

TOWN OF NOTTINGHAM  
NEW HAMPSHIRE

BUILDING CODE  
AND  
ZONING ORDINANCE  
REGULATIONS

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TOWN OF NOTTINGHAM, NH  
BUILDING CODE AND ZONING ORDINANCE

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## ZONING ORDINANCE

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## **BUILDING CODES**

TOWN OF NOTTINGHAM, NEW HAMPSHIRE (as authorized under New Hampshire Revised Statutes Annotated 1983, Chapter 672-677 inclusive and amendments thereto).

### **I. ACTS UNLAWFUL**

It shall be unlawful to erect, construct, alter, enlarge, reconstruct or change the use of any building or structure without first consulting the Nottingham Building Inspector and obtaining a Building Permit if required.

### **II. PERMIT NOT TO ISSUE, INJUNCTION: PENALTIES**

- A. The Building Inspector shall not issue a Building Permit unless the provisions of the Zoning Ordinance, as most recently amended, Building Code as most recently amended, and the *International Code Council's Building, Fire, Plumbing, Energy, Residential Codes*, as most recently amended and as established by the *International Code Council* and Code Administrators International, Inc. have been complied with. **(Amended 3/8/05)**
- B. Any building erected, constructed, altered, enlarged, reconstructed or changed in use without a Building Permit shall be deemed an unlawful structure and the Selectmen charged with enforcement, may bring an action to enjoin such erection in the Superior Court of the county in which the building is located.
- C. Any person who violates the provisions of this Article shall be guilty of a misdemeanor.

### **III. APPLICATION, NONCOMPLYING WITH ZONING ORDINANCE AND BUILDING CODE**

The Building Inspector and applicant may submit a noncomplying Building Permit Application to the Nottingham Planning Board for consideration of approval or disapproval. If the Planning Board cannot take action because it is beyond their scope of responsibility, the applicant should then apply to the Board of Adjustment.

### **IV. MINIMUM BUILDING AREA FOR NEW RESIDENTIAL CONSTRUCTION**

- A. Transient Quarters - commercial tourist courts and motels shall provide each rental unit with a minimum of one hundred and fifty (150') square feet of floor space.

### **V. FOUNDATIONS**

All structures that require a Building Permit shall be set on solid foundations or slabs properly insulated for energy conservation and shall be connected and anchored to their foundations. Foundations shall be of concrete, brick, stone, or other acceptable masonry with frost walls around perimeter. Nonhabitable structures may be put on piers. Footings

are required for all structures and shall be below frost levels.

## **VI. SETBACKS**

All structures shall be fifty (50') feet from all property lines, except where otherwise required in this Building Code or in the Zoning Ordinance.

Commercial ventures such as transient quarters, retail establishments, business offices, filling stations, theaters, halls, clubs, and amusement centers shall be located not less than one hundred (100') feet from all boundary lines. Existing buildings excepted.

Industrial structures shall be located at least one hundred and fifty (150') feet from the front property line and not less than one hundred (100') feet from each side and rear boundary.

## **VII. SEWAGE DISPOSAL**

- A. Single Family Dwelling - requires a private sewage disposal system. The type, size and construction must fulfill the needs of maximum occupancy of the dwelling and meet the State of New Hampshire Specifications, as set forth in RSA Chapter 147, 148, and 149 as amended.
- B. Transient Quarters, Multi-family Structures and Condominiums - require a private sewage disposal system. The type, size and construction must fulfill the needs when maximum occupancy occurs and meet the State of New Hampshire Specifications as set forth in RSA Chapter 147, 148, and 149 as amended.
- C. Industrial and Commercial Buildings - require a private disposal system. The type, size and construction must be commensurate with the peak disposal needs of the facility and meet all applicable State of New Hampshire Specifications as set forth in RSA Chapters 147, 148, and 149 as amended and all Hazardous Waste Restrictions.
- D. Before expanding any structure, increasing the number of dwelling units, or occupying any existing structure on a year round basis, so as to increase the load on a sewage disposal system, an application for the approval of the system must be filed with Water Supply and Pollution Control Division of the Department of Environmental Services. The application must show that either the existing system or the design for a new system meet the requirements of the Division for the intended use. RSA 485-A:38.

Before offering for sale any developed waterfront property using a sewage disposal system, the property owner must, at his/her expense, engage a licensed sewage disposal system designer to perform a site assessment study to determine if the site meets the current standards established by the Division of Water Supply and Pollution Control. The assessment must become a part of the listing agreement before the property may be offered for sale (RSA 485-A:39)

## **VIII. EXTERIOR WALLS**

All frame dwellings shall have a minimum of one-half inch sheathing. Exterior walls shall be constructed of material commonly used for outside construction.

Building Height - maximum building height shall be thirty-four (34') feet measured from grade.

## **IX. SUBROOFING**

Shall be constructed of material that is a minimum of one-half inch in thickness.

## **X. INSULATION**

Shall comply with the Code for Energy Conservation under New Hampshire Revised Statutes Annotated 1979, Chapter 155-D (SB 177). All manufactured housing shall meet U.S. Housing and Urban Development Codes (HUD codes).

## **XI. ELECTRICAL WIRING AND FIXTURES**

Shall comply with the Code for Energy Conservation under New Hampshire Revised Statutes Annotated 1979, Chapter 155-D (SB 177). All manufactured housing shall meet U.S. Housing and Urban Development Codes (HUD codes).

## **XII. HEATING AND AIR CONDITIONING**

Shall comply with the Code for Energy Conservation under New Hampshire Revised Statutes Annotated 1979, Chapter 155-D (SB 177). All manufactured housing shall meet U.S. Housing and Urban Development Codes (HUD codes).

## **XIII. HOT WATER SYSTEMS**

Shall comply with the Code for Energy Conservation under New Hampshire Revised Statutes Annotated 1979, Chapter 155-D (SB 177).

## **XIV. WOODSTOVES**

A woodstove should be installed at least three (3') feet from any combustible wall, window, or siding. The stove should stand on a protective mat of asbestos, metal clad asbestos, concrete or brick that extends eighteen (18") inches beyond the stove in all directions. (No combustible materials should be placed on this mat). If a free-standing woodstove is connected to the fireplace, it should be located a minimum of two (2') feet from the face of the fireplace.

Horizontal lengths of uninsulated stove pipe should be used in open areas no closer than eighteen (18") inches from the ceiling and not be over seventy-five (75%) percent of the vertical portion of the stove pipe.

24-24 gauge single wall stove pipe should be used in open areas no closer than eighteen (18") inches from a combustible partition (sheetrock is a combustible material). Pipes that go through walls, closets, attics, or boxed-in areas must be U.L. or similar listed insulated stove pipe. Another acceptable method is a metal thimble and a metal shield with a diameter seven (7") inches larger than the thimble.

Millboard asbestos may be used as a shield on combustible walls. The millboard asbestos sheet is mounted on 1.5 inch spacers to allow air circulation between the shield and the wall (cement board asbestos should not be used because it is a conductor).

## **XV. CHIMNEYS**

Chimney footings shall rest on natural undisturbed ground below frost level. (Exception would be U.L. listed chimney system). Additional loads shall not be supported by chimneys unless they are specially designed and constructed to support the additional load.

Chimneys shall extend at least three (3') feet above the highest point where they pass a roof of a building and at least two (2') feet higher than any portion of a building within ten (10') feet.

