Any residential use, unless part of an overall development plan where it is to be considered as a special exception.
- 19.16.C.4. Any street or roadway construction, except when used directly for ingress and egress or service to the recreational facility.
- 19.16.C.5. Any all-terrain motor vehicle use, including snowmobiles.
- 19.16.D. OFF-STREET PARKING REQUIREMENTS. Off-street parking shall meet all applicable requirements of Section 10.A. VEHICULAR CIRCULATION AND PARKING of Chapter 22A Site Plan Review Regulations.
- 19.16.E. LANDSCAPING.
- 19.16.E.1. All required yards and open spaces adjacent to streets and contiguous to residential property shall be planted and properly maintained with suitable **plantings** in the form

<sup>1</sup> Section 15 renumbered to section 16, 10/2/95

of grass, shrubs, hedges, ground covers, perennials and annuals and trees to present an attractive appearance appropriate to the neighborhood. Natural vegetation may be utilized where appropriate to satisfy this criterion.

- 19.16.E.2. Landscaping standards shall meet all applicable requirements of Section 19.C.5 of Landscaping Standards of this ordinance.
- 19.16.E.3. Where existing, a natural woodland buffer shall be maintained within 150 feet of the ordinary high water mark for rivers or the natural mean high water level for natural fresh water bodies. Within this natural woodland buffer, the following shall apply:
  - 19.16.E.3.a. Not more than a maximum of fifty percent (50%) of the basal area of trees and a maximum of fifty percent (50%) of the total number of saplings can be removed in a twenty (20) year period, a healthy well distributed stand of trees, shrubs, ground-covers shall be left in place;
  - 19.16.E.3.b. Trees, saplings, shrubs and ground-covers removed for building construction accessory structures, septic systems, roadways, pathways and parking areas are excluded when computing percentage limits;
  - 19.16.E.3.c. Dead, diseased, unsafe, noxious or fallen trees may be removed, and their removal shall not be used in computing the percentage limits;
  - 19.16.E.3.d. Stumps and their root systems located within fifty feet (50') of the water lines should be left intact;
  - 19.16.E.3.e. Replacement planting with native or naturalized species may be permitted to maintain the fifty percent (50%) level; and
  - 19.16.E.3.f. Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved and planting efforts that are beneficial to wildlife are also encouraged.
- 19.16.F. OUTDOOR STORAGE. Outdoor storage shall be limited to equipment and materials used for the maintenance of the facilities. Such storage shall be effectively screened from off-site public view.
- 19.16.G. LIGHTING. All lighting on the premises shall be so located and designed with appropriate shielding so that such lighting does not shine directly into nearby residences and in such a manner as to prevent glare from such lights upon driveways and public streets.
- 19.16.H. SIGNS.
  - 19.16.H.1. Each facility may display not more than two (2) signs.
  - 19.16.H.2. Signs in this district shall be made of materials appropriate for an outdoor recreation area.
  - 19.16.H.3. Sign dimensions shall conform to the requirements of Section 20.D.1 ,d of the Zoning Ordinance.
- 19.16.I. SUBMISSION AND APPROVAL OF PLANS. Submission and approval of plans for site plan review shall be required in accordance with Chapter 22A Site Plan Review Regulations.<sup>1</sup>

<sup>1</sup> Section 16 passed 01/10/1996.

## Section 17 Commercial Node District<sup>1 and 2</sup>

- 19.17.A. PURPOSE. It is the purpose of this district to permit the appropriate commercial use of property, while simultaneously preserving and protecting existing residential uses, for property located at and near the intersection of Blackwater Road, Indigo Hill Road and High Street.
- 19.17.B. PERMITTED USES.
- 19.17.B.1. Permitted Principal Uses
- 19.17.B.1.a. Legally existing commercial uses, as of the effective date of this section of the ordinance, on properties located within the District;
- 19.17.B.1.b. Retail, commercial service and repair facilities; and
- 19.17.B.1.c. Professional and business offices.
- 19.17.2. Permitted Accessory Uses
- 19.17.2.a. Accessory uses customarily incidental to a permitted use on the same premises.
- 19.17.C. DISTRICT REGULATIONS. Whenever a permitted use, other than residential; or a permitted change of use, either from one commercial use to another, or from a residential use to a commercial use; or an expansion of an existing commercial use occurs, the following requirements shall be implemented:
- 19.17.C.1. Off Street Parking-Driveway Requirements 19,17.C.1.a.
- 19.17.C.1.a. Off-street parking shall meet all applicable requirements of this ordinance.
- 19.17.C.1.b. No new driveways shall be permitted less than 150 feet from street intersections, except in cases where adjacent properties can utilize shared driveways. In such cases, the driveway midpoint should be the property line between the two parcels. The driveway must meet the standard specifications of this ordinance.
- 19.17.C.2. Landscaping
- 19.17.C.2.a. Along any portion of the property which abuts a single or two-family residential use, a landscaped strip, at least twenty (20) feet wide, shall be located between any paved area and/or structure and the abutting property lines, except where a driveway or other essential openings are required. At a minimum, the landscaped strip shall consist of a wooden stockade type fence, at least six (6) feet in height, screened on the residential side with a dense hedge planted, at a minimum, between the heights of three (3) feet and six (6) feet above average lot grade.
- 19.17.C.2.b. Service yards, trash receptacles, storage areas, utility equipment and other similar accessory structures and uses shall be screened from public view with materials harmonious with the building or they shall be so located as not to be visible from any public ways or abutting residential properties.
- 19.17.C.2.c. Between vehicular use areas and any adjacent public street, sidewalk or right-of-way, a landscaped area at least one-half {Vz} the required building setback shall be required, except where a driveway or other essential opening occurs. Suitable plantings shall be a combination of grass, shrubs, hedges, ground covers, perennials, annual and trees.

<sup>1</sup>Passed 2/21/95

<sup>2</sup>Section 16 renumbered to section 17,1/10/96

- 19.17.C.2.d. All **plantings** required by this subsection shall be installed according to accepted horticultural standards and shall be regularly maintained. Required plantings shall be replaced as necessary, in order to maintain compliance with these zoning regulations.
- 19.17.C.3. Lighting
- 19.17.C.3.a. All lighting on the premises shall be located and designed with appropriate shielding so that such lighting does not shine directly into nearby residences and in such a manner as to prevent glare from such lights. Off site illumination to adjacent properties shall not exceed 0.2 foot candles as measured at the property line.
- 19.17.C.3.b. Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.
- 19.17.C.3.c. Lighting poles and structures shall be appropriately scaled and styled for the project. In no case shall be pole height exceed twenty (20) feet.
- 19.17.C.4. Signs
- 19.17.C.4.a. Signs shall be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings on which they are placed. Sign panels and graphics shall relate to and not cover architectural features and shall be in proportion to them.
- 19.17.C.4.b. Layout shall be orderly and graphics shall be of simple shape, such as rectangle, circle or oval.
- 19.17.C.4.c. The colors, materials and lighting of every sign shall be restrained and harmonious with the building and the site on which it is to be placed.
- 19.17.C.4.d. All **signage** within a multi-tenant building shall be coordinated by using similar materials, letter styles, colors and overall sign sizes to ensure sign continuity and a uniform appearance throughout the site.
- 19.17.C.4.e. Sign sizes and location shall conform to the requirements of Section 20. **D. 3** of the Zoning Ordinance.
- 19.17.C.5. Submission and Approval of Plans. Submission and approval of plans for site plan review shall be required in accordance with Chapter 22A SITE PLAN REVIEW REGULATIONS.<sup>1</sup>

Section 16 renumbered to Section 17, and Section 17 renumbered to Section 18, 01/10/1996.

## Section 18 Fence Regulations

- 19.18.A. No fence shall be erected without a permit from the Building Inspector.
- 19.18.B. In residential districts, no fence shall be over four feet (4') in height in established front yard areas, but may be up to eight feet (8') in height from a point in line with the front of the house, around both sides and around the rear yard. The fence shall conform to the architectural style of the house.
- 19.18.C. On a corner lot, nothing shall be erected, planted, placed or allowed to grow within twenty feet (20') of a street line intersection which obscures the vision of drivers and creates a potentially serious safety hazard.<sup>1</sup>

## Section 19 Swimming Pool Regulations

- 19.19.A. APPLICABILITY. Any structure in the nature of a swimming pool, including appurtenances of a permanent nature, which is subject to year round exposure and is not of temporary and seasonal installation, shall be subject to the provisions of this ordinance.
- 19.19.B. PERMIT. A swimming pool shall be allowed provided that no construction, alteration, addition, remodeling or other improvements to a swimming pool shall be commenced without the receipt of a permit to construct or alter the same from the Building Inspector. The application for said permit shall be submitted in such form and be supported with such information and data as will provide the Building Inspector with the dimensions, including the length, width and depth of the pool and deck, and the sizes and location of all pipes, inlets, outlets, filters, pumps and chlorinators.
- 19.19.C. SETBACK REQUIREMENT. No swimming pool, temporary or permanent, shall be erected, constructed or installed within twelve feet (12') of the nearest lot line.<sup>2</sup>

<sup>1</sup> Section 16 renumbered to Section 17, 10/2/95 and Section 17 renumbered to Section 18, 1/10/96

<sup>2</sup> Section 17 renumbered to Section 18, 10/2/95 and Section 18 renumbered to Section 19, 1/10/96

## Section 20 Sign Regulations

19.20.A PURPOSE. The purpose of this section of the zoning ordinance is to promote and protect the public health, welfare and safety by regulating signage within the City of Somersworth.

The regulations are to encourage the use of signs which are:

19.20.A.1 Compatible with community character;

19.20.A.2 Clear and readable;

19.20.A.3 Non-disturbing for vehicular and pedestrian traffic;

19.20.A.4 Maintained in good and safe repair.

19.20.B DEFINITIONS. For the purposes of this section, certain terms are defined as provided below:

19.20.B.1 Sign: Any display of lettering, logos, colors, lights or illuminated neon tubes visible to the public from outside of a building or from a traveled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, excluding window displays and merchandise.

19.20.B.2 Accessory Motor Vehicle Sign: Any permanent or semi permanent placement of a motor vehicle, used in conjunction with a business, which displays signage that is affixed to the vehicle. For example, flexible magnetic signs affixed to the surface of the vehicle or a sign professionally painted on the surface of the vehicle are considered Accessory Motor Vehicle Signs. Signs placed in or on vehicles such as signs placed in the back of a pickup truck or on the top of a vehicle shall not be considered an Accessory Motor Vehicle Sign and are prohibited in all districts. Permanently mounted roof signs on vehicles that are actively used in a business (e.g. delivery service) shall be considered an Accessory Motor Vehicle Sign.

19.20.B.3 Awning: Any structure made of cloth or metal with a frame attached to a building or structure and projecting over a public way.

19.20.B.4 Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate, pulse, strobe, or move.

19.20.B.5 Banner Sign: Any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentation's applied to

paper, plastic or fabric of any kind. National flags, flags of political subdivisions and symbolic flags of any institution or business shall not be considered a banner for the purpose of this ordinance.

- 19.20.B.6            Billboard: A structure for the display of advertising posters.
- 19.20.B.7.            Building Frontage: That side of a building abutting on a street or parking area where the main business entrance is located.
- 19.20.B.8            Canopy: Any structure which projects over a public way other than an awning and which is attached to a building and is also supported by a frame or pole in or on the ground or sidewalk.
- 19.20.B.9            Changeable Copy Sign: A sign that is permanently attached to a freestanding sign that is designed so that characters, letters or illustrations can be changed or rearranged. This definition shall include electronic message signs or similar technologies.
- 19.20.B.10           Construction Sign: An **on-premise** sign identifying the contractor, architect, engineer, lending institution and/or owner's name, address and other pertinent information where construction, renovation or repair is in progress.
- 19.20.B.11           Directory Sign: Any sign listing the names and/or uses and/or locations of the various businesses or activities within a building or a multi-tenant development. Not for the purpose of advertising products, foods or services.
- 19.20.B.12           Facade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.
- 19.20.B.13           Flashing Sign: An illuminated sign which changes the intensity of illumination so as to result in changes in light, color, direction or animation. This definition shall include any electronic message sign where the message changes more than once in any thirty second period.
- 19.20.B.14           Freestanding Sign: A self-supporting sign which is in a fixed location and which is not attached to any building, wall or fence. This does not include portable or trailer-type signs.
- 19.20.B.15           Identification Sign: A sign on the premises indicating only the name of a professional or office building, unoccupied residential development, industrial area or park or commercial shopping center; or the name of a school, park, church, hospital or other public facility.
- 19.20.B.16           Illegal Sign: Any sign erected without proper approvals or permits as required by this section. Illegal sign shall also mean any sign placed contrary to the terms of

- any permit or this section and any sign which has lost its legal non-conforming status and not brought into compliance with the provisions of this section.
- 19.20.B.17            Illuminated Sign: Any sign illuminated in any manner by an artificial light source.
- 19.20.B.18            Instructional Sign: Any sign which does not contain advertising or promotional matter but relates solely to traffic or pedestrian control, warnings or hours of operation.
- 19.20.B.19            Landmark Sign: Any older sign of artistic or historic merit, uniqueness or extraordinary significance to the City, as identified by the Historic District Commission.
- 19.20.B.20            Menu Board: A permanently mounted sign displaying the bill of fare of a drive-in or drive-through restaurant.
- 19.20.B.21            Nameplate: A non-electrical sign identifying only the name and occupation or profession of the occupant of the premises on which the sign is located.
- 19.20.B.22            Non-conforming Sign: Any sign, billboard or other advertising structure of whatever type or nature which violates or does not conform to the sign regulations of the zone in which it is located, at the effective date of the initial adoption or subsequent amendment of this ordinance.
- 19.20.B.23            Off-Premise Sign: Any sign visible from a public right-of-way identifying or advertising an activity, business, goods, person, products, or services not located on the premises where the sign is installed and maintained, including a billboard.
- 19.20.B.24            Portable Changeable Copy Sign: A changeable copy sign that is not permanently attached to a freestanding sign or building wall. This includes but is not limited to Arrow Signs, portable billboards, and A-Frame type signs where the message and/or text can be changed.
- 19.20.B.25            Portable Sign: A sign whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or any other sign.
- 19.20.B.26            Premises: A lot or number of lots, on which are situated a building or group of buildings designed as a unit, or on which a building or group of buildings are to be constructed.
- 19.20.B.27            Price Sign: A permanently mounted sign displaying the retailing cost of a gallon of gasoline.

- 19.20.B.28      Projecting Sign: A sign, affixed to a building or wall, the leading edge of which extends more than ten inches (10") beyond the surface to which it is affixed.
- 19.20.B.29      Real Estate Sign: A sign advertising exclusively information relating to the sale, rental or lease of the premises upon which the sign is located.
- 19.20.B.30      Roof Sign: A sign which is located above or projects above, the lowest point of the eaves or the top of the parapet wall of a building, or which is painted on or fastened to a roof. A mansard roof shall be considered a wall for the purpose of these provisions.
- 19.20.B.31      Rotating Sign: Any sign or portion of a sign, which moves in any manner.
- 19.20.B.32      Sign Review Committee: A Committee consisting of administrative officials appointed by the City Manager.
- 19.20.B.33      Sign Area: The entire area within a single, continuous perimeter enclosing all elements of the sign which form an integral part of the display, excluding the necessary supports or uprights on which the sign is placed. Only one face of a double-faced sign shall be included in the calculation of the total sign area. Painted areas around signs shall be considered part of the sign area when used to highlight or draw attention to the main portion of the sign. For example, red and blue bands of paint on either side of the main portion of the sign where the colors are consistent with the businesses logo or brand shall be considered part of the sign area.
- 19.20.B.34      Snipe Sign: A sign of any material , including paper, cardboard, wood, and metal, when tacked, nailed, or attached in any way to trees, utility poles, or other objects where such sign may or may not apply to the premises;
- 19.20.B.35      Temporary Sign: Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only.
- 19.20.B.36      Wall Sign: A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall and which extends not more than ten inches (10") from the surface of that building.
- 19.20.B.37      Window Sign: Any sign affixed upon a window facing the outside and which is intended to be seen from the exterior. Any sign within the interior of a structure that is not affixed to the window shall not be considered a window sign and shall comply with all requirements of this ordinance.
- 19.20.C      GENERAL REGULATIONS.