Masonry chimneys shall be constructed of solid masonry units or reinforced concrete with walls not less than four (4") inches in thickness. Masonry chimneys shall be lined with fireclay flu liners not less than 5/8 inch in thickness or with other approved liner that will resist without cracking or softening a temperature of 1880 degrees Fahrenheit. No combustible materials shall be placed or used within two (2") inches of a chimney below the roof.

## **XVI. AMENDMENTS**

This ordinance may be amended by a majority vote of any legal Town meeting when the amendment or amendments have been presented to the voters as required by New Hampshire Laws, RSA, Chapter 675:2,3, as amended.

## **XVII. ENFORCEMENT**

Upon any well-founded information that this Ordinance is being violated, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking and injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the provisions of the above regulation shall be punished upon conviction, by a fine not exceeding one hundred (\$100.00) dollars for each day that such violation is found by a court to continue after the conviction date or

after the date on which the violator receives written notice from the Board of Selectmen that he is in violation of such regulations, whichever date is earlier.

#### **VIII. SAVING CLAUSE**

The invalidity of any provision of this ordinance shall not affect the validity of any other provision.

#### **XIX. EFFECTIVE DATE**

This ordinance shall take effect upon its passage.

**ZONING ORDINANCE  
for the  
TOWN OF NOTTINGHAM, NEW HAMPSHIRE**

**I. PREAMBLE**

- A. Authority - RSA 672 - 677, New Hampshire Revised Statutes Annotated 1983.
- B. Purposes - The purposes of this Ordinance are consistent with the Nottingham Master Plan - November 1990.
1. To preserve the rural character and natural resources of the Town.
  2. To insure that land use is consistent with the capability of the land to support such use with regard to ecological, aesthetic, and economic considerations.
  3. To assure that basic needs of health, safety, education, housing and recreation will be met and maintained at satisfactory levels.
  4. To provide for orderly growth of the Town, consistent with the financial ability to provide increased services and facilities necessitated thereby.
  5. To assure that land use does not have a deleterious effect on other property, either ecologically, aesthetically or economically.
  6. To secure safety from fire, panic, and other dangers by providing adequate areas between buildings and various rights-of-way.
- C. Adoption - the following ordinance is hereby enacted by the voters of the Town of Nottingham, New Hampshire, in annual meeting convened March 11, 1980 and takes effect upon adoption.
- D. Saving Clause - should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.

**II. SITE SUITABILITY FOR PROPOSED USE**

- A. Identification - the Official Map (as defined in Chapter 36, Sections 17-18, New Hampshire Revised Statutes Annotated) adopted by the Town Meeting on March 11, 1980, as amended, is hereby adopted as the Official Map.

The following maps, with subsequent refinements and correction adopted by the Planning Board are hereby made a part of this ordinance by reference. The applicable map, used in

conjunction with this or as an overlay on the Official Map, will define the classification of an area to determine site suitability.

1. Bedrock geology
2. Elevation
3. Existing land use
4. Floodplain map, revised
5. Groundwater potential
6. Historic and unique resources
7. Land use suitability
8. Resource protection
9. Slope
10. Soil conditions
11. Soil erodibility
12. Surface drainage
13. Surficial geology
14. Valuable natural resources
15. Vegetative cover

B. Applicability - in determining site suitability, in all cases where two or more classifications, areas and/or districts overlap, that with the most restrictive regulations shall apply.

C. Reclassification of Tracts - recognizing that the above maps are based on a low-density survey, the Planning Board is hereby authorized to reclassify a particular tract or portion thereof on the basis of an onsite inspection. If case reclassification is desired, the burden of proof devolves on the applicant; evidence to justify the requested reclassification must be presented to the Board. Abutters may be notified when the Planning Board considers reclassification of an area.

D. Tracts for Special Purposes - specific tracts or portions thereof may be designed jointly by the Planning Board and the owner, after a public hearing, for special purposes, including the following:

1. camps for girls, boys, or adults with specific associated commercial enterprises.
2. public park or recreational facilities with specific associated commercial enterprises.
3. conservation or recreational easements, including:
  - a. wetland protection, flood control, groundwater recharge
  - b. preservation of scenic or other natural resource or historic sites
  - c. hiking, bicycle, trail bike or snowmobile trails
  - d. open space dedicated to common use or for wildlife habitat

### **III. IMPACT CONTROL**

Only the Town of Nottingham or a cooperative in which the town of Nottingham is a member, may own and/or operate a collection facility, transfer station, transshipment facility, compaction facility, landfill, incinerator facility, or other facility for the handling, transfer, treatment, disposal, or other use or disposition of solid waste, refuse, trash, garbage, and/or other putrescible material anywhere in the Town of Nottingham.

There shall be no approval for the construction or operation of any water bottling, fruit juice processing, soft drink processing or alcoholic beverage processing facility in Nottingham without the approval of the voters of the Town at a regularly scheduled Town Meeting. Further, no water extracted within the boundaries of the Town of Nottingham shall be transported outside of the Town for commercial purposes by truck, rail, pipeline or any other means.

The Town of Nottingham is zoned residential/agricultural except as noted herein.

#### A. Commercial/Industrial Zones

##### 1. Commercial Zones (Town Center)

These zones shall extend back five hundred (500') feet from the nearest edge of the right of way, on both sides of the following portions of Route 152 and Route 156: town center from Lot 1, Map 38, inclusive, and Lot 2, Map 37, inclusive, to Lot 23B, Map 42, inclusive, and Lot 17, Map 43, inclusive; also from Lot 50, Map 43, inclusive, and Lot 23, Map 43, inclusive, to Lot 41A, Map 43, inclusive, and Lot 42, Map 43. (Rte. 156 from, the junction of Rtes. 152 & 156 to the Congregational Church both sides). Commercial use in this area should have the characteristics of the "Center of Town" and blend well with the residential character of a rural New England Town.

##### a. Permitted Uses

1. retail/wholesale establishment
2. service facility, including eating and lodging
3. theater/cultural center
4. Houses of worship
5. professional office space
6. government buildings
7. mortuaries
8. educational facilities
9. other uses by special exception from the Board of Adjustment, utilizing the following special exception criteria:
  - a) whether the goals set forth in N.H. RSA 674:17 I will be infringed by granting such special exception;
  - b) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted;and

- c) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.

b. Requirements

1. Set Backs - 50' setbacks from all property lines. Existing buildings exempt from setback requirements (Article VI, section A 2)
2. Lot Sizes - as defined by Zoning Ordinance VI A 1
3. Signs - signs located less than 20 ft. back from lot lines shall be limited to business identification and shall not be greater than 6 sq. ft. in area. Signs located 20 ft. back or beyond from lot lines shall not be more than 10 sq. ft. in area. Any sign directly attached to a building shall not be more than 20 sq. ft. in area between 50 - 100 feet back from lot lines, 30 sq. ft. in area between 100 - 150 feet back from lot lines, and 50 sq. ft. in area from further than 150 feet back from lot lines.
4. Site Plan Review required
5. Maximum lot coverage in percent - 40%
6. Maximum building height in feet - 34

Structure heights above 34 feet may be allowed by special exception from the Board of Adjustment utilizing the following special exception criteria:

- a) whether the goals set forth in N.H. RSA 674:17 I will be infringed by granting such special exception;
- b) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted; and
- c) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.

c. Exclusion

Any lot in the Commercial Zone not being used for commercial purposes shall be considered residential property until such time as the owner of such property decides to reclassify the subject property as commercial.

2. Commercial/Industrial Zones (Route 4)

These zones extend back one thousand (1000') feet from the nearest edge of each side of Route 4 in Nottingham, but only include lots with frontage on Route 4.

a. Permitted Uses

1. retail/wholesale establishment
2. service facility, including eating and lodging
3. theater/cultural center
4. Houses of worship
5. professional office space
6. government buildings
7. mortuaries
8. educational facilities
9. by special exception from the Board of Adjustment, industrial and other uses, utilizing the following special exception criteria:
  - a) whether the goals set forth in N.H. [RSA 674:17 I](#) will be infringed by granting such special exception;
  - b) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted;  
and
  - c) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.

b. Requirements

1. Set Backs - same as Building Code Section VI
  - Commercial - 100' from all boundaries
  - Industrial - 150' from front line and 100' from all other boundaries
2. Lot Sizes - as defined by Zoning Ordinance VI A 1
3. Signs - signs located less than 20 ft. back from lot lines shall be limited to business identification and shall not be greater than 6 sq. ft. in area. Signs located 20 ft. back or beyond from lot lines shall not be more than 10 sq. ft. in area. Any sign directly attached to a building shall not be more than 20 sq. ft. in area between 50 - 100 feet back from lot lines, 30 sq. ft. in area between 100 - 150 feet back from lot lines, and 50 sq. ft. in area from further than 150 feet back from lot lines.
4. Site Plan Review required

5. Off-street parking - adequate for employees and expected patrons
6. Maximum lot coverage in percent - 50%
7. Maximum building height in feet - 34

Structure heights above 34 feet may be allowed by special exception from the Board of Adjustment utilizing the following special exception criteria:

- a) whether the goals set forth in N.H. RSA 674:17 I will be infringed by granting such special exception;
- b) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted;  
and
- c) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.

c. Exclusion

Any lot in the Commercial/Industrial Zone not being used for Commercial/Industrial purposes shall be considered residential property until such time as the owner of such property decides to reclassify the subject property commercial /industrial.

3. Commercial/Industrial Use in Other Zones

Commercial or Industrial use may be permitted by Special Exception by the Board of Adjustment, utilizing the following special exception criteria:

- a) whether the goals set forth in NH RSA 674:17 I will be infringed by granting such special exception;
- b) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted; and
- c) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.

4. General Requirements

- a. All proposed commercial and industrial development plans shall, in addition to the above requirements, include the following:

1. an impact study shall be required from the applicant which will respond to the issues in Appendix A, Impact Considerations.
2. The impact study and other considerations will be used in determining lot size and improvements adequate for the proposed use.
3. An impact statement is required for any activity included in this section.

B. Control of Impact - applicant for a subdivision, a building permit, or for approval of any change in use may be required to submit plans for control of impact (see Appendix A).

C. Home Occupation

1. DEFINITION: Home occupation means an accessory use of a residential property for gainful employment involving provision or sale of goods and/or services. A home occupation is incidental to the primary use of the property as a residence.
2. INTENT: The Town of Nottingham recognizes the desire of citizens to use their residences for limited business activities. However, the Town believes that it is important to protect residential areas from any adverse impacts of activities associated with home occupations. The purpose of this ordinance is to allow home occupations that are compatible with residential areas.
3. MINOR HOME OCCUPATION is a home occupation in which no persons other than members of the family residing on the premises are engaged in the occupation, which has no visible exterior evidence of the conduct of the occupation, which does not create a need for off-street parking beyond normal dwelling needs, which does not generate additional traffic. Minor home occupations shall not require a permit.
4. MAJOR HOME OCCUPATION is a home occupation in which not more than one person other than members of the family residing on the premises is employed on the premises, which has not more than one unlit sign not exceeding 4 feet by 4 feet in area as visible exterior evidence of conduct of the occupation, and which accommodates both dwelling and home occupation parking needs off the street. A major home occupation shall require a permit from the Planning Board.
5. CRITERIA FOR A MAJOR HOME OCCUPATION
  - a. Employees - Not more than one non-resident of the home may be employed in the home occupation on the premises.
  - b. Signs - One unlit sign may be displayed, which shall measure no more than four feet by four feet.
  - c. Residential appearance - There shall be minimal external alteration of the appearance of the property, dwelling, or accessory building in which the home

occupation is conducted, which would reflect the existence of the home occupation.

- d. General nuisances - No activity shall be allowed that would become a nuisance by way of noise, odor, smoke, dust, gas, vibrations, or electrical interference noticeable at or beyond the property line.
- e. Parking - There shall be no parking on the public way.
- f. Except that the following shall not be prohibited in the case of home based off premises service businesses: The parking, on the premises, of vehicles and equipment related to the off premise service business and the retrieval of such vehicles and equipment by employees not principally employed on the premises.

6. APPLICATION PROCESS: The application for a major home occupation shall be via a Public Hearing held by the Planning Board and full notification of abutters.

#### D. Commercial Soil Stripping

- 1. A Planning Board permit is required. A public hearing at the applicant's expense, (excavation permit fee is \$50.00) is required for all commercial soil stripping for the initial permit. This procedure applies to all working pits.
  - a. all commercial soil stripping must be done in accordance with RSA 155-E:1.
- 2. Conditions for granting a permit include assurance that:
  - a. the operation will not constitute a nuisance because of noise, fumes, or other objectionable features.
  - b. no hazard will result from explosion, unprotected steep slopes, or other causes.
  - c. the excavation shall be graded, landscaped and revegetated upon completion so no adverse effect on the neighborhood or danger to the public safety or welfare will result. A guarantee bond may be required.
  - d. an acceptable restoration plan approved by the Planning Board must be on file with the Selectmen.
  - e. if wetlands are involved, provisions of Article III, Section I apply.
- 3. Acceptable restoration of any soil stripping area may be required if not completed within two years of inactivity, or forthwith, if the Selectmen determine a hazard exists.
- 4. Current working pits will be required to submit restoration plans in accordance with Section D.2.c.

- E. Junk Yards - no outdoor storage of junk shall be permitted.
- F. Hazardous Wastes - no chemical, nuclear, or other hazardous wastes shall be brought into the Town of Nottingham for the purposes of disposal or storage. Hazardous wastes generated in the Town shall be stored in appropriate containers and disposed of at a State approved disposal site before the amounts become hazardous.
- G. Damaged Structures - as determined by the Selectmen, any structure made unsafe or unsightly, by decay or damage by fire or otherwise, shall be secured within thirty (30) days and repaired or removed to ground level within one year.

H. Sanitary Protection

1. No privy, cesspool, septic tank or sewage disposal area shall be constructed or maintained less than seventy-five (75') feet from the edge of any well. The septic system test hole or holes shall be dug and disposal systems installed in locations that will fulfill the requirements of Article III, Section H.
2. No waste waters or sewage shall be permitted to run free into a stream or public water body or be discharged in any way that may be offensive or detrimental to the health of others. All waste shall be conveyed away underground through use of an accepted sanitary system or in such a way that it will not be offensive or detrimental to health.
3. All dwellings, additions and sanitary systems, including replacement systems, shall be constructed and maintained in accordance with the standards set and enforced by the New Hampshire State Department of Health, the New Hampshire Water Supply and Pollution Control Commission (NHWSPPCC) and by the provisions of this ordinance.
4. Before expanding any structure, increasing the number of dwelling units, or occupying any existing structure on a full time basis so as to increase the load on a sewage disposal system, an application for the approval of the system must be filed with Water Supply and Pollution Control Division of the Dept. of Environmental Services. The application must show that either the existing system or the design for a new system meet the requirements of the Division for the intended use.