19.20.C.1 No sign shall be displayed or affixed in any manner without the approval of the Sign Review Committee, except where specifically exempted by the regulations below. A completed sign permit application and the required fee must be submitted to the Department of Development Services in order to be considered by the Sign Review Committee.

The following operations shall not be considered as creating a sign insofar as requiring the issuance of a sign permit, but such signs which are subject to the following operations must be in conformance with all other building, sign, structural, electrical and any other applicable regulations of the City of Somersworth:

Change of Copy: Changing of the advertising copy of a message on existing signs which are specifically designed for the use of replaceable copy, e.g. changeable copy signs.

Maintenance: Painting, repainting, cleaning, or other normal maintenance and repair of a sign not involving change of copy, structural, or electrical changes.

All other operations shall require the review and approval of the Sign Review Committee.

No sign permit shall be issued for any premises on which there is an outstanding violation of any part of this ordinance or any other ordinance or regulation of the City of Somersworth.

19.20.C.2. Prohibited Signs: The following types of signs are prohibited in all zoning districts:

19.20.C.2.a Any sign advertising or identifying an activity, business, product or service no longer produced or conducted on the premises. Such signs shall be removed by the property owner within six (6) months from the date of cessation of the activity, business, product or service produced on the premises;

19.20.C.2.b Any sign that interferes with, imitates, or resembles any official traffic, directional or route sign, signal or device, other than official signs;

19.20.C.2.c Any sign that prevents a clear and unobstructed view of approaching or merging traffic;

19.20.C.2.d Signs located within any public right of way except as otherwise provided herein;

19.20.C.2.e Roof signs;

19.20.C.2.f Off-premise Signs, except as otherwise provided herein;

19.20.C.2.g Portable Changeable Copy Signs;

19.20.C.2.h Changeable Copy Signs, except as otherwise provided herein;

19.20.C.2.i Any sign emitting sound, smoke, odor, vapor, or particles;

19.20.C.2.j Snipe Signs;

- 19.20.C.2.k Real Estate Signs advertising the lease, or rental of a property that is not located on the premises where the sign is placed;
- 19.20.C.2.l Signs on or within a motor vehicle or other conveyance that do not meet the definition of an Accessory Motor Vehicle Sign;
- 19.20.C.2.m Flashing signs, rotating signs or beacons, other than official signs; and,
- 19.20.C.2.n Any sign that contains or consists of pennants, ribbons, streamers, spinners, balloons, **pinwheels**, other moving devices, strings or light bulbs or similar devices.
- 19.20.C.3. Exempt Signs: The following types of signs may be erected without the review and approval of the Sign Review Committee provided that they comply with all other regulations of this chapter, except where specifically exempted:
- 19.20.C.3.a Signs erected or posted and maintained for public safety and welfare or pursuant to any governmental function, law, bylaw or other regulations;
- 19.20.C.3.b Signs erected without advertising and which are displayed for the direction, instruction or convenience of the public, such as signs which identify rest rooms, freight entrances, public telephones, posted areas or the like, with an area not exceeding four (4) square feet, provided such signs are on the premises of the activity served by the sign;
- 19.20.C.3.c Signs necessary for the identification and operation of a public utility;
- 19.20.C.3.d Price signs at gasoline pumps as required by State and Federal laws, provided that they comply with standards established by said State or Federal laws;
- 19.20.C.3.e Two (2) signs shall be permitted for roadside stands for the sale of fruits and vegetables grown on the premises: one (1) for identification and one (1) for current products for sale; each sign area not to exceed twenty (20) square feet. The seller shall possess a valid Hawkers, Peddlers, and Vendors license from the City to display these signs;
- 19.20.C.3.f Signs which are an integral part of and advertise only the contents of vending machines or gasoline pumps;
- 19.20.C.3.g Historical markers, tablets, statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or non-profit organizations;
- 19.20.C.3.h. Sign(s) or other materials temporarily displayed on traditionally accepted civic, patriotic or religious holidays;
- 19.20.C.3.i Flags, emblems and insignia of any governmental agency or religious, charitable, public or nonprofit organization; provided that no single flag shall exceed fifty (50) square feet in area and no lot shall display more than three (3) such flags;
- 19.20.C.3.j Signs relating to trespassing and hunting, not exceeding two (2) square feet in area;
- 19.20.C.3.k Landmarks Signs;
- 19.20.C.3.l Instructional Signs;

- 19.20.C.3.m Menu Boards: Provided that the design, placement, size, lighting and other features of the sign have been reviewed and approved by the Somersworth Planning Board;
- 19.20.C.3.n Political Signs: Provided that such signs(s) shall comply with all provisions of New Hampshire RSA 664:17, as the same may be subsequently amended;
- 19.20.C.3.o Real Estate Signs: provided that they do not exceed four square feet and the number of signs does not exceed one (1) per street frontage;
- 19.20.C.3.p Tag, Yard or Garage Sale Signs: Provided that they are displayed no sooner than seventy-two (72) hours before the sale and are removed within forty-eight (48) hours after the sale;
- 19.20.C.3.q Seasonal Signs: A temporary sign providing direction to a business, limited to the sale of produce, flowers and Christmas trees, grown on the premises, provided the following conditions are adhered to:
- 19.20.C.3.q.i Each business shall be allowed only three (3) such signs;
- 19.20.C.3.q.ii Such signs shall be allowed for no more than a two (2) month consecutive period within a calendar year;
- 19.20.C.3.q.iii Each sign shall be professionally fabricated and mounted on a metal stanchion;
- 19.20.C.3.q.iv The size shall not exceed six (6) square feet and the height shall not exceed eight (8) feet; 19.20.C.3.q.v Such signs shall not contain more than three (3) colors and all lettering shall be in a clean, simple-type style;
- 19.20.C.3.q.vi The location of these signs shall be on private property of a commercial nature only; and
- 19.20.C.3.q.vii All costs for the fabrication, erection and maintenance of the signs shall be at the participating business's expense;
- 19.20.C.3.r Special Uses/Events Signs: Two (2) non-motorized wheeled, A-frame or T-frame signs identifying the event, date of event, and the event's sponsor, organizer, or main feature, provided the following conditions are adhered to:
- 19.20.C.3.r.i Such sign(s) shall not exceed twelve (12) square feet; and
- 19.20.C.3.r.ii Such sign(s) must be securely anchored to the ground to prevent it from being displaced by the wind; and
- 19.20.C.3.r.iii Such sign(s) shall not be erected sooner than fourteen (14) days before the event and shall be removed no later than forty-eight (48) hours after the event.
- 19.20.C.3.s Over the Street Banner Signs: This type of sign, limited to advertising an event of a civic, philanthropic service, religious or non-profit organization, shall be permitted within the City, provided it is not erected sooner than fourteen (14) days before the event and removed no later than forty-eight (48) hours after the event;
- 19.20.C.3.t Essential Directional Signs: indicating entrances and exits of driveways provided that they shall not exceed four (4) square feet and shall be located on the premises of the activity served by the sign provided that no logo or advertising of any kind is located on the sign;
- 19.20.C.3.u Grand Opening Signs: Up to two (2) temporary signs associated with a grand opening of a new business only are allowed for a period not to exceed sixty (60) days.

- 19.20.C.3.v Accessory Motor Vehicle Signs: provided the motor vehicle remains registered and in good working order. Furthermore, upon request of the Code Enforcement Officer, it shall be demonstrated that the motor vehicle is used actively in the operation of the business which it advertises.
- 19.20.C.3.w Window Signs: Other than in strictly residential districts, window signs shall be allowed on the interior of the window but shall cover no more than fifty percent (50%) of the total window surface area. Such signs shall be removed if they become discolored, sun-faded or **waterspotted** at the direction of the Code Enforcement Officer. Such signs in the historic districts shall conform to the applicable historic district guidelines. Window signs promoting a public service or charitable event shall be exempt from these regulations.
- 19.20.C.3.x Banner Signs: Except in strictly residential districts, decorative flags and banners depicting a product or service rendered shall be allowed in addition to the total allowable sign area. Each business shall be allowed no more than two banner signs with a total sign area of both signs not exceeding twenty four (24) square feet.
- 19.20.C.4 Temporary Signs: The following types of temporary signs may be erected after receipt of an approved sign permit from the Sign Review Committee:
- 19.20.C.4.a Construction Signs: One (1) sign not exceeding thirty-two (32) square feet may be permitted on a premise that is undergoing construction or renovation identifying the contractor, architect, engineer, lending institution and/or owner. The sign shall not be erected earlier than one (1) month prior to the start of construction nor maintained more than fourteen (14) days after receipt of a Certificate of Occupancy or project completion.
- 19.20.C.4.b Real Estate Signs: One (1) real estate sign greater than four square feet but not exceeding thirty-two (32) square feet or greater than eight feet tall shall be permitted on a premise where the owner is actively attempting to sell, rent, or lease such property. A permit for a real estate sign shall be valid for up to one year or when the premises are sold, leased or rented. It is the intent of this provision to insure that these signs are temporary in nature and subsequent permits shall be issued at the discretion of the Sign Review Committee.
- 19.20.C.5 Portable Signs: The following types of portable signs may be displayed, during business hours only, without review and approval by the Sign Review Committee
- provided they are professionally fabricated and non-illuminated and they comply with the following requirements:
- 19.20.C.5.a Commercial/Industrial (C/I) Zoning District: One (1) non-motorized wheeled or **Aframe/T-frame** sign per establishment not exceeding twenty (20) square feet in size per face provided that the sign complies with all other provisions of this ordinance. Such sign shall be properly anchored to prevent displacement by the wind and shall not be located in an area designated for parking unless it is protected along all sides by curbing. For shopping centers or multi-tenanted buildings, such sign must be placed in front of

the establishment in a manner where it will not obstruct pedestrian movement or traffic circulation;

19.20.C.5.b Residential/Commercial, Residential/Office Districts: The requirements shall be the same as for the Commercial/Industrial (C/I) Zoning District except that the size shall not exceed twelve (12) square feet per face;

19.20.C.5.c Business, Residential/Business, Legal Non Conforming Uses in Residential Districts: One (1) sidewalk/A- frame sign per establishment not exceeding six (6) square feet in size per face. Such sign shall be properly anchored to prevent displacement by the wind and shall not be located in an area designated for parking unless it is protected along all sides by curbing. For shopping centers or multi-tenanted buildings, such signs must be placed in front of the establishment in a manner where it will not obstruct pedestrian movement or traffic circulation; for signs placed on the sidewalks or within the public right-of-way (ROW) the following conditions must be met:

19.20.C.5.c.i A five foot (5') clear passage must be maintained at all times;

19.20.C.5.c.ii A current Certificate of Insurance in an amount of five hundred thousand dollars (\$500,000) shall be filed with the Code Enforcement Officer to assure sufficient liability coverage of the applicant;

19.20.C.5.c.iii A hold-harmless agreement shall be filed with the Code Enforcement Officer to relieve the City of Somersworth from bodily injury and property damage liability; and

19.20.C.5.c.iv Said sign(s) shall be removed by the sign owner/advertiser to allow for snow removal operations or other general maintenance as required. All signs not removed shall remain at said owner's/advertiser's risk.

19.20.C.5.d. Overlay Historic Districts: One (1) sidewalk/A frame sign, made only of wood, per establishment not exceeding six (6) square feet in size per face. Such sign shall be uniform in color either having a dark background with light colors or light background with dark colors. Fluorescent or day-glow colors shall be prohibited. Other requirements shall conform to those listed for the underlying zoning district. Before such sign may be erected it shall receive appropriate Historic District review and approval.

19.20.C.5.e. Special Uses/Events: For an event of a civic, philanthropic, or religious organization, campaign, fair, exposition or similar event:

19.20.C.5.e.i. One (1) non-motorized wheeled, A-frame or T-frame sign not exceeding twelve (12) square feet, identifying the event, date of event and the event's sponsor or organizer and main feature;

19.20.C.5.e.ii. Such sign shall be properly anchored to prevent displacement by the wind; and

19.20.C.5.e.iii. Such sign shall not be erected sooner than fourteen (14) days before the event and shall be removed no later than forty-eight (48) hours after the event.

19.20.C.6 Illumination:

19.20.C.6.a The light from any sign or advertising device shall be so shaded, shielded or directed and maintained at a sufficiently low level of intensity and brightness that it shall not adversely affect neighboring premises nor the safe vision of the operator of a moving vehicle on a public street or

highway.

- 19.20.C.6.b. Neon window signs shall be allowed in cases where they are designed to be compatible with the building's historic and/or architectural character, and where their color has been selected to harmonize with the building's exterior colors.
- 19.20.C.6.c Signs shall not be illuminated directly or indirectly between the hours of 11 pm and 7 am unless the premises are open during such hours. All illuminated signs, approved after the effective date of this ordinance, shall be equipped with an automatic dimmer to adjust to decreased natural light levels so as not to be unreasonably bright during evening and nighttime hours.
- 19.20.C.7 Dimensional and design requirements for freestanding, wall and projecting types are:
- 19.20.C.7.a Freestanding: No freestanding sign shall be located in an area designated for parking unless said sign is protected along all sides by curbing. A four foot (4') clear space is required along all approaches to the sign;
- 19.20.C.7.a.i No freestanding sign may be located within fifty feet (50') of any other freestanding sign or within fifty feet (50') of a single family residence or the Residential Single Family (R1) zoning district;
- 19.20.C.7.b Wall:
- 19.20.C.7.b.i No wall sign shall be located in such a manner so as to extend above the next floor's window sill or descend below the top of the lower floor's lintel;
- 19.20.C.7.b.ii In all non-residential zoning districts where a business/premise fronts on more than one(1) public street, one (1) wall sign shall be permitted for each frontage.
- 19.20.C.7.c Projecting:
- 19.20.C.7.c.i In all non-residential zoning districts where a business/premise fronts on more than one(1) public street or municipal parking lot, one (1) projecting sign shall be permitted for each frontage.
- 19.20.C.8 Loss of Legal Nonconformity:
- 19.20.C.8.a A legal non-conforming sign shall become an illegal sign which must comply with the provisions herein if:
- 19.20.C.8.a.i The sign is removed and relocated to a different portion of the premises;
- 19.20.C.8.a.ii The sign is altered in any manner which increases its nonconformity;
- 19.20.C.8.a.iii The non-conforming sign is removed and replaced with a new sign where new materials and supports are constructed, unless the new sign is dimensionally identical in all aspects to the nonconforming sign. For example, if a nonconforming sign is eight feet wide by four feet tall and twelve inches deep mounted on an eight-foot high, twelve inch by twelve inch support, then the new sign must be the same exact dimensions with no portion of the sign varying in any dimension from the nonconforming sign.
- 19.20.C.8.b A non-conforming sign that has lost its legal non-conforming status shall be immediately brought into compliance with this chapter, or the sign shall be

removed.