Before offering for sale any developed waterfront property using a sewage disposal system, the property owner must, at his/her expense, engage a licensed sewage disposal system designer to perform a site assessment study to determine if the site meets the current standards established by the Division of Water Supply and Pollution Control. The assessment must become part of the listing agreement before the property may be offered for sale (RSA 149-E:3-C,D).

5. All septic system plan proposals submitted to NHWSPPCC, when approved, receive a Septic System Approval Number. This approval number indicates that the proposed plans as submitted are approved. The final approval is called an "operational

approval" and is given after the system has been installed and prior to being closed, (covered with soil) and is inspected by a representative of the NHWSPCC. A copy of the "operational approval" will be delivered by certified mail to the Selectmen who will forward it to the Building Inspector to become a part of the Building Permit file.

6. In a case where a septic system has been "closed" without operational approval from NHWSPCC, the owner will be required to reopen it for proper inspection.
7. The Planning Board has a responsibility to review septic system plans as they pertain to this Ordinance and where there is a question of suitability, the Board will notify NHWSPCC immediately for an onsite inspection and reconsideration.
8. Leach fields must be a minimum of four (4') feet above estimated seasonal high water table, seventy-five (75') horizontal feet from hydric A soils and fifty (50') horizontal feet from hydric B soils.
9. Leach fields must be a minimum of six (6') feet above ledge.
10. If fill is needed in order to meet requirements under Sections 7 or 8, Dredge and Fill Permits may be required by the NHWSPCC. In the case of all requirements, plans must be submitted to the Planning Board showing how the leach field mound will be blended aesthetically with the surroundings.

#### I. Fill and Dredge in Wetlands

1. Conditions to fill or dredge in wetlands of Nottingham require application in accordance with RSA Chapter 483-A.
2. At the time of filing with the New Hampshire Wetlands Board, applicant shall also file five (5) copies of said notice with detailed plan indicating the exact location of the proposed project with the Town Clerk. The Town Clerk shall forthwith send a copy of said notice to the Selectmen, Planning Board, and the Conservation Commission. A municipal fee and expenses as authorized by NH RSA 482-A:3,1 shall be submitted to the Town Clerk.
3. If there is a compelling reason that the application should be disapproved, the Nottingham Conservation Commission should be notified, which will, in turn, notify the Wetlands Board.
4. A soil conditions map for the Town of Nottingham is on file with the Wetlands Board.

#### J. Outdoor Signs

1. Inspection

The owner of any sign shall inspect annually each sign belonging to him and it shall be the duty of said owner to keep his sign(s) in good repair and appearance at all times.

## 2. Placement

- a. All signs shall be prohibited within public rights-of-way areas except as provided and except traffic control devices and directional signs deemed necessary for the public welfare and safety authorized by municipal and state agencies.
- b. No sign shall be designed or so placed as to endanger, obscure, confuse, or otherwise create a hazardous condition to motor vehicles.

## 3. Illumination

- a. Signs may be illuminated only by continuous white light sources so placed that they will not constitute a hazard to street or highway driving by glare.
- b. No flashing or animated signs or signs with visible moving parts or intermittent lighting to create a visual effect of movement shall be permitted.
- c. No neon or tubular gas filled signs shall be allowed.
- d. Signs shall be illuminated only during business hours.

## 4. Condition

Signs other than temporary signs shall be constructed of durable materials and shall be maintained in good condition and repair. Whereby reason of neglect a sign becomes hazardous, unsightly, or otherwise tends to depreciate its surroundings, the same shall constitute a public nuisance.

## 5. Advertising Signs

- a. Advertising signs pertaining to the lease or sale of a lot or building on which they are placed, shall be permitted and no such sign shall be of greater size than six (6) square feet. No off-premises signs shall be allowed.
- b. By special exception, property owners of business, professional or service enterprises, shall be allowed two (2) advertising signs, which shall be considered structures and subject to the same setback restrictions that are set forth in Article VII B 2 for habitable structures or nonhabitable structures of fifty (50') square feet or greater, such signs not to total over ten (10') square feet in area for each sign.

- c. Temporary off-premises directional signs are permitted for a period not exceeding seven (7) consecutive days.

K. Mobile Home Parks - mobile home parks are prohibited.

L. Access Road - if a state highway is involved, no new driveway or other access shall be constructed until the proposed location, specifications and drainage plans have been submitted to and approved by the New Hampshire Commission of Public Works and Highways. If a Town road is involved, the proposed location, specifications and drainage plans shall be submitted to and approved by the Town Selectmen.

#### **IV. MOTOR HOMES AND TRAVEL TRAILERS**

A. Motor Homes and Travel Trailers used as temporary dwellings

1. Travel trailers/motor homes are neither intended nor allowed to be used as permanent full time residences but as temporary living quarters.
2. Sanitary protection shall be in compliance with Zoning Ordinance Article III, Section H, Sanitary Protection.

#### **V. OUTDOOR LIGHTING ORDINANCE**

Statement of Need and Purpose

The intent of this lighting ordinance is directed toward preserving the rural character of the town, protecting the residents from light trespass pollution.

Good outdoor lighting at night benefits everyone. It increases safety, enhances the Town's night time character, and helps provide security. New lighting technologies have produced lights that are extremely powerful. Improperly installed, these lights may create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems.

Light trespass reduces everyone's privacy, and higher energy use results in increased costs for everyone. There is a need for a lighting ordinance that recognizes the benefits of outdoor lighting and provides clear guidelines for its installation so as to help maintain and complement the Town's character. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of the Town of Nottingham.

This ordinance is intended to reduce the problems created by improperly designed and installed outdoor lighting. It is intended to eliminate problems of glare, minimize light trespass, and help reduce the energy and financial costs of outdoor lighting by establishing regulations which limit the area that certain kinds of outdoor-lighting fixtures can illuminate and by limiting the total allowable illumination of lots located in the Town of Nottingham. All business, residential, and community driveway, sidewalk, and property luminaries should be installed with the idea of

being a "good neighbor", with attempts to keep unnecessary direct light from shining onto abutting properties or streets.

## REGULATIONS

All public and private outdoor lighting installed in the Town of Nottingham shall be in conformance with the requirements established by this Ordinance. All previous Nottingham bylaws and ordinances regarding outdoor lighting are replaced with this ordinance.

### A. CONTROL OF GLARE--LUMINAIRE DESIGN FACTORS

1. Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.
2. Any luminaire with a lamp or lamps rate at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, shall be mounted at a height equal to or less than the value  $(D/3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 25 feet.

### B. EXCEPTIONS TO CONTROL OF GLARE

1. Any luminaire with a lamp or lamps rated at a total or 1800 lumens or LESS, and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or LESS, may be used without restriction to light distribution or mounting height, except that if any spot of flood luminaire rated 900 lumens or LESS is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.
2. Luminaires used for public-roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.
3. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.
4. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article.

5. Law Governing Conflicts. Where any provision of federal, state, county, or town statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

### C. OUTDOOR ADVERTISING SIGNS

#### 1. Illumination Standards

- (a) Signs may be illuminated only by externally mounted white light sources.
- (b) Lighting fixtures used to illuminate an outdoor advertising sign shall be externally mounted on the top of the sign structure.
- (c) All such fixtures shall comply with the shielding requirements of Section A.
- (d) Bottom-mounted outdoor advertising-sign lighting shall not be used.
- (e) No neon or tubular gas filled signs shall be allowed.
- (f) No flashing or animated signs or signs with visible moving parts or intermittent lighting to create a visual effect of movement shall be permitted.
- (g) Signs shall be illuminated only during business hours.

### D. RECREATIONAL FACILITIES

Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

1. All fixtures used for event lighting shall be fully shielded as defined in Section A of this Code, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare.
2. All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. where circumstances prevented concluding before 11:00 p.m.

### E. PROHIBITIONS

1. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.
2. Searchlights. The operation of searchlights for advertising purposes is prohibited.

### F. TEMPORARY OUTDOOR LIGHTING

Any temporary outdoor lighting that conforms to the requirements of this Ordinance may be allowed. Nonconforming temporary outdoor lighting may be permitted by the Board of Selectmen after considering: (1) the public and/or private benefits that will result from the temporary lighting; (2) any annoyance or safety problems that may result from the use of the temporary lighting; and (3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Board of Selectmen, who shall consider the request within 30 days at a duly called meeting of the Board of Selectmen or their designee. Prior notice of the meeting of the Board of Selectmen shall be given to the applicant. The Board of Selectmen shall render its decision on the temporary lighting request within two weeks of the date of the meeting. A failure by the Board of Selectmen to act on a request within the time allowed shall constitute a denial of the request.

#### G. AUTHORIZATION FOR INSTALLATION OF PUBLIC AREA AND ROAD WAY LIGHTING

1. Installation of any new public-area and roadway lighting fixtures other than for traffic control shall be specifically reviewed and approved by the Board of Selectmen or its representative. A public hearing shall be held to describe the proposal and to provide an opportunity for public comment.

#### H. DEFINITIONS

For the purposes of this Ordinance, terms used shall be defined as follows:

**Direct Light:** Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**Fixture:** The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

**Flood or Spot light:** Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

**Fully-shielded lights:** Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

**Glare:** Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

**Grandfathered luminaires:** Luminaires not conforming to this code that were in place at the time this code was voted into effect. When an ordinance "grandfathers" a luminaire, it means that such already-existing outdoor lighting does not need to be changed unless a specified period is specified for adherence to the code.

**Height of Luminaire:** The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

**Indirect Light:** Direct light that has been reflected or has scattered off of other surfaces.

**Lamp:** The component of a luminaire that produces the actual light.

**Light Trespass:** The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

**Lumen:** A unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp. Listed below are typical watts to lumens conversion values.

**Luminaire:** This is a complete lighting system, and includes a lamp or lamps and a fixture.

**Outdoor Lighting:** The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**Temporary outdoor lighting:** The specific illumination of an outside area of object by any man-made device located outdoors that produces light by any means for a period of less than 7 days, with at least 180 days passing before being used again.

<b>Lamp Type</b>	<b>Watts</b>	<b>Lumens</b>
Incandescent frosted	100	1690
Incandescent flood or spot	75	765
Quartz-halogen frosted	52	885
Quartz-halogen mini-flood or spot	50	895
Fluorescent	28	1600
Low-pressure sodium (LPS)	18	1800
High-pressure sodium (HPS) diffuse	35	2250

## **VI. DWELLING UNIT REQUIREMENTS**

### **A. Dwelling Unit Requirements and Setbacks**

1. No lot shall be less than two (2) acres in area, with a minimum contiguous frontage of two hundred (200') feet, including curb cut for approved access, except to the extent with regard to frontage of back lots approved in accordance with Part I of this Article VI. Each single parcel of land is required to contain a driveway (curbcut) within the required minimum frontage. The required driveway may be either a single or common/shared driveway. Each lot must contain a 200 X 200 foot square fit for building or a sixty thousand (60,000') square foot contiguous area fit for building in

which a house and septic system can be placed to meet all existing setback ordinances, consisting of upland soils classified by High Intensity Soil Survey (HISS) as Class I through IV. However, a nonconforming lot, which does not abut other property under the same ownership, shall be exempt from these provisions, provided it was legal under the provisions in effect immediately prior to the passage of this Ordinance or subsequent amendments thereto, where approval can be granted without substantial detriment to the public interest and without substantially detracting from or nullifying the provisions and purpose of this Ordinance.

2. There shall be between the property line, water's edge ("reference line" as described in RSA 483-B:4 XVII), and any building, a minimum distance of fifty (50') feet, twenty (20') feet for grandfathered non-conforming lots of less than two (2) acres, as of the date of passage (03/08/94), in all directions. Special exceptions to this ordinance may be granted by the Zoning Board of Adjustment based on weighing of the following considerations, but in no case shall less than twenty (20') feet be permitted for habitable structures or nonhabitable structures of fifty (50') square feet in area or greater:
  - a) whether the goal set forth in N.H. RSA 674:17 I will be infringed by granting such special exception;
  - b) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted; and
  - c) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.
3. The Planning Board may require additional acreage for tracts of land which contain areas which are classified as unfit for building under definition article.

#### B. Lot Lines and Angles

1. Lot lines less than one (100') hundred feet in length or intersecting at less than sixty (60) degree angle shall be discouraged.

#### C. Dwelling Units on Single Tracts

1. When more than one (1) dwelling unit is to be constructed on a single tract or on abutting tracts of land under the same ownership, each shall be on a plot which satisfies all requirements of this Ordinance, Subdivision Regulations and Site Plan Review and shall require a formal subdivision process or site plan review.

#### D. Building Height - maximum building height shall be 34 feet measured from grade.

- E. No structure shall be built or placed less than fifty (50') horizontal feet from any poorly drained hydric B soils and less than seventy-five (75') horizontal feet from any very poorly drained hydric A soils (wetlands).
- F. A single one bedroom accessory apartment of not more than 420 square feet may be constructed on a lot not less than two (2) acres in area which has two hundred (200') contiguous feet of frontage, provided that the accessory apartment is directly connected to the primary single family dwelling unit and subject to Building Code VII B which conform to NH RSA 149-E:3-c,d.

G. Multifamily Development

1. Purpose

The purpose of this article is to provide a flexible policy for quality multifamily development with the rural character, health and safety and welfare of the Town of Nottingham.

2. Definitions

- a. Duplex - shall mean a residential structure containing two (2) dwelling units. Each of the units shall have separate entrances and exits, and be separated by a common fire wall. Driveway and parking areas may be shared.
- b. Multifamily Structure - shall mean a residential structure containing three (3) or more units, not to exceed four (4) units per building. Each of the units shall have separate entrances and exits and shall be separated by a common fire wall. Driveway and parking areas may be shared.
- c. Multifamily Development Complex - shall mean two (2) or more multifamily structures on the same site.
- d. Common Fire Wall - a common fire wall shall be constructed in accordance with current BOCA Basic Building Codes and of materials that meet all BOCA code minimum requirements.

3. Standards

- a. Duplex - a duplex shall be permitted in any zone. Such structure shall meet the same minimum land (or density) requirements as that required for multifamily use in that zone. Such structure shall not require Site Plan Review.
- b. Multifamily Dwellings - including condominiums, shall be permitted in all zones on sites approved by the Planning Board. Such developments must conform to all restrictions and regulations of the New Hampshire Department of Water Supply and Pollution Control and the Town of Nottingham Building

Regulations. In addition, the multifamily development shall be subject to the Town of Nottingham Site Plan Review Regulations.