19.20.C.8.c The existence of an illegal sign or a legal non-conforming sign does not constitute a hardship warranting the issuance of a variance from the provisions of this ordinance.

19.20.C.9 Safety and Structural Standards:

19.20.C.9.a No sign shall be erected which is structurally unsafe.

19.20.C.9.b All signs and other advertising structures together with all their supports, braces, hooks, guys and anchors, shall be kept in good repair and shall be painted or cleaned as often as necessary to maintain a clean, neat, safe and orderly appearance. The time period for correction of disrepair shall not exceed sixty (60) days from date of notice. All notices of correction of disrepair shall be made pursuant to Section 27 of this Zoning Ordinance.

19.20.C.9.c All signs or advertising structures shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of surface area and shall comply with all applicable building code ordinances of the City of Somersworth (National Building Code and National Electrical Code).

19.20.C.9.d All signs shall be prohibited within the public right-of-way except as provided elsewhere in this chapter and except traffic control devices and directional signs deemed essential for the public welfare and safety by municipal and state agencies.

19.20.C.9.e All signs shall be erected in such a manner so as not to obstruct free and clear vision along or onto a public right-of-way.

19.20.C.9.f No sign shall obstruct free ingress or egress from a door, window or fire escape which is required to be accessible under State and local building codes. No sign shall be attached to a standpipe or fire escape.

1 9.20.C.9.g. No sign shall be erected which obstructs light or air or interferes with the proper functioning of the building.

19.20.D. DISTRICT REGULATIONS.

19.20.D.1 Residential Districts (A,R-1, R-2, R-3, R-1A, R-2A,REC, HMD & MH):

19.20.D.1.a One residential nameplate is permitted for each approved residential unit. Said nameplate shall identify only the name and street address of each occupant and shall not exceed one (1) square foot. A sign permit is not required for a residential nameplate; however, a sign permit is required for a sign associated with a home occupation.

19.20.D.1.b A sign utilized at the site of a home occupation shall be limited to one flush mounted sign on the main residential structure which shall not exceed one (1) square foot in area. Such sign shall not be lit and non-reflecting materials shall be used. The legend shall show only the name of the occupant and the type of occupation. Color shall be consistent with the residence.

- 19.20.D.1.c For a subdivision or residential development, one (1) sign is permitted at each entrance way not to exceed twelve (12) square feet in area and not more than five feet (5') in height, denoting the name of the premises only.
- 19.20.D.1.d For uses other than strictly residential uses such as community/public uses, boarding houses, tourist homes and legal, pre-existing non-conforming uses total sign area shall not exceed twenty-four (24) square feet. A Wall Sign and/or a Freestanding Sign may be utilized but in no case shall the total of all signs exceed twenty-four (24) square feet:
- 19.20.D.2 Business District (B):
- 19.20.D.2.a Signs attached to buildings are limited in area so that the sign shall not exceed ten percent (10%) of the total area of the front wall (face) of the building. In the case of a multi-story building, the sign shall not be more than ten percent (10%) of the face of the first story.
- 19.20.D.2.b No wall sign shall be erected which is greater than one third (1/3) of the height of the first story.
- 19.20.D.2.c Signs associated with businesses that close at 10:00 pm or earlier shall shut off all lighted signs at 10:00 pm. Signs associated with businesses that close later than 10:00 pm shall shut off all lighted signs at closing time.
- 19.20.D.2.d In addition to the total allowable sign area, canopy signs may cover up to ten (10%) percent of the area of the canopy façade.
- 19.20.D.2.e One freestanding sign per lot is permitted. The size of said freestanding sign shall not exceed twenty (20) square feet in surface area on each of two sides or a total of forty (40) square feet on all sides. No freestanding sign shall be more than eight feet (8') in height above finish grade. Height shall be measured vertically from the established average grade directly below the sign to the highest point of the sign including support structures. No portion of the sign may extend into a public right of way.
- 19.20.D.3 Residential/Business (R/B):
- 19.20.D.3.a Only one sign of the freestanding, wall or projecting type is permitted on the premise, except where specifically allowed below.
- 19.20.D.3.b One directory wall sign identifying each business or office operating within said building may be erected in addition to a freestanding, projecting or wall sign. If the directory is in addition to a wall sign, the directory will be considered part of the total wall sign-age area, which is limited to ten percent (10%) of the building face. The dimensions of the directory shall not exceed three feet (3') by four feet (4').
- 19.20.D.3.c Essential directional signs indicating entrances and exits of driveways shall not exceed four (4) square feet.
- 19.20.D.3.d **Signage** consisting of one (1) line of letters not exceeding nine inches (9") in height may be affixed on the hanging border only of any awning. An identification emblem, insignia or initial, not to exceed four (4) square feet, may be affixed on any awning.
- 19.20.D.3.e No sign shall be affixed with adhesive directly on the surface of a building.
- 19.20.D.3.f Signs indicating parking lot aisles or reserved areas/spaces shall not exceed two (2) square feet.

- 19.20.D.3.g Dimensional and design requirements for freestanding, wall and projecting types are:
- 19.20.D.3.g.i Freestanding: The size of said freestanding sign shall not exceed twenty (20) square feet in surface area on each of two sides or a total of forty (40) square feet on all sides. No freestanding sign shall be more than eight feet (8') in height above finish grade. Height shall be measured vertically from the established average grade directly below the sign to the highest point of the sign including support structures.
- 19.20.D.3.g.ii Wall: Total wall signage is limited in area so that the signs shall not exceed ten percent (10%) of the total area of the front wall (face) of the building. In the case of a multi-story building, the signs shall not be more than ten percent (10%) of the face of the first story.
- 19.20.D.3.g.iii Projecting: The size of said sign shall not exceed twenty feet (20') in surface area on each of two (2) sides for a total of forty (40) square feet on all sides. The sign shall not project horizontally in excess of three feet (3'). It shall be erected at a height of not less than eight feet (8') above the sidewalk or ground level to the bottom of the sign's frame.
- 1 9.20.D.4. Residential/Commercial (R/C), Residential/Office (R/O), and Commercial/Industrial (C/I):  
The following regulations shall apply to all signs located in the residential/Commercial, Residential/Office and Commercial/Industrial Districts:
- 19.20.D.4.a Single Business: The total permitted sign area per lot shall not exceed fifty (50) square feet plus one (1) additional square foot of sign area shall be allowed for each additional linear foot of principal building frontage in excess of fifty (50) linear feet to a maximum of one hundred (100) square feet. In addition, wall signs are permitted to have a sign area which is an additional three (3) square feet larger for every ten feet (10') the sign is set back from the front property line. On corner lots, the front property line shall be determined as the property line in front of the main entrance;
- 19.20.D.4.b Multi-Business: One (1) free standing identification sign shall be allowed for a multi-business building or shopping center; The maximum sign area allowed shall be forty-eight (48) square feet plus an additional four (4) square feet for each business to a maximum of seventy-two (72) square feet. The freestanding sign may either be a directory sign or identify the building or center only. In addition, wall signs are permitted to have a sign area of up to forty (40) square feet per business plus one (1) additional square foot of sign area shall be allowed for each additional linear foot of principal building frontage occupied by each business in excess of forty (40) linear feet to a maximum of eighty (80) square feet of sign area per business;
- 19.20.D.4.c For office complexes of two (2) story or greater buildings, wall signs shall be permitted two (2) square feet of sign for every one hundred (100) square feet of floor area;
- 19.20.D.4.d Signs on accessory buildings or buildings incidental to the principal building in which the business is located shall be allowed as a portion of the total allowable sign area computed by using the frontage of the principal

building only;

- 19.20.D.4.e Dimensional and design requirements for free standing signs, awning or canopy signs, and projecting signs are:
- 19.20.D.4.e.i Freestanding signs: sign area shall be computed using the proportional formula outlined above, except that if a combination of a facade and a freestanding sign are to be utilized, the total sign area of all signs shall not exceed that limited by the formula or other sections of this ordinance. In no case shall a freestanding sign be permitted to utilize the building setback portion of the formula if it is located closer to the front property line than the building itself;
- 19.20.D.4.e.ii No freestanding sign shall be located within ten feet (10') of the front property line, nor within five feet (5') of the side property line. No freestanding sign may be located within fifty feet (50') of any other freestanding sign or within fifty feet (50') of a single family residence;
- 19.20.D.4.e.iii No freestanding sign shall be more than sixteen feet (16') in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign to the highest point of the sign including support structures;
- 19.20.D.4.e.iv No freestanding sign shall be located in an area designated for parking unless it is protected along all sides by curbing. A four foot (4') clear space is required along all approaches to the sign;
- 19.20.D.4.e.v Only one (1) freestanding sign shall be allowed per lot; and
- 1 9.20.D.4.e.vi The freestanding sign shall be "framed" with appropriate landscaping; flowers, shrubbery or trees, not to exceed four feet (4') in height.
- 19.20.D.4.f Awning or Canopy signs: In addition to the total allowable sign area, one canopy or awning sign may cover up to ten (10%) percent of the area of the canopy façade.
- 19.20.D.4.g Projecting signs: Projecting signs shall not have more than two (2) faces and each face shall not exceed twenty (20) square feet.
- 19.20.D.4.g.i The exterior edge of a projecting sign shall extend not more than four feet (4') from the building face;
- 19.20.D.4.g.i.1 The supporting framework shall be in proportion to the size of such sign;
- 19.20.D.4.g.ii No portion of a projecting sign shall extend into the public right-of-way;
- 19.20.D.4.g.iii Projecting signs shall have a minimum clearance of eight feet (8') above grade when located adjacent to or projecting over a pedestrian way. If projecting over an alley or driveway, the clearance must be at least thirteen feet (13');
- 19.20.D.4.g.iv. The top of the sign may be suspended in line with one of the following:
- 19.20.D.4.g.iv.1 Suspended between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or
- 1 9.20.D.4.g.iv.2 The lowest point of the roof of any one story building.
- 19.20.D.4.h Changeable Copy Signs: Changeable copy signs shall be allowed in the Commercial/Industrial (C/I) and Residential/Commercial (R/C) zoning districts only provided that:

- 19.20.D.4.h.i Only one single color shall be used for each message and the color may not vary in shade or intensity. The entire contents of the display shall be considered one message regardless of content. For example, advertising two or more products or services shall be considered one message for the purpose of this section.
- 19.20.D.4.h.ii The maximum allowable sign area shall be twelve (12) square feet.
- 19.20.D.4.h.iii The message must remain static for at least thirty seconds before changing. The time for the message to change shall not exceed three seconds.
- 19.20.D.4.h.iv The sign shall not be mounted to the building.
- 19.20.D.4.h.v Only one changeable copy sign shall be allowed per lot.
- 19.20.D.4.h.vi The sign shall not be placed on top of sign. The sign must be located below the main portion of the sign.
- 19.20.D.4.h.vii These signs are only allowed when permanently attached to a principal freestanding sign and the size of such sign cannot exceed more than one-third of total freestanding sign area. For example, if the main portion of the sign is thirty (30) square feet then the changeable copy sign cannot exceed ten (10) square feet. In no case shall the changeable copy sign exceed twelve (12) square feet.
- 19.20.D.4.h.viii The sign shall not extend beyond the outer edges of the principal freestanding sign. This shall be determined by drawing a straight line from the outer edges of the principal sign straight down to the ground and the changeable copy sign must be fully within this boundary.
- 19.20.D.4.h.ix The content displayed whether text, pictures or other cannot flash, scroll, change in intensity or brightness at any time.
- 19.20.D.4.h.x The sign shall not be illuminated between 11pm and 7am unless the business is open between these hours. The sign shall be equipped with an automatic dimmer to adjust to decreased natural light levels so as not to be unreasonably bright during evening and nighttime hours.
- 19.20.D.4.h.xi The sign shall comply with all other provisions of this ordinance unless specifically stated otherwise herein.
- 19.20.D.4.h.xii The following standards shall additionally apply to Auto Convenience Markets only:
- 19.20.D.4.h.xii.1 An Auto Convenience Market located in the R/C or C/I districts only may display up to four price signs electronically.
- 19.20.D.4.h.xii.2 The height of the electronic digits shall not exceed twelve (12) inches.
- 19.20.D.4.h.xii.3 The width of the electronic digits shall not exceed ten (10) inches.
- 19.20.D.4.h.xii.4 The square footage of the digits shall be determined by drawing a box around the entire perimeter that surrounds all electronic digits displayed. In no case shall the total sign area of all displayed digits exceed twelve (12) square feet.
- 19.20.D.4.h.xii.5 All other provisions set forth in i thru xii above shall apply.
- 19.20.D.4.h.xiii The sign area of the changeable copy sign shall be in addition to the total allowable sign area set forth in these provisions.

- 19.20.D.5            Industrial (I): The following regulations shall apply to all signs located in the Industrial District and Industrial Parks within the Commercial/Industrial District:
- 19.20.D.5.a            Industrial Park Freestanding Directory and Identification Signs:
- 19.20.D.5.a.i            One identification sign may be erected with an area not to exceed forty (40) square feet, which identifies the industrial park;
- 19.20.D.5.a.ii            Sign directories shall contain identification of and direction to the park tenants but shall contain no promotional advertising;
- 19.20.D.5.a.ii.1            Each sign shall not exceed ten (10) square feet per establishment, not one hundred (100) square feet in all;
- 19.20.D.5.a.iii.            The sign shall be freestanding only, permanently affixed to the ground;
- 19.20.D.5.a.iv.            No freestanding sign shall be more than ten feet (10') in height above finished grade. Such height shall be measured vertically from established average grade directly below the sign to the highest point of the sign including support structures;
- 19.20.D.5.a.v.            No freestanding sign shall be located within twenty-five feet (25') of any property line; and
- 19.20.D.5.a.vi.            The sign shall be "framed" with appropriate landscaping; flowers, shrubbery or trees, not to exceed four feet (4') in height.
- 19.20.D.5.b.            Tenant or Single Industry Signs:
- 19.20.D.5.b.i.            The dimensional and design requirements shall follow the regulations established for signs in the Commercial/Industrial District.

Amended in its entirety 02/02/2009.

## Section 21 Circulation & Parking Regulations<sup>1</sup>

### 19.21.A. GENERAL REGULATIONS.

- 19.21 .A.1. In all districts permitting residential uses, except where otherwise dictated below, a minimum of two (2) parking spaces per dwelling unit shall be provided on the lot which they are required to serve.<sup>2</sup>
- 19.21 .A.2. In the Historic Moderate Density zoning district, a minimum of 1.5 parking spaces per dwelling unit shall be provided on the lot which they are required to serve.<sup>3</sup>
- 19.21 .A.3. Parking shall be located and arranged so that vehicles will not need to back out into the street.

<sup>1</sup> passed 7/15/96

<sup>2</sup> Amended 5/21/01

<sup>3</sup> Passed 5/21/01

## Section 22 The Zoning Board of Adjustment

19.22.A. AUTHORITY. The Zoning Board of Adjustment shall have the powers and the authority and be subject to all duties as provided in New Hampshire Revised Statutes Annotated (RSA) Chapters 673 and 674, as the same may **besubsequently** amended.