#### 4. Regulations

- a. Land area duplex - the minimum land area for a duplex unit will be four (4) acres. The site shall contain a minimum of 120,000 square feet of contiguous upland buildable soils and be of sufficient size as to meet all setback requirements for residential use and meet all State of New Hampshire Water Supply and Pollution Control requirements for setbacks from wetlands.
- b. Land Area Multifamily Development - the minimum land area for a multifamily development complex shall be six (6) acres of two (2) acres per unit dwelling. The site shall contain a minimum of 60,000 square feet of contiguous upland buildable soils per unit dwelling; and be of sufficient size as to meet all setback requirements; and meet all State of New Hampshire Water Supply and Pollution Control requirements for setbacks from wetlands.
- c. Frontage - the minimum frontage requirement shall be three (300') hundred feet on a Town or State maintained right-of-way.
- d. Density - the minimum land for a multifamily structure (not including accessory unit) shall not be less than two (2) acres of land for each dwelling unit. Each residential structure shall not contain more than four (4) dwelling units. There shall be a minimum of sixty (60') feet between residential structures including attached garages.
- e. Setback - setback requirements shall conform to Article VI A 2 with the exception of multifamily development complex, where the front setback shall be one (100') hundred feet from the public right-of-way and fifty (50') feet from internal roads.
- f. Buffer Zone - for a multifamily development complex, there shall be minimum buffer zone of one hundred (100') feet provided between any structure and the perimeter of the tract. The intent of the buffer zone shall be to provide visual vegetative screening from adjacent lots. No dwelling structures, accessory buildings, septic systems, wells, utility boxes or service roads shall be permitted within the buffer zone.
- g. Roads - all streets and parking areas within a multifamily development complex shall conform to the road specifications for the Town of Nottingham, Nottingham Subdivision Regulations and Site Plan Review. Any land dedicated as a right-of-way, public or private, shall be deducted land area for purposes of calculating density.

- h. Driveways and Parking - multifamily structures shall be permitted only one (1) driveway access off an existing roadway. A minimum of three (3) parking spaces shall be provided for each dwelling unit.
- i. Wastewater Disposal - wastewater disposal shall be provided by a community system, with no more than four (4) residential units on each system and shall be constructed and maintained in accordance with the standards of the Nottingham Building Regulations and the New Hampshire Water Supply and Pollution Control Division.

Nutrient loading analyses may be required by the Planning Board to demonstrate that ground water supplies shall be adequately protected.

Water shall be provided by a community supply constructed in accordance with the standards of the New Hampshire Water Supply and Pollution Control Division and the Town of Nottingham Building Regulations.

- j. Utilities - any utilities, facilities, services, etc. shall be subject to inspection by the appropriate town officials or their designees. Any costs incurred shall be borne by the developer per subdivision regulation.
- k. Fire Protection - fire protection shall be provided as recommended by the Town of Nottingham Fire Chief. Plans for such shall be submitted in conformance with the Nottingham Subdivision Regulations.

## 5. Procedures

Proposals for multifamily development complex or multifamily structures shall be submitted to the Planning Board. The Board shall review such plans in accordance with the Planning Board duties under Site Plan Review. The Board shall approve or deny the proposal and any deviation from the approved plan shall constitute a violation of this ordinance.

In addition to such information required by Site Plan Review Regulations, the following shall be required:

- a. Site Plan shall show all proposed buildings, lighting, parking areas, signs and landscaping at sufficient scale and detail to permit the study of the elements of the plan.

Elevations - typical elevation drawings and floor plans for all proposed buildings or other structures shall be submitted. No building shall exceed in height thirty-four (34') feet from existing grade.

Roads and Drainage plans shall be submitted showing road profiles and cross sections (as applicable for any town road), draining plans and calculations to

demonstrate there will be no additional off-site drainage and plans of all utilities, if possible.

Fire protection Plan showing any proposed fire pond or other protection shall be submitted and approved by the Town Fire Chief.

- b. Fees and Costs - in addition to usual application fees for Site Plan Review and impact assessments, the applicant shall be responsible for all costs incurred by the Town of Nottingham in review of the plans.
- c. Special Studies - the Planning Board may require special studies and/or additional information that it deems necessary to carry out the purposes of the multifamily provisions. Such studies shall be contracted by the Town of Nottingham. Expenses shall be borne by the developer of the land under consideration.
- d. Public Hearing - no multifamily structure shall be approved or disapproved without first affording the applicant and abutters a public hearing, thereon as provided for in the Subdivision Regulations and Site Plan Review.
- e. Time Table - a time table for completion of site improvements for any multifamily development complex shall be established. The town shall require the necessary Letter of Credit to ensure compliance.
- f. Regulations - the Town of Nottingham Subdivision Regulations, Site Plan Review Regulations and Building Regulations for the Town of Nottingham shall apply where applicable.

#### 6. Design Requirements

In addition to the requirements of the Subdivision Regulations and the Site Plan Review Regulations, multifamily development complexes shall comply with the following design requirements:

- a. Minimum Alteration to Site Features - Individual lots, building, streets and parking areas shall be designed and situated to minimize alteration of the site features to be preserved, to lessen the area devoted to motor vehicle access, to avoid adverse effects of noise, shadows and traffic and to retain aesthetic qualities.
- b. Undeveloped Areas - undeveloped areas shall include irreplaceable natural features located in the tract (such as, but not limited to stream beds, significant stands of trees, individual trees of significant size, rock outcropping and marshes.) These should be distributed throughout the development from surrounding land uses. No common undeveloped areas shall be denuded, defaced, nor otherwise disturbed without prior written approval from the Planning Board.

Conservation easements shall be encouraged on all open space land and undeveloped areas. Open space is intended for passive recreational uses and wildlife habitat and shall be easily accessible to all units within the development.

- c. Drainage - natural surface drainage channels shall be either incorporated into the overall site design or shall be preserved as part of the open space.

#### H. CLUSTER SUBDIVISIONS WILL NOT BE ALLOWED.

#### I. BACK LOT SUBDIVISION FOR SINGLE FAMILY DWELLINGS

##### 1. Statement of Purpose

The purpose of this section is to allow for limited creation through subdivision of back lots, i.e. lots having less than the minimum contiguous frontage of two hundred (200') feet required under Article VI A 1.

##### 2. Minimum requirements for lot to be subdivided in order to include a back lot

- a. The lot to be subdivided must be a lot of record existing prior to the adoption of this ordinance (03/09/93).
- b. The frontage of the lot to be subdivided must be less than four hundred (400') feet on a street complying with N.H. RSA 674:41. If greater than four hundred (400') feet, the lot does not qualify for a back lot subdivision.
- c. The area of the lot to be subdivided must contain a minimum of six (6) acres.

##### 3. Lot Requirements

- a. This subdivision is restricted to a total of two (2) lots with one (1) single family dwelling per lot.
- b. One lot created must contain a minimum of two hundred (200') feet frontage on a street complying with N.H. RSA 674:41, and a minimum of two (2) acres. This lot may not be further divided.
- c. The other lot created must contain a minimum of twenty (20') feet frontage on a street complying with N.H. RSA 674:41, including curb cut for approved access and a minimum of two (2) acres. The access road to this lot must be at least twelve (12') feet wide and must be owned in fee simple by the owner of the lot to be accessed. This lot may not be further subdivided.

Both lots must comply with all other applicable Zoning Ordinance requirements.

## **VII. BUILDING PERMITS**

A. Requirements - A building permit is required before:

1. The start of any new habitable structures.
2. Relocation of any existing structure, including mobile homes, (motor homes and travel trailers registered for highway use excluded) whether presently located in Town or to be brought in from outside. Mobile homes and registered travel trailers brought into Town after April 15th must be reported to the Selectmen within fifteen (15) days (RSA 73:7-a I-a).
3. Start of any alteration or remodeling which will result in a change in the internal use of the building such as changing a home into apartments, or changing a portion of a building into an area for a business use authorized under Article III, C., 3.
4. Start of any alteration or remodeling which will result in a change in the external bulk of a building.
5. Erection of non-habitable structures of one hundred forty five (145') square feet in area or greater. (**Amended 3/8/05**)
6. Installation of an inground swimming pool.