Specifically, the Zoning Board of Adjustment shall have the power to hear and decide:

- 19.22.A.1. Appeals alleging administrative error in the enforcement of any provision of the zoning ordinance;
- 19.22.A.2. Applications for special exceptions to the terms of the zoning ordinance; and
- 19.22.A.3. Appeals for variances from the terms of the zoning ordinance. 19.22.B.

19.22.B. MEMBERSHIP.<sup>1</sup>

- 19.22.B.1. Zoning Board of Adjustment shall consist of five (5) members, all residents of the City of **Somersworth**, who shall be appointed as prescribed by the City Charter, for a term of three (3) years.
- 19.22.B.2. As many as five (5) alternate members may be appointed to the Zoning Board of Adjustment, in the manner prescribed by the City Charter, each for a term of three (3) years.
- 19.22.B.3. Not more than one (1) member of the Planning Board shall be appointed to the Zoning Board of Adjustment.
- 19.22.B.4. Vacancies shall be filled for any **unexpired** term in the manner prescribed by the City Charter.
- 19.22.B.5. The Zoning Board of Adjustment shall elect a Chair and other officers from among its members, who shall hold office for one (1) year and may be re-elected.
- 19.22.B.6. Whenever a regular member is absent or whenever a regular member disqualifies him/herself, the Chair shall designate an alternate from the alternate members appointed, if one is present, to act in the absent member's place.

19.22.C. MEETINGS.

- 19.22.C.1. Meetings shall be held at the call of the Chair and at such other times as the Board may determine.
- 19.22.C.2. Before taking any action, the Zoning Board of Adjustment shall hold a hearing at which parties in interest and others shall have an opportunity to be heard. Notice for a public hearing under this section shall be provided in accordance with New Hampshire RSA 676:7, as the same may be subsequently amended.
- 19.22.C.3. The concurring vote of three (3) members of the Zoning Board of Adjustment shall be necessary to decide in favor of the applicant on any matter before the Board.

19.22.D. APPLICATION. A request to the Zoning Board of Adjustment shall not be acted upon unless and until a completed application is filed with the Department of Planning and Economic Development, together with the appropriate non-refundable filing fee and payment of associated costs.<sup>2</sup>

<sup>1</sup> Passed 5/18/92

<sup>2</sup> Section 21 renumbered as Section 22,10/2/95 and section 22 renumbered as Section 23,1/10/96

## **Section 23 Naming of Public Streets and Rights of Way**

- 19.23.A. Every highway, street or right-of-way, whether under the control of the City or privately owned, which is to receive or has received legal status by acceptance, shall have a name which shall be given by the City Council in accordance with (IAW) the provisions of RSA 231:133, as presently enacted or IAW the corresponding provisions of any recodification or amendment of such section. Said name shall be legibly marked on a suitable signboard or other marker and placed in at least two conspicuous places on said street unless it is not a through way, then one marker will be placed. The City Council may change the name of any such street, highway or right-of-way at any time when in its judgment there is occasion for doing so.
- 19.23.B. The naming of any new street, highway or right-of-way shall form a part of the return of the layout of the street or highway, or of the acceptance of any dedicated way. The City shall not be bound by any name previously assigned to the street, highway or right-of-way by any private owner, developer, or dedicicator.
- 19.23.C. Whenever a name is assigned to any new street, highway or right-of-way, or a change is made in the name of any street, highway or right-of-way, the City Council shall make a return of the same to the City Clerk, who shall make a record of a new name or name change, and shall forward a copy of such record to the Commissioner of Transportation, IAW the requirements of RSA 231:133, as presently enacted or IAW the corresponding provisions of any recodification or amendment thereof. In the process of assigning names to streets, highways and rights-of-way, the City Council shall follow the following guidelines, to the extent possible:
- 19.23.C.1. No name shall be assigned to a street, highway or right-of-way which shall duplicate the name of any other proposed or existing street, regardless of the use of the suffix "street", "avenue", "boulevard", "drive", or the like. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names. Names shall not include first and/or last names, unless special exemptions are recommended by the E911 Committee and approved by the City Council.
- 19.23.C.2. The extension of an existing street shall have the same name as the existing street (such as Maple Street Extension would be Maple Street).
- 19.23.C.3. Before a new street name is assigned to a street, highway or right-of-way, or an existing street is renamed by the City Council, the proposed name of such street shall be reviewed by the E911 Street Name & Address Committee, who shall submit their comments, if any, with regard to the proposed name to the City Council. No proposed name that receives a negative review by the committee shall be utilized. The new street name assigned by the Committee shall be provisional until such time as the name is adopted by the City Council.

- 19.23.D. The Planning Board shall have the authority to assign a provisional name to all streets, highways and/or rights-of-way shown upon subdivision or site review plans being considered for approval by the Planning Board, provided that no such provisional name shall be assigned to such street unless and until such time as the Planning Board shall have followed the procedures set forth herein.
- 19.23.E. Pursuant to the provisions of RSA 231:133, the City Engineer and City Assessor of the City of Somersworth, or their designees, shall have the authority to assign numbers to all existing residential and/or commercial structures and/or to vacant lots. In assigning numbers to residential and/or commercial structures and/or vacant lots, the City Engineer and City Assessor or their designees, shall employ the following criteria:
- 19.23.E.1. For every ten (10) feet of right-of-way frontage within the Business District of the City of Somersworth, as defined in Chapter 19 of the General Ordinances of the City of Somersworth, there shall be an individual number assigned.
- 19.23.E.2. For every fifty (50) feet of right-of-way frontage outside of the Business District of the City of Somersworth, as defined in Chapter 19 of the General Ordinances of the City of Somersworth, there shall be an individual number assigned.
- 19.23.E.3. Streets shall be numbered so that even numbers are located on the left side of the street or way and odd numbers are located on the right side of the street or way. The beginning of a street shall be that end which intersects with a collector street and, so far as possible, shall be that end closest in distance to City Hall.
- 19.23.E.4. The numbering for cul-de-sacs shall begin at the intersection of the cul-de-sac and the collector right-of-way and shall proceed from the right-hand side of the collector right-of-way from right to left around the cut-de-sac.
- 19.23.E.5. Mobile home parks shall assign street names that are approved by the City Council and assign street numbers IAW Paragraph C. Numbers shall be assigned pursuant to subparagraph E.
- 19.23.E.6. Each apartment building shall be given one (1) street number and each apartment unit within such building shall be assigned that street number and a unit number.
- 19.23.E.7. Existing numbering patterns for existing streets, highways and rights of-way which do not allow for the assignment of additional numbers for future development may be assigned new numbers by the City Engineer and the City Assessor or their designees.
- 19.23 E.8. All new subdivision lots shall be required to have a Foundation Certification Survey prior to issuance of a Certificate of Occupancy.

- 19.23.E.9. Any building or structure for which a number has been designated shall have such number affixed thereto in such manner as to be plainly visible from the street which abuts the main entrance to the property. Such numbers shall be a minimum of 3.5 inches in height and must be reflective.
- 19.23.E.10. The owner of any building or structure who shall fail to affix an assigned number to his mail box and building or structure within thirty (30) days of written notice from the City Engineer shall be fined not more than Twenty-Five Dollars (\$25.00) for each day that such number is not affixed. Any number affixed IAW this subsection shall be visible from the street. With respect to new structures, failure to display an assigned number in the manner set forth above shall be grounds for denial of a Certificate of Occupancy.
- 19.23.F. The assignation or alteration of numbers by the City Engineer pursuant to the provisions of section 19.23 above shall be provisional only until such time as such assignation or alteration of numbers shall be adopted by the City Council after the posting of notice and holding of a public hearing. No public hearing shall be required where the property owner or owners voluntarily consent to their property being numbered or renumbered as indicated by city records.

Passed 10/18/99.

Amended 10/06/2008.

## Section 25 Definitions<sup>3</sup>

For the purpose of this ordinance, certain terms are defined as provided in this section, except where otherwise noted:

- 19.25.A. ACCESSORY USE OR BUILDING. A subordinate, incidental use or structure located on the lot occupied by the principal use or structure.
- 19.25.B. AGRICULTURAL USE. Land used for agriculture, farming, dairying, pasturage, apiculture, horticulture, aquaculture, floriculture, silvaculture, animal and poultry husbandry.
- 19.25.C. ALTERATION. Any change or rearrangement of a building or structure including a supporting member or interior partition such as walls, columns, beams, girders, doors or windows or an enlargement or diminution of a building or structure, whether horizontally or vertically or moving of a building or structure from one location to another.
- 19.25.D. AMUSEMENT AND RECREATIONAL SERVICES. Establishment engaged in providing amusement or entertainment for a fee or admission charge and include such activities as cinemas; theaters; bands; orchestras and other musical entertainment; bowling alleys and billiard and pool establishments; and video game parlors.
- 19.25.E. ANTIQUÉ SHOP. A place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.<sup>2</sup>
- 19.25.F. APARTMENT UNIT. One or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit within a building containing more than two dwelling units.
- 19.25.G. ARTISAN PRODUCTION SHOP. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than three artists or artisans, either as a principal or accessory use.<sup>2</sup>
- 19.25.H. ARTIST STUDIO. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than three artists or artisans, either as a principal or accessory use.<sup>2</sup>
- 19.25.I. ASSOCIATED RECREATIONAL ACTIVITIES. Recreational use which is associated in a subordinate/incidental relationship, with the high density residential development (greater than fourplex residential use).
- 19.25.J. ATHLETIC/FITNESS FACILITY. Any recreational facility whose primary purpose is for the active participation of all members in athletic/fitness programs and activities.
- 19.25.K. AUTO CONVENIENCE MARKET. A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with retailing of items typically found in a convenience market.<sup>2</sup>
- 19.25.L. AUTOMOBILE SALES. Any building, land area or other premise for the display and
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<sup>2</sup> Added 05/03/2004.

<sup>3</sup> Renumbered from Section 24 to Section 25 on 10/07/2002.

sale of new and associated used automobiles, panel trucks or vans, trailers or recreation vehicles and including any warranty repair work or other repair, service conducted as an accessory use.<sup>1</sup>

- 19.25.M. BAR, COCKTAIL LOUNGE, TAVERN. An establishment where the sale of alcoholic beverages is the primary business and the preparation, service and consumption of those beverages takes place within the building.
- 19.25. N. BASAL AREA. The cross sectional area of a tree measured at a height of 4  $\frac{1}{2}$  feet above ground, usually expressed in square feet or per acre for a stand of trees.<sup>2</sup>
- 19.25.O. BED AND BREAKFAST/INN. An owner occupied or operated residential establishment offering accommodations for rent either by the day or week to boarders. Such establishments may offer meals to boarders as part of the lodging service.
- 19.25.P. BOARDING HOUSE. A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders. A boarding house is a dwelling, not a commercial establishment. A boarding house offers rooms for rent by week or month. Meals may be offered as part of the boarding service.
- 19.25.Q. BUFFER. A visual screen constructed of wood, concrete block, masonry or landscape material which screens adjacent property from the use contemplated. Such buffer should screen noise, solid waste and other objectionable influences.
- 19.25.R. BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.
- 19.25.S. BUS DEPOT. A facility used for the transient housing and parking of motor driven buses, which may include the loading and unloading of passengers. Additionally, the facility may or may not include the accessory use of service and maintenance of buses, as long as said work is performed entirely within an enclosed building on the premises.<sup>2</sup>
- 19.25.T. CHILD CARE HOME. An occupied residence in which child care is regularly provided for less than twenty-four (24) hours per day except emergencies, for one (1) to six (6) children from one or more unrelated families. The six (6) children shall include any foster children residing in the home and all children who are related to the caregiver except children who are ten (10) years of age or older.
- 19.25.U. CHILD CARE HOME (GROUP). An occupied residence in which child care is regularly provided for less than twenty-four (24) hours per day except emergencies, for seven (7) to twelve (12) children from one or more unrelated families. The twelve (12) children shall include all children related to the caregiver and any foster children residing in the home, except children who are ten (10) years of age or older.
- 19.25.V. CLUB. An organization of persons incorporated pursuant to law, which is the owner, lessee or occupant of an establishment operated solely for recreational, social, patriotic, benevolent or athletic purpose, but not for pecuniary gain and includes the establishment so operated.

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<sup>1</sup> Passed 04/06/1998.

<sup>2</sup> Passed 07/26/1993

- 19.25.W. COFFEE KIOSK. A retail food business in a free-standing building that sells coffee or other beverages, and pre-made bakery goods from a drive-through window for consumption off the premises. (Added 05/03/2004.)
- 19.25.X. CONDOMINIUM. A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. An owner's association maintains, administers and operates the common areas and facilities. Condominium is a legal form of ownership of real estate, not a specific building style. The property is identified in a master deed and recorded on a plat with Strafford County Register of Deeds.
- 19.25.Y. CONVENIENCE STORE. A small retail establishment that offers convenience goods for sale, such as prepackaged food items, limited prepared food items to be consumed offsite, beverages, tobacco, personal care items and other household goods. (Added 07/15/2013.)
- 19.25.Z. DWELLING UNIT. A single unit, structure or portion thereof, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- a. Dwelling, Single-family. A building and accessories thereto principally used, designed or adapted as a single dwelling unit.
  - b. Dwelling, Two-family. A building and accessories thereto principally used, designed or adapted with two dwelling units of similar proportions, the living quarters for each of which are completely separate.
  - c. Dwelling, Multi-family. A building and accessories thereto principally used, designed or adapted with three or more dwelling units, each of which has separate living quarters.<sup>1</sup>
- 19.25.AA. FAST FOOD ESTABLISHMENT. An establishment whose principal business is the sale of **pre-prepared** or rapidly prepared food directly to the customer in a **ready-to-consume** state for consumption either within the restaurant building or off premise.
- 19.25.BB. FENCE. An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
- 19.25.CC. FLOOR, AREA, GROSS. The sum of all the horizontal areas of the several floors of a building, excluding interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet (6').
- 19.25.DD. FRAMED-COVERED STRUCTURES. Any framed structure using wood, pipe, poles or similar type of framing, and covered with plastic, vinyl, canvas, nylon, fiberglass, or any fabric-like material. Commonly referred to as temporary or portable shelter/garage/carport/greenhouse/lean-to/shed. (Added 05/03/2004.)
- 19.25.EE. FRONTAGE. Frontage shall mean the continuous and unbroken length of the lot bordering on an improved, maintained and passable public right-of-way accepted as a Class V or better highway except as otherwise specified by this ordinance. Multiple frontages on the same or different right-of-way cannot be combined to satisfy the minimum frontage requirement. On improved lots the frontage is usually the side where the main building is located and in the general direction in which the principal building faces. (Amended 10/07/2002 & 04/16/2007.)
- 19.25.FF. GARAGE. An accessory building, attached or detached, designed or used

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<sup>1</sup> Amended 3/21/2005.

principally for the storage of automobiles.

- 19.25.GG. GRADE. The degree of rise or descent of a sloping surface.
- 19.25.HH. GRADE FINISH. The final elevation of the ground surface after man-made alterations.
- 19.25.II. GROUP CARE FACILITY. A facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household.
- 19.25.JJ. GROUP FAMILY HOUSEHOLD. A group of individuals not related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single household unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.
- 19.25.KK. HEIGHT. Building height is the vertical distance from the mean grade elevation (average grade around the perimeter of the building) to the mean roof elevation (one-half (1/2) of the vertical distance from eave to ridge). (Amended 09/06/2005.)
- 19.25.LL. HOTEL OR MOTEL. A commercial establishment offering rooms for rent by the day, week, month or any portion thereof, where all incidental or accessory uses are subordinate to term rental of accommodations.
- 19.25.MM. IMPERVIOUS COVERAGE. The surface area of all man-made improvements which effectively prevents the natural passage of water from the ground surface to the underlying soil mass.
- 19.25.NN. INDUSTRIAL/LIGHT INDUSTRIAL USES. Those uses involving the assembling, fabricating, finishing, manufacturing, packaging, processing or warehousing of any goods or materials. Included in industrial uses are laboratories, research and testing facilities and those laundry/linen services which cater to commercial, industrial or institutional establishments.<sup>1</sup>
- 19.25.OO. JUNK. Any scrap, waste, **reclaimable** material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, bailing, disposal or other use or disposition.
- 19.25.PP. JUNKYARD. Any area, lot, building or roofed structure or part thereof whose interior is visible to the public from off premise, used for the storage, collection, processing, purchase, sale or abandonment of: old iron or metal, glass, paper or other discarded goods, materials, machinery or two or more unregistered and uninspected by the State and/or City motor vehicles or old motor vehicles no longer intended or in condition for legal use on the public highways or used parts or materials from motor vehicles which, taken together, include in bulk two or more vehicles. Legal, accessory storage use shall be exempt from this definition.
- 19.25.QQ. LOT. An undivided tract or parcel of land having a frontage on a public street, which is designated as a distinct and separate tract and which is identified by a lot number in an approved (by the City) subdivision plat which has been properly filed on record at the Strafford County Registry of Deeds.
- 19.25.RR. LOT LINES:
- FRONT LOT LINE. The property line between the front yard and the contiguous street right-of-way boundary.
- 19.25.SS. REAR LOT LINE. The property line between the rear yard and the adjacent property or right-of-way and contiguous with the legal boundary of such use.
- 19.25.TT. MINIMUM LOT AREA. The gross land area, minus any land area which supports slopes in excess of twenty percent (20%) as measured over a ten (10) foot interval,

the regulatory floodway and floodplain as defined in the Zoning Ordinance, the surface areas of waterbodies and wetlands as defined in the Zoning Ordinance, private and public roads, the easements and utilities for utility or other public purposes which are located above ground. (Amended 04/16/2007.)

- 19.25.UU. SIDE LOT LINE. The property line between two (2) adjacent lots or between the side yard and the contiguous street right-of-way boundary on comer lots.  
On comer lots and through streets, all portions of the lot adjacent to streets shall be considered front yards; all yards remaining after the front yards have been established shall be considered side yards.
- 19.25.VV. MINI-WAREHOUSE. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.
- 19.25.WW. MIXED USE. A land use where more than one classification of land use (residential, commercial, recreational) permitted within a zoning district is combined on a lot within a structure. (Added 05/03/2004.)
- 19.25.XX. MOTOR VEHICLE REPAIR GARAGE/STATION. Any building, premises and land in which or upon which a business, service or industry involving maintenance, servicing, repair or painting of vehicles is conducted or rendered. (Added 05/03/2004.)
- 19.25.YY. MOTOR VEHICLE SERVICES. Establishments primarily engaged in furnishing motor vehicle cleaning, detailing, and rental, leasing and parking services to the general public. (Added 05/03/2004.)
- 19.25.ZZ. NURSING HOME. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity are unable to care for themselves.
- 19.25.AAA. OUTDOOR STORAGE. The keeping, in an unroofed area, of any goods, junk materials, merchandise or unregistered, uninspected motor vehicles in the same place for more than twenty-four (24) hours.
- 19.25.BBB. PAYDAY LOAN. A short-maturity, secured or unsecured loan, other than a title loan. (Added 05/05/2014.)
- 19.25.CCC. PAYDAY LOAN LENDER. A person engaged in the business of making payday loans. (Added 05/05/2014.)
- 19.25.DDD. 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 (US HUD) minimum property standards and local building codes, for installation or assembly and installation, on the building site.
- 19.25.EEE. PRODUCE, CHRISTMAS TREE and OTHER SEASONAL STANDS. Any temporary structure used to sell goods which are available or in demand for only a part of the year.
- 19.25.FFF. RESTAURANT, DINER. Establishments where the consumption of prepared food is the primary business and the preparation, service and consumption of said food takes place within the building.
- 19.25.GGG. RETAIL. The sale of goods directly to a consumer.

- 19.25.HHH. RIGHT-OF-WAY. Means and includes all City, State and Federal highways and the land on either side of same as covered by statutes to determine the width or right-of-way.
- 19.25.III. ROOMING HOUSE. See "Boarding House".
- 19.25.JJJ. SEMI-DETACHED DWELLING. A one (1) family dwelling attached to one other one-family dwelling by a common, vertical wall and each dwelling is located on a separate lot.
- 19.25.KKK. SETBACK LINE. That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principle or accessory structure must be erected or placed.
- 19.25.LLL. SHOPPING CENTER/MALL. A group of commercial establishments planned, constructed and managed as a total entity.
- 19.25. MMM SMALL LOAN. A closed-end loan in the amount of \$10,000 or less or an open-end loan with a line of credit of \$10,000 or less, and where the lender contracts for, exacts or receives, directly or indirectly, or where the borrower pays for, directly or indirectly in connection with any such loan any charges, whether for interest, examination, commission, compensation, service, brokerage, endorsement fees, other fees, consideration, expense or otherwise, which in the aggregate are greater than 10 percent per annum except for the lawful fees, if any, actually and necessarily paid out by the lender to any public officer, for filing or recording in any public office any instrument securing such loan and except for the reasonable costs, charges, and expenses, including court costs actually incurred in connection with a repossession of the security or an actual sale of the security. (Added 05/05/2014.)
- 19.25.NNN. SMALL LOAN LENDERS. Any person engaged in the business of making small loans, including title loans and payday loans. (Added 05/05/2014.)
- 19.25.OOO. STABLE. Any building or enclosed area used for the housing, feeding or care of one (1) or more horses.
- 19.25.PPP. STABLE, COMMERCIAL. A stable where horses are kept for profit or gain, including, but not limited to, boarding of horses, riding instruction or renting of horses.
- 19.25.QQQ. STABLE, NON-COMMERCIAL. A stable used solely for horses owned by the residential-occupant, except that occasional and temporary stabling of horses not for gain, direct or indirect, is permissible.
- 19.25.RRR. STORAGE BOX/SPACE TRAILER. A fully enclosed structure manufactured for storage use only and does not include tractor trailer bodies, cargo container boxes or railroad cars.<sup>1</sup>
- 19.25. SSS. STRUCTURE. A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.
- 19.25.TTT. TANK FARM. An open air facility containing a number of above-ground, large containers for the bulk storage of material in liquid, powder or pellet form.
- 19.25.UUU TITLE LOAN. A loan, other than a purchase money loan:
- 1.a Secured by the title to a motor vehicle;
  - 1.b Made for period of 60 days or less;
  - 1.c With a single payment payback; and
  - 1.d Made by a lender in the business of making title loans

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<sup>1</sup>Passed 4/6/1998.

Or

2.a That is secured, substantially equivalent to a title loan, and designated as a title loan by rule or order of the commissioner. (Added 05/05/2014.)

- 19.25.VVV. TITLE LOAN LENDER. A person engaged in the business of making title loans. (Added 05/05/2014.)
- 19.25.WWW. TOURIST HOME. Any place consisting of a room or group of rooms located on one (1) premise where transient accommodations for sleeping or living purposes for not more than six (6) persons are provided for a price.
- 19.25.XXX. TOWNHOUSE. A one (1) family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.
- 19.25.YYY. TRUCKING TERMINAL. A terminating point where freight is transferred from a truck to a storage area within an enclosed building or to other trucks, for immediate transport, on a regular basis.<sup>1</sup>
- 19.25.ZZZ. USE, CHANGE OF. A change in occupancy or activity on land, building or structure from one type of lawful use to another lawful use, as in a change from retail use to wholesale use, warehouse use to industrial use or industrial use to office use.
- 19.25.AAAA. WAREHOUSING. Terminal facilities for handling and storage of freight with or without maintenance facilities.
- 19.25.BBBB. WHOLESALE TRADE. The selling of goods or merchandise to retailers, industries, businesses, institutions or other wholesalers.
- 19.25.CCCC. YARD, FRONT. An open space between the building and the front lot line, extending the full width of the street or in the case of a corner lot, extending along all streets.
- 19.25.DDDD. YARD, SIDE. An open space between the building and a side lot line, extending the full depth of the lot.
- 19.25.EEEE. YARD, REAR. An open space between the building and the rear lot line, extending the full length of the lot.
- 19.25.FFFF. YARD SALE/GARAGE SALES. The sale of used household or personal articles on the sellers residential property.<sup>2</sup>

Section 23 renumbered Section 24 10/19/99.

Section 24 renumbered Section 25 10/07/02.

<sup>1</sup> Section 25 renumbered Section 26 on 10/19/99.

Section 26 renumbered Section 27 on 10/07/02.

Section 25 renumbered 19.25.Y. through 19.25.ZZZ 07/15/2013.

Section 25 renumbered 19.25.BBB through 19.25.FFFF 05/05/2014.

## Section 26 Telecommunications Facilities

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<sup>1</sup> Passed 7/26/1993.

<sup>2</sup> Passed 10/2/1995.

26.A. AUTHORITY. By the authority granted under NH RSA 674:16 and 674:21 and procedurally under the guidance of 675:1, II, this section creates an ordinance establishing a telecommunications program and amending the Zoning Ordinance to add regulations pertaining to wireless communications facilities.

26.B. PURPOSE. This ordinance is enacted in order to establish general guidelines for the siting of telecommunications towers and antennas and to enhance and fulfill the following goals:

26.B.1. Preserve the authority of the City to regulate and to provide for reasonable opportunities for the siting of telecommunications facilities while ensuring that telecommunications provider's service remains effective and efficient.

26.B.2. Reduce or eliminate adverse impacts such facilities may create. Adverse impacts may include, but are not limited to, impacts on aesthetics, impacts on environmentally sensitive areas, impacts to historically significant locations, impacts on flight corridors, reduction in property values, and health and safety concerns.

26.B.3. Provide for co-location and minimal impact siting options through an assessment of technology, current location options, future location availability, innovative siting techniques, and siting possibilities beyond the geographic boundaries of the City.

26.B.4. Permit the construction of new towers only where all other reasonable alternatives have been exhausted, and to encourage the owners and users of towers and antennas to configure them in a manner that minimizes visual impacts of said structures.

26.B.5. Require antenna co-location on existing tower structures through cooperation and agreements between providers.

26.B.6. Provide for documentation of scheduling of recurring maintenance and safety inspections for all telecommunications facilities and appurtenances.

26.B.7. Provide for the demolition and removal of abandoned facilities. Provide a procedure for the City to remove abandoned towers to provide for the health and safety of citizens.

26.B.8. Provide for the removal or upgrade of technologically outmoded facilities.

26.C. LOCATION. Telecommunication Facilities shall be allowed in accordance with the following:

26.C.1. On parcels situated in the B, C/I, MY, and I Zoning Districts.

26.C.2. In other areas within the City of Somersworth only as a co-location on Existing Towers, Antennas, and Alternative Tower Structures.

26.D. DEFINITIONS.

Alternative Tower Structure – The use of structures such as man-made trees, clock towers, bell steeples, rooftops on buildings 5 stories or more, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers and their appurtenances.

Antenna – Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, repeater, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

FAA – An acronym meaning Federal Aviation Administration.

FCC – An acronym meaning Federal Communications Commission.

Height – Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure or appurtenance, even if said highest point is an antenna or other appurtenance.

Planning Board (Board) – The City of Somersworth Planning Board, and the regulator body of this ordinance.

Existing Towers and Antennas – Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Additionally, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Board.

Telecommunications Facilities – Any structure, antenna, tower, or other device which provides licenses commercial mobile wireless services, cellular telephone services, specialized mobile radio communications (SMR), enhanced specialized mobile radio communications (ESMR), personal communications service (PCS), paging, and similar services marketed to the general public.

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

#### 26.E. TELECOMMUNICATION FACILITIES PROCEDURAL REQUIREMENTS.

26.E.1. Location or replacement of Telecommunication Facilities on Existing Towers or Antennas or Alternative Tower Structures.

The location or replacement of telecommunication facilities on existing towers or antennas or alternative tower structures may be approved by the Department of Development Services provided the following information is submitted in an application:

26.E.1.a. A scaled plan detailing exact size and location of the telecommunication device including a scaled elevation view.

26.E.1.b. Submission of proof that the telecommunication device is needed to service City of Somersworth residents.

26.E.1.c. Proof that the device meets all other technical requirements of this ordinance.

Any application denied by the Department may be appealed to the Planning Board.

26.E.2. Proposed Construction of new Telecommunications Facilities.

26.E.2.a. A scaled plan in accordance with Site Review Regulations shall be submitted including the following additional information: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent land uses (up to 200 ft. away), and any other information deemed necessary by the City Planner.

26.E.2.b. Written proof that the proposed use/facility complies with FCC regulations on radio frequency (RFD) exposure guidelines, and FAA regulations on tower requirements.

- 26.E.2.c. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEAP) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (IS) is required under the FC rules and NEAP, submission of the EA or IS to the Board prior to the beginning of the federal 30 day comment period, and the City's site review process, shall become part of the application requirements.
- 26.E.2.d. Each applicant for an antenna and/or tower shall provide to the Planning Board an inventory of its existing towers that are within the jurisdiction of the City and those within two miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or special exception permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- The applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence shall consist of one or more of the following:
- 26.E.2.d.i. Adequate evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.
- 26.E.2.d.ii. Adequate evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
- 26.E.2.d.iii. Adequate evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- 26.E.2.d.iv. Adequate 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.
- 26.E.2.d.v. Adequate evidence that 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.
- 26.E.2.d.vi. Adequate evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
- 26.E.2.e. The applicant proposing to build a new tower shall submit an agreement with the City 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 telecommunication providers.

All agreements shall outline a procedure requiring all disputes on terms and conditions of co-location be submitted to a recognized commercial arbitration board for their review. The arbitration board's decision shall become final and binding. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the City, and grounds for a denial.

- 26.E.2.f. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with NH RSA 676:4(g).
- 26.E.2.g. Each applicant for a tower, monopole, or alternative structure shall submit a design certified by a competent engineer that the structure has been engineered to accommodate the maximum number and type of all compatible telecommunication media antennae, but in no event shall be applicant provide fewer than three additional co-locations from three additional providers. This provision may be modified based on visual or aesthetic impacts.

26.F. PERFORMANCE STANDARDS.

The uses listed in this section are deemed to be permitted uses, and at the discretion of the Planning Board, may require further review under this ordinance in accordance with Chapter 22A, Site Plan Review Regulations, and all other applicable ordinances and regulations of the City of Somersworth.

- 26.F.1. Principal or Secondary Use. Subject to this ordinance, an applicant who obtains site plan approval under this ordinance as a secondary and permitted use, may construct telecommunications facilities in addition to the existing principal use. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure shall not preclude the installation of an antenna or tower on such lot.

For purposes of determining whether siting of an antenna or tower complies with zoning district development regulations, including but not limited to area, setback, lot coverage, frontage, and other dimensional requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed in accordance with the provisions of this ordinance, shall not be deemed the expansion of a non-conforming use or structure. Further, said facilities shall not be considered an accessory use.

- 26.F.2. Height Requirements.

New tower construction – 180 feet maximum.