B. Application and Issuance

1. Applications for building permits shall be made to the Building Inspector who shall issue a permit if all provisions of the Ordinance are satisfied.
2. All completed applications for building permits shall be submitted, in person and by appointment only, to the Building Inspector.

A completed application for permit includes:

- a. completed application form
- b. State approval for septic tank and leach field installation of new systems, replacement systems and reactivated systems. Septic system size for new buildings will be sufficient to service the potential bedroom capacity of the building. A State approval will be required for increased usage of a system or for change from seasonal to year-round use (See Article III H for additional requirement). The Building Inspector must be notified prior to test pit testing

as the Town of Nottingham may require a representative present to observe the test pit).

- c. plat plan drawn to scale indicating:
  - 1. lot dimensions and area
  - 2. names of abutting streets
  - 3. dimensions and location(s) of proposed building (s) with distances to poorly drained and very poorly drained soils.
  - 4. dimensions and location(s) of existing building(s)
  - 5. dimensions indicating the setback, side and rear clearances
  - 6. locations and dimensions of the proposed driveway(s)
  - 7. location of septic drain field with distances to nearest well on adjacent property and critical surface runoff (such as streams, wetlands, marshes, man-made surface drains, etc.).
- d. State Highway Department Driveway Access Permit, if applicable.
- e. construction drawings
- f. plans for energy conservation as specified in the Building Code.
- g. For business, commercial, or industrial applications, the names and addresses of all abutters are required. Impact studies commensurate with the endeavor and locality are necessary.
- h. payment of fees.
- i. a bill of sale for the property, a lease agreement, or a registered deed including any covenants bearing on the application.

An applicant may not receive a total of more than five (5) building permits per year.

The number of building permits issued by the Building Inspector shall be posted at the Town Hall by the tenth day of each month indicating the number of building permits issued during the preceding month.

The owner of a controlling interest in any legal entity regardless of whether said interest is held as an individual, joint tenant, tenant in common, partner in a partnership, shareholder in a corporation, or combination thereof for the purpose of the Ordinance shall be termed the applicant. No applications of a building permit will be accepted from a party who, in an attempt to avoid the permit limitations for this paragraph, has failed to pay fair consideration as defined by RSA 545-A:3 for the lot which is the subject of the permit.

- 3. Change in a dwelling from seasonal to permanent use shall require inspection and

approval by the Building Inspector and Water Supply and Pollution Control Commission (RSA 149:E).

Any change in the structure from that authorized in the original permit requires approval of the Building Inspector. Otherwise, the permit is null and void.

4. Fees are set by the Nottingham Board of Selectmen.
5. Disclaimer - issuance of a building permit does not constitute a guarantee that all federal, state, and local requirements have been met, it merely indicates that the application has been examined carefully and no violations were apparent.

C. Inspections - Upon acceptance of a building permit, the applicant assumes responsibility to notify the Building Inspector upon completion of each of the following:

1. ground staking of the property for construction and leach fields.
2. pouring of the foundation
3. exterior sheathing and subroofing, chimney construction and wiring and plumbing.
4. insulation
5. final septic system closure and grading.
6. Final inspection for Certificate of Occupancy:
  - a. Purpose - the purpose of a Certificate of Occupancy is to provide a mechanism by which it can be certified that conformance to the provision of our Building Code and Zoning Ordinance have been met.
  - b. Applicability - no person shall use or permit the use of any building, structure or premises or part thereof hereafter erected, relocated, altered, repaired, converted or extended until a Certificate of Occupancy is issued by the Building Inspector.
  - c. Temporary Occupancy - upon the request of the holder of a building permit, the Building Inspector may issue a temporary Certificate of Occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare. This temporary permit may be issued for a maximum of 180 days and renewed only once. Two exits must be present and flammable materials must be covered with fire resistant materials.
  - d. The Building Inspector shall within fifteen (15) working days of receipt of request, render a decision either granting a Certificate of Occupancy, a temporary Certificate of Occupancy, or denying such application.

D. Prohibition of Transfer and Expiration of Permit

1. Building permits issued hereunder shall not be transferable and shall apply to a specific project, location, and applicant only.
2. Work proposed shall commence within six months of the date of issuance and shall be completed within two years. Failure to commence construction in a timely fashion shall result in the expiration of said permit. One renewal, prior to expiration, is allowed per building permit at a cost of \$10 per permit. Extension of the two year period by special exception for health or financial reasons for owner occupied dwellings is permitted.

## **VIII. AQUIFER CONSERVATION DISTRICT**

A. PURPOSE: The intent of this Ordinance is to provide for the protection of the water resources from contamination by polluting, hazardous or toxic materials. The objectives, be establishing an Aquifer Protection District are:

1. To protect the public health and general welfare of the citizens of Nottingham and adjacent affected towns.
2. To prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifers; including primary and secondary recharge areas.
3. To provide for future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of adequate public and private water supplies.
4. To encourage uses that can appropriately and safely be located in the aquifer recharge areas.

Private wells are the sole source of drinking water in Nottingham. Local aquifers supply this water. Sustainability of this natural resource is paramount to maintaining the quality of life that currently exists. Our most precious natural resource, water, is threatened by ever increasing demands on water usage from continued development of our Town population increases by both residences and businesses. Without adequate recharge, this water supply would be in danger of being depleted. Therefore, to maintain sustainability of the aquifers and to maintain environmentally sound practices that will ensure the current and future needs of our citizens, extraction of groundwater where the methods used in the extraction do not allow for adequate recharge will not be permitted.

### **B. DISTRICT BOUNDARIES**

1. Location

The Nottingham Aquifer Protection District is defined as the area shown on the map entitled, "Aquifer Protection District."

The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the underlying district. In all cases, the more restrictive requirement(s) shall apply.

## 2. Recharge Areas

For purposes of this ordinance, each primary recharge area for each identified aquifer is considered to be co-terminus (abutting) with that aquifer.

## C. USE REGULATIONS

### 1. Minimum Lot Size

The minimum lot size within the Aquifer Protection District for each dwelling unit if a residential use, shall be three (3) acres, or if a non-residential use, shall be five (5) acres.

### 2. Maximum Lot Coverage

Within the Aquifer Protection District, no more than ten percent (10%) of a single lot, including the portion of any new street abutting the lot, may be rendered impervious to ground water infiltration for residential, commercial, industrial, and institutional uses.

### 3. Prohibited Uses

The following uses are prohibited in the Aquifer Protection Zone except where permitted to continue as non-conforming uses. Prohibited uses shall include, but not be limited to:

- a. Disposal of solid waste (as determined by NH RSA 149-M) other than brush or stumps generated on the property on which they are to be disposed.
- b. On-site disposal, storage, processing or recycling of toxic or hazardous materials or wastes.
- c. Disposal of liquid or leachable wastes except domestic sewage effluent from residential subsurface disposal systems.
- d. Buried storage of petroleum fuel and other refined petroleum products except as regulated by the NH Water Supply and Pollution Control Commission (Ws411 Control of Nonresidential Underground Storage and Handling of Oil and Petroleum Liquids).
- e. Outdoor unenclosed or uncovered storage of road salt and other de-icing chemicals.
- f. Dumping of snow containing road salt or other de-icing chemicals.