Co-location on Existing Tower and Antennas – current height plus 15% (not to exceed 200 feet).

Co-location on Alternative Tower Structures – current height plus 12 feet.

The height requirements and limitations outlined above shall preempt all other height regulations as required by the City of Somersworth Zoning Ordinance, and shall apply only to telecommunications facilities. A Conditional Use Permit may be granted by the Planning Board to waive the height limitations only if the intent of the Ordinance is

preserved (e.g. when it can be shown that there would be no increase in adverse impact) and the increased height would provide a greater opportunity for co-location provided that:

- 26.F.2.a. The granting of the permit will not be detrimental to the public safety, health or welfare or injurious to other property, and will promote the public interest.
- 26.F.2.b. A written narrative identifying a particular hardship or special circumstance that warrants granting the permit.  
  
Factors to be considered, but not limited to, in determining a hardship or special circumstance shall include:
  - 1. topography and other site features
  - 2. availability of alternative site locations
  - 3. property location as relates to required coverage area
  - 4. size/magnitude of project and availability of co-location
- 26.F.2.c. Necessary federal approvals and/or recommendations have been received.
- 26.F.3. Setbacks and Separation. The following setbacks and separation requirements shall apply only to telecommunications facilities, and shall supersede all other such standards found elsewhere in the Ordinance or other applicable City Ordinances and Regulations.
  - 26.F.3.a. Towers shall be set back a distance equal to 100T of the height of the tower from any boundary line, or other principal use structure located on the property the tower is sited upon. This provision may be waived by the Planning Board provided the intent of the ordinance remains intact.
  - 26.F.3.b. Tower guys and all other accessory facilities shall conform with the minimum setback requirement of the zoning district in which said facilities and appurtenances are located.
- 26.F.4. Security Fencing. Towers shall be enclosed by appropriate security fencing not less than 6 ft. in height, and shall be equipped with an appropriate anticlimbing device.
- 26.F.5. Landscaping.
  - 26.F.5.a. Towers shall be landscaped with a buffer of suitable vegetation that effectively screens the view of the tower compound from abutting residential property. The minimum standard buffer shall consist of a landscaped strip ten (10') feet wide outside the perimeter of the tower compound. Existing (natural) vegetation is preferred.
  - 26.F.5.b. The requirement for landscaped screening may be reduced or waived entirely by the Planning Board in locations where the visual impact of the tower compound to abutting residential uses is deemed to be minimal.
  - 26.F.5.c. Existing mature tree growth and natural landforms present on the site shall be preserved to the maximum extent possible.

Natural growth on the site may be deemed a sufficient buffer on large, remote, wooded lots.

- 26.F.6. Aesthetics and Lighting. The guidelines in this subsection shall govern the location of all towers, and the installation of all antennas. However, the Planning Board may waive those requirements, via Conditional Use Permit, only if it determines that the goals of this ordinance are served thereby.
- 26.F.6.a. Towers shall either maintain a galvanized steel finisher, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness.
- 26.F.6.b. At a tower site, the design of buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and previously developed environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements.
- 26.F.6.c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- 26.F.6.d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- 26.f.6.e. Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.
- 26.F.7. 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, in accordance with Chapter 170-28.6, Subsection (J), of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.
- 26.F.8. Building Codes – Safety Standards. To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards.

If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Chapter 170-28.6, Subsection (J), of the tower or antenna, as abandoned, at the owner's expense through execution of the posted security.

- 26.F.9. Certification of Safety Standards and Continued Need. The owner of a tower or antenna shall provide an annual certification to the Department of Development Services verifying compliance with building codes and safety standards. The certification shall also verify that the structure is still needed for the operation of the owner's network. Said certification shall be submitted to the Planning Department prior to December 31<sup>st</sup> of each year. Any owner who has failed to submit an annual certification shall be notified of the violation. A 30-day extension for submission of a certification may be approved at the discretion of the Department. After notification of a violation by the Department subsequent failure to submit an annual certification shall constitute abandonment and be grounds for removal in accordance with 170-28.6, Subsection (J).

#### 26.G. EXEMPTIONS.

- 26.G.1. City Use. Antennas or towers owned, performing City functions, or otherwise controlled by the City, shall be exempt from the requirements of this Telecommunications Facility Ordinance. This exemption shall only be available if the City Council, and the City Council elects, subject to NH RSA's, have approved a license or lease authorizing such antenna or tower, to seek said exemption.
- 26.G.2. Amateur Radio. This section shall not govern any tower, or the installation of any antenna that is owned and operated by a federally licensed amateur radio station operator and the tower or antenna is used for the exclusive purpose of amateur radio operations. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.
- 26.G.3. Citizen Band Radios. This section shall not govern the installation of any antenna that is used for the exclusive purpose of facilitating the use of a Citizen Band Radio, except any towers in this section shall be limited to seventy feet (70') in height.
- 26.G.4. Receive-Only Antennas. This section shall not govern any tower, or the installation of any antenna that is used exclusively for receive-only antennas, except any towers in this section shall be limited to seventy feet (70') in height.
- 26.G.5. Essential Services and Public Utilities. Henceforth, from the date of adoption of this ordinance, telecommunications facilities shall not be considered as infrastructure, essential services, or public utilities, as defined or used elsewhere in the City's ordinances and regulations.

Siting for telecommunications facilities shall be considered a use of land, and is addressed by this ordinance.

#### 26.H. BONDING AND SECURITY INSURANCE.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with Subsection (J) below. Bonding

and surety shall be consistent with the provisions in Chapter 22, Subdivision Regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

#### 26.I. REMOVAL OF ABANDONED ANTENNAS AND TOWER.

Any antenna or tower that is not operated for a continuous period of 12 months, or is no longer needed for the operation of the network, shall be considered abandoned and hazardous to the public health and safety. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Building Official notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing

notice per City regulations, with notice to abutters and last known owner/operator of the tower. If the abandoned tower is not removed within 90 days, the City may 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.

(Section 26 added 05/03/2004.)

## Section 27 Administration & Enforcement

- 19.27.A. No building or structure or part thereof shall be erected, used, altered or reconstructed without a permit from the Building Inspector, issued upon written application, which permit shall state that the plans and intended use indicate that the building or structure is to conform in all respects to the provisions of this ordinance.
- 19.27.B. No premises or building or structure or part thereof, hereafter erected, altered or reconstructed, wholly or partly in its use of structure or the yard, courts or other open spaces of which are in any way reduced shall be used or permitted the use until the Building Inspector shall have certified on the building permit or, in case none is issued, shall have issued a Certificate of Occupancy, specifying the use to which the premises or buildings may be put upon being sufficiently completed to comply with the provisions and regulations relating thereto.
- 19.27.C. A Certificate of Occupancy shall not be issued until all ordinance requirements have been met. No business opening shall be allowed without posting of a Certificate of Occupancy document. Failure to post said Certificate of Occupancy shall result in a fine of two hundred fifty dollars (\$250)<sup>1</sup> per day.
- 19.27.D. Upon written complaint of the Building Inspector or his/her designee, the City Attorney, with the assistance of any law enforcement officer or officers and any process of law or law enforcement agency that may be necessary, shall enforce this Zoning Ordinance.
- 19.27.E. When the Building Inspector finds that any of the provisions of this Ordinance are in violation, he/she shall notify the property owner in writing. Where the owner fails to comply with the notice of the Building Inspector, a fine not to exceed two hundred fifty dollars (\$250)<sup>1</sup> per day or the maximum amount which is authorized by statute, may be levied against the owner, upon conviction.

Section 24 renumbered Section 25 on 10/19/1999./Section 25 renumbered Section 26 on 10/07/2002. /Section 26 renumbered Section 27 on 05/03/2004.

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<sup>1</sup> Amended 3/21/2005.

## Section 28 Interpretation, Conflicts & Separability

- 19.28.A. MINIMUM STANDARDS. In their interpretation and application, the provisions of these regulations shall be held to the minimum requirements for the promotion of the public health, safety and general welfare.
- 19.28.B. CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS.
- 19.28.B.1. Public Provisions. These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose high standards shall control.
- 19.28.B.2. Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive, impose higher standards or regulations than such easement, covenant or other private agreement or restriction; the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive or higher standards than the requirements of these regulations or the determination of the City of Somersworth in approving a development or in enforcing these regulations and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.
- 19.28.C. SEPARABILITY. If any part or provisions of these regulations or application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City of Somersworth hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.
- 19.28.D. SAVINGS PROVISION. These regulations shall not be construed as abating any action now pending under or by virtue of, prior existing regulations or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue or as affecting the liability of any person, firm or corporation or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City as shall be expressly provided for in these regulations.<sup>1</sup>

(Section 27 renumbered Section 28 on 05/03/2004.)

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<sup>1</sup> Section 25 renumbered Section 26 on 10/19/99.  
Section 26 renumbered Section 27 on 10/07/02.

## Section 29 Maximum Allowable Occupancy

HOUSEHOLD- A group of occupants of a dwelling unit restricted to the following two (2) categories:

1. FAMILY- An individual or two (2) or more persons related within the second degree of kinship by civil law or by marriage or adoption or foster care arrangement living together as a single housekeeping unit, including necessary domestic help such as nurses or servants not to exceed three (3) in number.
2. UNRELATED HOUSEHOLD- Any household not conforming to the definition of a “family,” provided that no such household shall have a number of members in excess of the figure provided in Table II-1.

**Table II-1. DWELLING DENSITY BY TYPE**

<b>Dwelling Type</b>	<b>Maximum number of occupants in unrelated household per 300 square feet of habitable floor area</b>
<b>Single-family dwelling</b>	<b>1</b>
<b>Duplex or Townhouse</b>	<b>1</b>
<b>Apartment</b>	<b>1</b>
<b>Boarding house</b>	<b>2</b>
<b>Nursing home</b>	<b>2</b>
<b>Elderly housing</b>	<b>2</b>

Notes: No more than three (3) unrelated occupants may occupy a dwelling unit in the following Zoning Districts: A, R1, R1A, R2, R2A, R3, REC, RB, RO, MH, MY, HMD.

Passed 11/17/2008.

## **Section 30 Hilltop School Property Overlay District**

### **19.30.A Title and Authority**

**Title:** This Ordinance shall be known as the “Hilltop School Property (HSP) Zoning Overlay Ordinance” of the City of Somersworth, New Hampshire.

**Authority:** Pursuant to the authority granted by RSA 483-B:8, Municipal Authority; RSA 674:17 I., Purposes of Zoning Ordinances; RSA 674:21, Innovative Land Use Controls; this ordinance is hereby adopted by the City of Somersworth, New Hampshire to protect the public health, safety, and general welfare.

### **19.30.B District Boundaries**

The boundaries of the Hilltop School Property Overlay District are hereby established to include all the property on Tax Map 11 Lot 49 which is hereby declared to be part of this ordinance.

### **19.30.C Purpose**

The purpose of this ordinance is to provide for productive, desirable reuse of the Hilltop School building and property (Map 11 Lot 49) located within the Residential Single Family/A (R1/A) District as outlined in the City’s Zoning Ordinance 19.3.D.11., further governed by the Historic District (HD) Overlay Zoning District outlined in ordinance 19.3.D.6.

Recognizing the former school property is located within the R1-A Zoning District, within the HD Overlay District, yet does not conform to the norm of structures and uses intended to be regulated by these ordinances, it is deemed appropriate and necessary to provide for a zoning overlay district to apply specifically and solely to this property without hindering the intent and purposes of the aforementioned ordinances.

Regulations set forth in this ordinance are designed to support the intent of the HD District Ordinance to provide for the recognition, preservation, enhancement and continued use of structures, sites and areas having historic and cultural significance in support of the community’s economic prosperity, cultural enrichment and general welfare, to stabilize and improve property values in the city and to aid in the safeguard of the heritage of Somersworth by providing for the protection of structures and areas that represent significant elements of its history.

### **19.30.D Applicability**

All land and building use activities and development conducted within the Hilltop School Property District shall be regulated by the standards established herein.

The standards established herein shall constitute the rules of an overlay zone and shall be superimposed over other zoning districts or portions thereof. The provisions herein shall apply in addition to all other applicable ordinances and regulations. In such instances where the building and property of the Hilltop School Property align with buildings and properties typical of those of the HD, and R1/A Zoning Districts, the provisions set forth in those ordinances should be adhered to.

This overlay ordinance will make provisions for such instances where the property and building in the overlay district do not physically, and logically align to types reasonably intended to be governed by the R1/A and HD ordinances. The provisions set forth for this overlay district make an effort to align with the goals and intent of the city’s overall zoning codes. In the event of a conflict between any provision herein and any other ordinance or regulation, the more restrictive requirement shall prevail.

19.30.E Additional Permitted Uses

In addition to all uses permitted by the existing ordinances which govern this overlay district, the following uses, as defined in the existing City of Somersworth zoning ordinances, will be permitted:

<b>Principal Use</b>	
Government Facilities & Svcs.	
Private Educational Institution	
Museum	
Clubhouse, community center, non-commercial recreational facilities, such as swimming pools and tennis courts, for the citizens of Somersworth	
Communications (i.e., radio/television broadcasting, telephone communications).	
Professional & Business Offices	
Bed and Breakfast/Inn <sup>1</sup>	
Athletic/Fitness Facility	
Amusement and Recreational Services <sup>2</sup>	
Daycare Facilities	
Artisan Studio	
Artisan Production Shop	
All open land or fields used for baseball, football, track and field or other athletic games	
Photography Studio	

<b>Accessory Uses</b>	
Produce, Christmas Tree and Other Seasonal Stands	
Gift Shop <sup>4</sup>	
Café/ Retail <sup>3</sup>	

<sup>1</sup> Owner Occupied and limited to no more than 10 rentable rooms.

<sup>2</sup> Including such things as cinemas; theaters; bands; orchestras and other musical entertainment but excluding pool hall, billiards, video gaming centers operated for profit.

<sup>3</sup> Drive thru services are not permitted. Seating for no more than 12 people permitted.

<sup>4</sup> Goods limited to items that support and promote the current building occupants and/or the City of Somersworth.

Passed 03/18/2013.

**TABLE OF USES**  
(TABLE 4.A.1)

	PRINCIPAL USES	DISTRICT		
		PERMITTED	SPECIAL EXCEPTION	PROHIBITED
1.	One-unit dwelling.	A,B <sup>2</sup> ,HMD <sup>5</sup> ,R-1, R-1A, R-2, R-2A, R-3,R/B, R/C,R/O, MH	--	C/I, MY, I
2.	Two-unit dwelling.	B <sup>2</sup> ,HMD <sup>5</sup> ,R-2 <sup>1</sup> , R-2A, R-3, R/B, R/C, R/O	--	A, C/I, MY, I, R-1,R-1A,MH
3.	Multi-unit dwelling.	B <sup>2</sup> , MY <sup>2</sup> , HMD <sup>5</sup> ,R-3, R/B <sup>3</sup>	R-2A <sup>4</sup> , R/C	A,C/I,I,R-1, R-1A,R-2, R/O, MH
4.	Mobile home unit.	MH <sup>5</sup>		A, B, C/I, MY, HMD,I,R-1,R-1A, R-2,R-2A,R-3,R/B, R/C,R/O
5.	Mobile home park.		MH <sup>6</sup>	A, B, C/I, MY, I, R-1,R-1A,R-2, R- 2A, R-3, R/B, R/C, R/O
6.	Manufactured Housing Unit.	MH <sup>6</sup>	-	-

1 Two attached or detached one-unit dwellings are permitted on a lot.

2 New residential use is not allowed at the street level. Amended 01/22/2008.

3 The conversion of an existing residential building into not more than four (4) dwelling units provided that:

- a) The principal residential structure was in existence prior to January 1, 1989.
- b) The number of off-street parking spaces shall comply with Section 21 of this Ordinance.
- c) The minimum lot size required shall be as follows:

two dwelling units	3,000 square feet
three dwelling units	4,500 square feet
four dwelling units	6,000 square feet

4

- a) Total gross area of lot shall be at least two (2.0) acres.
- b) Total net area of lot shall contain at least six thousand (6,000) square feet for each dwelling unit. Net land area shall be defined as the gross land area, minus any area which supports slopes in excess of twenty percent (20%), the Federal floodway and flood plain, the surface area of waterbodies and wetlands, and easements for utilities or other public purposes. (Wetlands shall be defined as per Section 12 of the Zoning Ordinance.)
- c) A maximum of six (6) units per building shall be permitted.
- d) Maximum height of a structure may be increased to forty (40) feet; and
- e) The number of off-street parking spaces shall comply with Section 21 this Chapter.

5 Passed 5/21/2001.

6 Passed 3/19/2001.

**TABLE OF USES**

(TABLE 4.A.2)

PRINCIPAL USES COMMUNITY/PUBLIC		DISTRICT		
		PERMITTED	SPECIAL EXCEPTION	PROHIBITED
1.	Government facilities and services.	B, C/I, MY, I, R/B, R/C, R/O	A, HMD <sup>3</sup> , R-1, R-1A, R-2, R2A, R-3, MH	
2.	Elderly housing facilities. <sup>1</sup>	-	HMD <sup>3</sup> , R-3, R/C, R/O, C/I	A, B, I, R-1, R-1A, R-2, R-2A, R/B, MH, MY <sup>4</sup>
3.	Group care facility.	-	HMD <sup>3</sup> , R-3, R-B MY <sup>6</sup>	A, B, C/I, I, R-1, R-1A, R-2, R-2A, R/C, R/O, MH
4.	Private educational institutions.		A, B, HMD <sup>3</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH, MY <sup>4</sup>	C/I, I
5.	Places of worship and related religious facilities.	-	A, HMD <sup>3</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH, MY <sup>4</sup>	B, C/I, I
6.	Museum.	B, MY	HMD <sup>3</sup> , R-3, R/B, R/C, R/O	C/I, I, R-1, R-1A, R-2, R-2A, MH
<b>AGRICULTURAL &amp; RURAL</b>				
1.	Agricultural uses.	A	-	B, C/I, MY, HMD <sup>3</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
2.	Commercial nurseries and greenhouses.	A, R/C, C/I, MY <sup>5</sup> ,	-	B, HMD <sup>3</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
3.	Commercial stable/riding instruction.	A	-	B, C/I, MY, HMD <sup>3</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
4.	Commercial kennel. <sup>2</sup>	-	A	B, C/I, MY, HMD <sup>3</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
5.	Veterinary hospital.		A, C/I, R/C MY <sup>7</sup>	B, HMD <sup>3</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH

<sup>1</sup>Elderly housing facilities are subject to the following provisions:

- a) Minimum lot size shall be one (1) acre. Minimum lot frontage shall be one hundred feet (100'). Minimum setbacks shall be thirty-five feet (35') at the front yard and twenty-five feet (25') at the side and rear yards. Maximum building height shall be thirty feet (30'). Minimum green space shall be thirty percent (30%).
- b) A minimum of one (1) parking space for each six (6) beds, plus one (1) space per employee, of the largest shift, shall be provided on the site.
- c) Elderly housing shall be served by municipal sewer, water, group transit services, and structures shall be fully sprinkled; and
- d) Elderly housing proposals shall be subject to the provisions of the Chapter 22A Site Plan Review Regulations.

<sup>2</sup> Provided the lot area is not less than five (5) acres, and no building or open enclosure for the keeping of dogs shall be located within one hundred feet (100') from any lot line.

<sup>3</sup> Passed 5/21/2001.

<sup>4</sup> Added/Amended 01/22/2008.

<sup>5</sup> Amended 08/15/2011

<sup>6</sup> Amended 08/15/2011

<sup>7</sup> Amended 08/15/2011

TABLE OF USES  
(TABLE 4.A.3)

	ACCESSORY USES	DISTRICT		
		PERMITTED	SPECIAL EXCEPTION	PROHIBITED
1.	Construction site mobile office. <sup>1</sup>	A, B, C/I, MY, HMD <sup>7</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH	-	-
2.	Accessory building such as a private garage, storage/tool shed, playhouse, greenhouse, swimming pool or similar structures accessory to a dwelling, business or industry. <sup>2</sup>	A, B, C/I, MY, HMD <sup>7</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH	-	-
3.	Clubhouse, community center, laundry room, non-commercial recreational facilities, such as swimming pools and tennis courts, provided primarily for the residents of a mobile home park or condominium/apartment complex.	B, MY <sup>9</sup> , HMD <sup>7</sup> , R-2A, R-3, R/B, R/C, MH	-	A, C/I, I, R-1, R-1A, R/O
4.	Outdoor storage, maintenance and utility areas and facilities. <sup>3</sup>	I	C/I	A, B, MY <sup>9</sup> , HMD <sup>7</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
5.	Parking of recreational vehicles. <sup>4</sup>	A, HMD <sup>7</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O	-	B, C/I, MY, I, MH
6.	Factory seconds store.	B, C/I, I, MY	-	A, HMD <sup>7</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
7.	Parking & transfer of commercial vehicles larger than 2 axle trucks, vans, vehicles or trailers exceeding 30 feet, vehicles or equipment weighing in excess of 18,000 lbs. gross weight intended.	C/I, I, MY <sup>13</sup>	-	A, HMD <sup>7</sup> , B, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH,
8.	Produce, Christmas tree and other seasonal stands.	C/I, R/C, MY <sup>9</sup>	-	A, B, HMD <sup>7</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
9.	Keeping of livestock or swine.	A	-	B, C/I, MY, HMD <sup>7</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
10.	Backyard chickens. <sup>14</sup>	A, HMD, MY, R-1, R-2, R-2A, R-3, R/B, R/O		B, C/I, CN, I, MH, R/C
11.	Storage of more than one unregistered and uninspected by the State and/or the City motor vehicle.	C/I, I		B, MY, HMD <sup>7</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
12.	Home occupation. <sup>5</sup>	A, MY, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH		B, C/I, I
13.	Child care home. <sup>6</sup>	A, MY, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH		B, C/I, MY, I
14.	Group child care home. <sup>6</sup>	A, HMD <sup>3</sup> , R-3, R/B, R/C, R/O	R-1, R-1A, R-2, R-2A,	B, C/I, MY, I, MH

15.	Storage boxes or spaces trailers used as storage for non-hazardous materials by the commercial or industrial use that occupies the property. <sup>7</sup>	B,C/I,I	-	A,HMD <sup>3</sup> ,R-1, R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH, MY <sup>9</sup>
16.	Framed-Covered Structures. <sup>8</sup>	A,B,C/I,MY,HMD,I, R-1,R-1A,R-2,R-2A, R-3,R/B,R/C, R/O,MH		
17.	Outdoor Wood-fired Hydronic Heaters (OWHH). <sup>10</sup>	A,B,C/I,CN,MY,HMD,I,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH		
18.	Contractor's Office/Storage Yard <sup>11</sup>	C/I, I, R/C <sup>12</sup>		A,B,CN,MY,HMD, MH,R,R-1,R-1A,R-2,R-2A,R-3,R-B,R-O

<sup>1</sup> Trailers in use for field offices or for storage of materials or equipment during construction, alteration or repair of a building may during the actual progress of such work be parked on the premises on which such work is being done. If such work shall cease for more than 30 successive days, except for seasonal stoppage, said trailers shall be removed and shall not be returned unless such work is again in actual progress.

<sup>2</sup> If 120 square feet or less, does not need to comply with setback requirements.

<sup>3</sup> These areas and/or features shall be screened from adjacent properties and from view from a public right-of-way. A fence, wall, hedge, landscaping, earthen berm, natural buffer area, or any combination thereof shall be provided, subject to approval by the Planning Board, for such purpose.

<sup>4</sup> No parking or storage of such vehicles is permitted in any front yard.

<sup>5</sup> Requirements for home occupations are outlined in Section 8 of this Ordinance.

<sup>6</sup> Shall meet the requirements for home occupations as outlined in Section 8 of this Ordinance, and comply with State licensing rules where applicable.

<sup>7</sup> Storage boxes or space trailers are permitted only on a temporary basis for a period of one (1) year or as extended by the Planning Board.

<sup>8</sup> Passed. 5/3/2004.

<sup>9</sup> Amended 01/22/2008.

<sup>10</sup> All OWHH's installed shall meet the minimum standards set forth in RSA 125-R with the following exception: No person shall install a *Phase II* OWHH unless it is installed at least 100 feet from the nearest property line and has a permanent attached stack that is at least 2 feet higher than the peak of the roof of a residence or place of business not served by the OWHH. The intent of this provision is to require that Phase II units meet the State requirements for Phase I units. (Passed 10/25/2010.)

<sup>11</sup> a. The use shall be screened from adjacent properties and from view from a public right of way. A fence, wall, landscaping, earthen berm, natural buffer area or any combination thereof shall be provided; and

b. The use shall require site plan approval from the Planning Board and shall meet the requirements of Chapter 22A.

<sup>12</sup> a. No portion of the use shall be located within 150 feet of a front lot line;

b. No portion of the use shall be located within 200 feet of the closest lot line of an existing residential use or a zoning district that allows residential uses (excluding the Recreational (REC) zoning district);

c. The use shall be screened from adjacent properties and from view from a public right of way. A fence, wall, landscaping, earthen berm, natural buffer area or any combination thereof shall be provided; and

d. The use shall require site plan approval from the Planning Board and shall meet the requirements of Chapter 22A.

<sup>13</sup> Amended 08/15/2011

<sup>14</sup> Amended 04/21/2014. This use is allowed on the portion of the lot fully behind the principal structure, provided the following standards are met: maximum of six (6) chickens and no roosters, and three (3) square feet of chicken coop and twenty (20) square feet of fenced enclosure yard per chicken. All coops and enclosures shall be a minimum of twenty (20) feet from any property line. Chickens must be kept in a coop or enclosure at all times. These provisions shall not apply to lots located in the Agricultural (A) district.

An annual permit shall be required to keep chickens under this provision. An application for such permit shall be submitted to the City Clerk on forms available for that purpose. There shall be a \$10 fee and the permit shall expire on September 1st each year.

**TABLE OF USES  
(TABLE 4.A.4)**

PRINCIPAL USES		DISTRICT		
		PERMITTED	SPECIAL EXCEPTION	PROHIBITED
<b>INDUSTRIAL</b>				
1.	Industrial/Light Industrial.	B,C/I,MY,I	-	A,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH
2.	Truck terminal facilities.	I	-	A,B,C/I,MY,HMD <sup>3</sup> R-1,R-1A,R-2,R-2A,RR/B,R/C,R/O,MH
3.	Excavation of earth products. <sup>1</sup>			
4.	Airport or heliport	-	C/I,I,MY <sup>4</sup>	A,B,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH
5.	Communications (i.e., radio/television broadcasting, telephone communications).	B,C/I,MY,I	-	A,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH
6.	Public utility station.	CI,I,R/C	MY <sup>5</sup>	A,B,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/O,MH
7.	Tank farm.	C/I,I	-	A,B,MY,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH
8.	Railroad siding/loading area.	B,MY,I	-	A,C/I,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH
9.	Bus depot.	I	MY <sup>6</sup>	A,B,C/I,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH
10.	Junkyard.	I	-	A,B,C/I,MY,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH
11.	Wholesale Trade.	B,C/I,MY,I	-	A,HMD <sup>3</sup> ,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,R/O,MH

**TABLE OF USES- TABLE 4.A.5**

<sup>1</sup> Requirements for excavation of earth products are outlined in Section 11 of this Ordinance.

<sup>3</sup> Passed 5/21/2001.

<sup>4</sup> Amended 08/15/2011

<sup>5</sup> Amended 08/15/2011

<sup>6</sup> Amended 08/15/2011

PRINCIPAL USES		PERMITTED	SPECIAL EXCEPTION	PROHIBITED
1.	Retail, wholesale and rental trades, commercial service and repair facilities excluding motor vehicles.	B,C/I,MY,R/C	R/B	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R/O, MH
2.	Professional and business offices.	B, C/I, MY, R/B, R/C, R/O	-	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, MH
3.	Restaurants, fast food restaurants, drive-in or refreshment stand.	B,C/I,MY,R/C	-	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
4.	Hotels, motels, inns, and other hospitality services.	C/I, R/C	MY <sup>6</sup>	A, B, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
5.	Bed and breakfast, tourist homes and boarding houses.	R/C, R/B, R/O, MY <sup>1</sup>	A, R-2, R-3,	A, B, C/I, HMD <sup>1</sup> , I, R-1, R-1A, MH
6.	Personal service establishments (i.e., hair salon, copy center, photographic studio, florist, shoe repair, etc).	B,C/I,MY,R/C	R/B	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/O, MH
7.	Laundry and/or dry cleaning shop. <sup>9</sup>	C/I, R/C	-	A, B <sup>9</sup> , MY, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH.
8.	Athletic/fitness facility.	B,C/I,MY,R/C	-	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
9.	Auto Convenience Market. <sup>9</sup>	C/I	R/C	A, B <sup>9</sup> , MY, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
10.	Trade and craft establishment (i.e., shops for plumbers, electricians, painters, paper hangers, upholsterers, sign painters and printers).	B, C/I, MY, R/C	-	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
11.	Amusement and recreational services.	B, C/I, R/C	MY <sup>6</sup>	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
12.	Medical/dental services and related facilities, including hospitals.	B, C/I, MY, I, R/B, R/C, R/O	-	A, HMD <sup>1</sup> , R-1, R-1A, R-2, R-2A, R-3, MH
13.	Civic clubs.	B, C/I, MY	R/B, R/O, R/C	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, MH
14.	Business center developments.	C/I, I, R/C, MY <sup>2</sup>	-	A, B, HMD <sup>1</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH
15.	Shopping mall/center.	B,C/I,MY,R/C	-	A, HMD <sup>1</sup> , I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O, MH

<sup>1</sup> Amended 08/15/2011

<sup>2</sup> Amended 08/15/2011

PRINCIPAL USES COMMERCIAL/RETAIL		DISTRICT		
		PERMITTED	SPECIAL EXCEPTION	PROHIBITED
16.	Day care facilities.	B,C/I,M,I <sup>2</sup> R/B,R/C	MY <sup>6</sup>	A,HMD <sup>1</sup> ,R-1,R-1A,R-2,R-2A,R-3,R,MH,R/O
17.	Banks and other financial institutions.	B,C/I,R/C, MY <sup>6</sup>	-	A, HMD <sup>1</sup> ,I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/O,MH
18.	Funeral homes.	B, C/I, R/B, R/O, R/C, MY <sup>7</sup>	-	A, HMD <sup>1</sup> ,I, R-1,R-1A,R-2, R-2A, R-3, MH
19.	Parking lot/structure.	B, MY	-	A, C/I, HMD <sup>1</sup> ,I, R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
20.	Motor Vehicle Repair Garage/Station. <sup>9</sup>	C/I, I	R/C	A, B <sup>9</sup> ,MY,HMD <sup>1</sup> R-1,R-1A,R-2,R-2A,R3,R/B,R/O, MH
21.	Automobile Sales. <sup>3</sup>	C/I	R/C	A,B,HMD <sup>1</sup> ,I,R-1, R-1A,R-2,R-2A, R-3,R/B,R/O,MH MY <sup>6</sup>
22.	Lounge, bar, nightclub, and similar establishments.	B,C/I,MY	R/C	A,HMD,I,MH, R-1,R-1A,R-2, R2A,R3,R/B,R/O
23.	Outdoor recreation area, such as, but not limited to, golf course and amusement park.	C/I, MY <sup>7</sup>	-	A,B,I,R-1,R-1A,R-2,R-2A,R-3,R/B,R/C,RMH, R/O
24.	Adult book store or adult video store, adult motion picture theater, adult motion picture arcade or adult cabaret.	-	C/I <sup>4</sup>	A,B,MY,HMD <sup>1</sup> , R-1, R-1A, R-2, R-2A, R-3, R/B, R/C, R/O, MH
25.	Mini-warehouses. <sup>1</sup>	I	-	A,B,C/I,MY,R-1, R-1A,R-2,R-2A, R-3,R/B, R/C,R/O,MH
26.	Artisan Production Shop. <sup>5</sup>	B,C/I,HMD,R/C, MY <sup>6</sup>	-	A,R-1, R-1A,R-2,R-2, R-2A,R-3 R/B,R/O,MH
27.	Artist Studio. <sup>5</sup>	B,C/I,MY,R/B, R/C,R/O	-	A,HMD,R-1, R-1A,R-2, R-2A,R-3,MH

**TABLE OF USES**

(TABLE 4.A.5)

PRINCIPAL USES		DISTRICT		
		PERMITTED	SPECIAL EXCEPTION	PROHIBITED
28.	Coffee Kiosk. <sup>5</sup>	B,C/I,R/C	MY <sup>7</sup>	A,HMD,R-1, R-1A, R-2, R-2A, R-3,R/B,R/O,MH
29.	Motor Vehicle Services. <sup>5,9</sup>	C/I, I	R/C	A, B <sup>9</sup> ,MY,HMD, R-1,R-1A,R-2, R-2A,R-3, R/B, R/O,MH
30.	Shopping Center, Power Center. <sup>5</sup>	B,C/I,MY,R/C	-	A,HMD,I,MH, R-1,R-1A,R-2, R-2A,R-3, R/B,R/O,MH
31.	Strip Center. <sup>5</sup>	B,C/I,MY,R/C	-	A,HMD,I, R-1,R-1A,R-2, R-2A,R-3,R/B, R/O,MH
32.	Convenience Store <sup>8</sup>	C/I, R/C	B	A, CN, HMD, I,R,R-1,R-1A, R-2,R-2A,R-3, R/B,R/O, MH,MY
33.	Small Loan Lenders. <sup>10</sup>	C/I,I		A,B,CN,HMD, MH,MY,R-1, R-1A, R-2, R-2A,R-3,R/B, R/C,R/O,REC

<sup>1</sup>Passed 5/21/2001.

<sup>2</sup>As an accessory use only.

<sup>3</sup>Subject to site plan approval.

<sup>4</sup>Subject to Site Plan approval.

<sup>5</sup>Passed 5/3/2004.

<sup>6</sup> Amended 01/22/2008.

<sup>7</sup> Amended 08/15/2011

<sup>8</sup> Added 07/15/2013

<sup>9</sup> Amended 07/15/2013.

<sup>10</sup> Passed 05/05/2014. Small loan lenders shall be located a minimum of 2,000' (feet) apart.

## **DIMENSIONAL AND DENSITY REGULATIONS**

**TABLE 5.A.1**

	ZONING DISTRICT	MINIMUM LOT AREA (SQ. FT.) <sup>13</sup>	MINIMUM LOT FRONTAGE (FEET)	MINIMUM YARD REQUIREMENTS "SETBACKS" <sup>14</sup>		
				FRONT	SIDE	REAR
<b>A</b>	<b>AGRICULTURAL</b>	43,560	150 <sup>1</sup>	35 <sup>9</sup>	20 <sup>9</sup>	50 <sup>9</sup>
<b>R-1</b>	<b>RESIDENTIAL SINGLE FAMILY</b>					
	w/water & w/sewer	15,000	115	25 <sup>2</sup>	10	30
	w/water & w/o sewer	25,000	135	25 <sup>2</sup>	15	30
	w/o water & w/o sewer	43,560	150	35 <sup>2</sup>	20	50
<b>R-1A</b>	<b>RESIDENTIAL/SINGLE FAMILY/A</b>	10,000	100	15	15	15
<b>R-2</b>	<b>RESIDENTIAL/DUPLEX<sup>5</sup></b>					
	w/water & w/sewer	20,000	150	25	10	30
	w/water & w/o sewer	27,250	175	25	15	30
	w/o water & w/o sewer	43,560	175	35	20	50
<b>R-2A</b>	<b>RESIDENTIAL/DUPLEX/A</b>	10,000 <sup>6</sup>	100	15	15	15
<b>R-3</b>	<b>RESIDENTIAL/MULTI-FAMILY<sup>5</sup></b>					
	w/water & w/sewer	26,250 <sup>3</sup>	150	30	30	30
<b>MH</b>	<b>MANUFACTURED HOUSING</b>					
	w/water & w/sewer	15,000	115	25	10	30
	w/water & w/o sewer	25,000	135	25	15	30
	w/o water & w/o sewer	43,560	150	35	20	50
	Mobile Home Park	10,000 <sup>11</sup>	80	25	10	30
<b>B</b>	<b>BUSINESS</b>	N/A	N/A	N/A	N/A	N/A
<b>CN</b>	<b>COMMERCIAL NODE</b>					
	residential uses	15,000	100	25	10	30
	office uses	15,000	115	20	20	30
	commercial uses	40,000	200	30	20	30
<b>I</b>	<b>INDUSTRIAL</b>	N/A	60 <sup>8</sup>	50 <sup>4</sup>	25	25
<b>R/B</b>	<b>RESIDENTIAL/BUSINESS</b>					
	residential uses	6,000	50	10	10	15
	commercial	10,000	50	10	10	15
	uses office uses	6,000	50	10	10	15
<b>R/C</b>	<b>RESIDENTIAL/COMMERCIAL</b>					
	residential uses <sup>5</sup>					
	commercial uses	40,000	200	50	30 <sup>7</sup>	30 <sup>7</sup>
<b>R/O</b>	<b>RESIDENTIAL/OFFICE</b>					
	residential uses <sup>5</sup>					
	commercial uses	40,000	200	50	30 <sup>7</sup>	30 <sup>7</sup>
	office uses	15,000	115	20	10	20

<b>C/I</b>	<b>COMMERCIAL/INDUSTRIAL</b>					
	commercial uses	40,000	200	50	30 <sup>7</sup>	30 <sup>7</sup>
	industrial uses	N/A	60 <sup>8</sup>	50 <sup>4</sup>	25 <sup>7</sup>	25 <sup>7</sup>
<b>REC</b>	<b>RECREATIONAL</b>	N/A	N/A	10	10	10
<b>MY</b>	<b>MILLYARD</b>	N/A	N/A	N/A	N/A	N/A
<b>HMD</b>	<b>HISTORIC MODERATE DENSITY</b> <sup>12</sup>	7,000	70	15	15	15

<sup>1</sup>Minimum lot depth in the A District is 175 feet.

<sup>2</sup>Where lots comprising fifty percent (50%) or more of the block frontage have been developed, and if the Code Enforcement Officer determines that the minimum frontyard setback of twenty-five feet (25') shall place a building out of alignment with the front building line common to the majority of the existing buildings, the average of the frontyard setback of the developed frontage shall establish the minimum frontyard setback. In no case shall a frontyard setback be less than ten feet (10'), nor shall a frontyard setback of more than twenty-five feet (25') be required for new construction.

<sup>3</sup> For multi-family dwellings of greater than three (3) units, the minimum lot area required increases by the following amounts for each additional unit over the first three:

0 bedrooms (efficiency)	+3,200 square feet
1 bedroom	+4,000 square feet
2 bedrooms	+5,000 square feet
3 bedrooms	+ 6,000 square feet

The minimum lot area required for triplex and greater multi-family residential units shall be based on net land area. Net land area shall be defined as the gross land area, minus any land area which supports slopes in excess of twenty percent (20%), the Federal floodway and flood plain, the surface areas of waterbodies and wetlands, and easements for utilities or other public purposes which are located above ground.

<sup>4</sup> Lots which front on a major City road, as determined by the City Engineer, shall provide a minimum front setback of seventy feet (70'). Lots which front a State owned road, and for which industrial uses are proposed, must provide a minimum developmental setback of fifty feet (50'). A developmental setback prohibits not only buildings, but also paved areas, storage yards and any other development of land except landscaping.

<sup>5</sup> Residential uses shall be developed in accordance with the density and dimensional regulations applicable to the number of dwelling units proposed (i.e., one dwelling unit shall be developed in accordance with the regulations of the R-1 District).

<sup>6</sup> Minimum lot area listed for the R-2A District shall apply only to the development of a one-unit dwelling. The minimum lot area for a two-unit dwelling shall be 12,000 square feet. For the regulations specific to multi-unit dwelling, refer to Table 4.A.1.

<sup>7</sup> The minimum building setback shall be determined by the requirements outlined in Section 10.C.4 of the City of Somersworth Site Plan Review Regulations.

<sup>8</sup> Applicable only to lots created after the effective date of this zoning ordinance amendment.

<sup>9</sup> The minimum building setbacks for residentially zoned properties within the Greenfield Drive, Kilda/Cecile Streets, Maloney Street and Pinewood Estate subdivisions shall adhere to those requirements applicable to structures within the R-1 District.

<sup>10</sup> No parking area shall be located within, twenty-five feet (25') of a residentially-zoned district, nor within twenty-five feet (25') of any streetline.

No development or structure, except fences or walls, as provided in Section 16, shall be located within twenty-five feet (25') of a residentially-zoned district nor within twenty-five feet (25') of any street line.

No building or roofed portion of any structure shall be located within twenty-five feet (25') of any lot line.

No required open space, yard or setback area shall be used or developed for any purposes other than by landscaping and by the minimum amount of walkways or driveways reasonably necessary to serve the permitted uses.

Primary structures shall be setback at least fifty feet (50') from the ordinary high water mark for rivers or the natural mean high water level for natural fresh water bodies. Except as otherwise prohibited by law, pre-existing, non-conforming structures may be repaired, improved, or expanded. No alteration shall extend the structure closer to the water line, except that the addition of an open deck or porch is permitted to a maximum of twelve feet (12') toward the water line.

<sup>11</sup> Per unit with municipal water and sewer.

<sup>12</sup> Minimum lot area per unit is 3,500 square feet.

13 The definition of minimum lot area is the gross land area, minus any land area which supports slopes in excess of twenty percent (20%) as measured over a ten (10) foot interval, the regulatory floodway and floodplain as defined in the Zoning Ordinance, the surface areas of waterbodies and wetlands as defined in the Zoning Ordinance, private and public roads, and easements and utilities for utility or other public purposes which are located above ground.

(Added 04/16/07.)

14 Temporary handicap ramps or similar structures that allow a person or persons with a recognized physical disability to reside in the premises may be installed within the required setbacks provided that all the following criteria are met:

- The building permit shall reference this provision:
- The structure shall not encroach into the Public Right of Way;
- The structure shall be temporary and shall be removed when the particular person or persons for which the structure was built no longer needs to use the premises or structure\*;
- The structure shall comply with the setbacks set forth in Table 5.A.1 to the maximum extent possible;
- Abutters to the property on which the proposed structure shall be erected shall be notified, at the applicant's expense, by the Code Enforcement Officer prior to the issuance of the Building Permit; and
- This exemption is restricted to residential uses only.

In the Historic District, these structures shall be considered exempt under the section 14.E.2 Exempt Activities as long as the construction of the ramp or similar structure does not involve the removal or modification of any existing structure.

\*The Code Enforcement Officer, after consultation with the Director, can waive the requirement to remove the structure when the person or persons for which the structure was built no longer needs it if it can be shown that a different person with a recognized physical disability needs the structure to remain. All waiver requests for the structure to remain shall be provided in writing to the Department of Development Services. A waiver from this requirement does not entitle the structure to remain indefinitely; it only allows the different person or persons that receive the waiver to utilize the structure until they no longer need it. (Added 09/17/2012)

## **DIMENSIONAL AND DENSITY REGULATIONS**

TABLE 5.A.2

	ZONING DISTRICT	MAXIMUM BUILDING COVERAGE (PERCENT)	MAXIMUM BUILDING HEIGHT (FEET) <sup>2</sup>	MAXIMUM DWELLING UNITS/GROSS (ACRE)
A	AGRICULTURAL	N/A	50	1.0
R-1	RESIDENTIAL SINGLE FAMILY	N/A	35 <sup>4</sup>	2.5
	w/water & w/sewer	N/A	35 <sup>4</sup>	1.5
	w/water & w/o sewer	N/A	35 <sup>4</sup>	0.9
	w/o water & w/o sewer			
R-1A	RESIDENTIAL/SINGLE FAMILY/A	N/A	35 <sup>4</sup>	
R-2	RESIDENTIAL/DUPLEX			
	w/water & w/sewer	N/A	35 <sup>4</sup>	3.8
	w/water & w/o sewer	N/A	35 <sup>4</sup>	2.8
	w/o water & w/o sewer	N/A	35 <sup>4</sup>	1.8
R-2A	RESIDENTIAL/DUPLEX/A	N/A	35 <sup>4</sup>	
R-3	RESIDENTIAL/MULTI-FAMILY			
	w/water & w/sewer	N/A	35 <sup>4</sup>	N/A
MH	MANUFACTURED HOUSING			
	w/water & w/sewer	N/A	N/A	N/A
	w/water & w/o sewer	N/A	N/A	N/A
	w/o water & w/o sewer	N/A	N/A	N/A
	Mobile Home Park	N/A	N/A	N/A
B	BUSINESS	N/A	N/A	N/A
CN	COMMERCIAL NODE			
	residential uses	N/A	35 <sup>4</sup>	2.5
	commercial uses	75 <sup>3</sup>	35	N/A
I	INDUSTRIAL <sup>1</sup>	40	40	N/A
R/B	RESIDENTIAL/BUSINESS			
	commercial uses	40	35	N/A
	office uses	40	35	N/A
R/C	RESIDENTIAL/COMMERCIAL			
	commercial uses	40	35	N/A
R/O	RESIDENTIAL/OFFICE			
	commercial uses	40	35	N/A
	office uses	40	35	N/A
C/I	COMMERCIAL/INDUSTRIAL			
	commercial uses	40	35	N/A
	industrial uses	40	40	N/A
HM	MILLYARD	N/A	MY	N/A
R	RECREATIONAL	5	35 <sup>4</sup>	N/A

- 1 The minimum setback between buildings on the same lot in the Industrial District shall be twenty-five (25) feet. Heights in excess of that which is permitted may be allowed by the Planning Board under site plan approval provided there are appropriate increases in yard requirements.
- 2 Heights in excess of that which is permitted may be allowed by the Planning Board under the site plan approval provided there are appropriate increases in yard requirements.
- 3 Maximum impervious coverage.
- 4 Passed 9/16/2005

(Amended 3/19/2001.)