- g. Animal feedlots.
  - h. Automotive service and repair shops, junk and salvage yards. Laundry and car wash establishments not served by a central municipal sewer system.
  - i. Dry cleaning establishments.
  - j. Industrial uses which discharge contact type wastes on site. Discharge of non-contact cooling water determined to contain no toxic or hazardous substances is permitted.
  - k. Waste injection wells.
  - l. Non-municipal wells that may result in an aquifer volume reduction that exceeds the recharge rate.
4. Permitted Uses - The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance:
- a. Any use permitted in the underlying district of the Zoning Ordinance, except as prohibited in Section 4c (Prohibited Uses) or regulated by Conditional Use in section 4d (Conditional use) of this Article.
  - b. Maintenance, repair or any existing structure, provided there is no increase in impervious surface above the limit established in Section 4b of this Article.
  - c. Farming, gardening, nursery, forestry, harvesting and grazing of no more than five (5) animals, turf management, provided that fertilizers, pesticides, manure, and other leachables are used according to the best management practices as prescribed by the Rockingham County Conservation District, if applicable, and at levels that will not cause groundwater contamination. All said leachables must be stored under shelter.

#### 5. Special Exception for Lots of Record

Upon application to the Zoning Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Aquifer Protection District on a non-conforming lot provided that all of the following conditions are found to exist:

- a. The lot upon which an exception is sought was an official lot of record as recorded in the Rockingham County Registry of Deeds, prior to the date of which this amendment was posted and published in the Town.
- b. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Aquifer Protection District.

- c. Due to the provisions of the Aquifer Protection District, no reasonable and economically viable use of the lot can be made without exception.
- d. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.

#### 6. Non-conforming Use

No nonconforming use may be expanded, changed to another nonconforming use, or renewed after it has been discontinued for a period of 12 months or more.

### D. HYDROGEOLOGIC STUDY

1. Within the Aquifer Protection District, a hydrogeologic study shall be required, at the applicant's expense, for the following:
  - a. developments involving the subdivision of three (3) lots or greater.

#### 2. Standards

Hydrogeologic studies shall be performed by a qualified hydrogeologist. These studies shall be sufficiently detailed to evaluate the development's impacts to groundwater within the parcel to be developed and the surrounding land.

### E. DESIGN AND PERFORMANCE STANDARDS

#### 1. Nitrate Loading

No development shall cause the nitrate-nitrogen (NO<sub>3</sub>-N) concentration to exceed 5 mg/l in the groundwater beyond the site.

#### 2. Safeguards

Provisions shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials.

For operation which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

#### 3. Location

Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems should be located outside and down gradient of the Zone to the extent feasible.

#### 4. Drainage

All runoff from impervious surfaces shall be recharged on the site, and diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

#### 5. Septic System Design and Installation

Septic systems shall be constructed in accordance with the "Subdivision and Individual Sewage Disposal System Design Rules" (N.H. Code of Administrative Rules, Chapter Ws 1000). However, any Town Ordinance or regulation that is more restrictive shall apply. All new or reconstructed on-lot waste water disposal systems constructed in the Aquifer Protection District shall be designed by a Sanitary Engineer licensed in New Hampshire. These systems shall be installed under the supervision of said engineer.

The designated Town engineer or septic system inspector of the Town shall inspect the installation of each new system prior to covering, and shall certify that the system has been installed as designed.

The following site requirements shall apply to all septic system construction in the Aquifer Protection District:

- a. at least 24 inches of natural permeable soil shall exist above the seasonal high water table.
- b. at least four feet of natural soil shall exist above bedrock.
- c. at least three feet of natural permeable soil shall exist above any impermeable subsoil.
- d. no filling of wetlands shall be allowed to provide the minimum distance of septic systems to wetlands.
- e. fill material used for septic system construction shall be generally homogeneous and shall not contain:
  - more than 15% organic soil by volume
  - more than 25% cobbles (6 in. in diameter) by volume
  - more than 15% of clay (0.002 mm particles or smaller) by weight
  - tree stumps, mulch, bark, or other large organic matter

## F. ADMINISTRATION

### General

All development proposals, other than single or two-family residential constructions shall be subject to subdivision or site plan review and approval in accordance with Planning Board Rules and Regulations. Such review and approval shall precede the issuance of any building permit by the Town.

## G. ENFORCEMENT

The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District. If the Board of Selectmen find that a nonconforming use poses a direct hazard to ground water or recharged areas or are actually causing some potentially hazardous foreign substances (oils, salts, chemicals, pesticides, etc.) to be introduced into the aquifer, then they may seek to enjoin same such use in an appropriate legal forum.

## IX. WETLAND CONSERVATION AREAS

### A. Description

1. The Wetlands Conservation Areas are those areas identified as poorly drained and very poorly drained soils in the publication, "Soil Survey of Rockingham County, New Hampshire," issued August 1985 and as amended. The Wetland Conservation Areas as herein defined are shown on the Wetlands Map of the Nottingham Natural Resource Inventory dated 5/27/99.
2. Reference material on soils is included in the publication "Soil Survey of Rockingham County, New Hampshire," August, 1985 and as amended, on file with the Town Clerk, Planning Board and Board of Adjustment.
3. All pertinent notations, soil mapping unit designations, and other information shown in the publication "Soil Survey of Rockingham County, New Hampshire," August 1985 and as amended, shall be as much a part of this Ordinance as if the matters and things set forth by the document were fully described herein.
4. Specific description of freshwater wetlands is described in Statutory Authority RSA A:4-a, I and V specifically in chapter definitions "fresh water wetlands" with its Appendix A.

B. Pollution Control - No privy, cesspool, septic tank, sewage disposal area or area for the stockpiling of animal manures or other waste materials shall be constructed or maintained less than seventy-five (75') horizontal feet from the edge of a public waterbody, floodplain, wetland, intermittent streams or seasonably wet soil. No other structure shall be built or

maintained less than fifty (50') horizontal feet from any poorly drained hydric B soils and less than seventy-five (75') horizontal feet from any very poorly drained hydric A soils.

- C. Nonconforming Structures and Uses - Any nonconforming use or structure which was legal prior to adoption of this Zoning Ordinance or any amendment thereto, may continue except as provided herein:
1. Whenever a lot which is nonconforming due to insufficient area, frontage, or setback abuts other property either owned in common or having one or more owners in common, all such property or lots shall be considered as a single tract for purposes of further development or for the sale of any portion thereof. This provision may be modified by the Planning Board, if it has established that substantial development has created vested interests which make change to conformity unreasonable or unjust.
- D. Permitted Uses - uses that do not result in the erection of any structure or alter the surface configuration of the land by the addition of fill or by dredging such as:
1. forestry - tree farming
  2. agriculture, including grazing, farming, truck gardening and harvesting crops but not including the stockpiling of manure.
  3. construction of well water supplies
  4. wildlife habitat development and management
  5. parks and such recreation uses as are consistent with the purpose and expressed intentions of this ordinance.
  6. conservation areas and nature trails
  7. open space in accordance with subdivision regulations and other sections of this ordinance.
- E. Reclassification of Soils - in the event that a soil classification is challenged by the applicant, abutter, or Planning Board, the Planning Board will make an onsite inspection. If the Planning Board considers the classification to be correct, then the applicant may challenge this decision by presenting evidence by a soil scientist or others qualified in soil classification. The Board may determine that the restrictions pertaining to the challenged soil classifications in this ordinance do not apply, at any time after the onsite inspection.
- F. Critical Wetlands - Critical wetlands are those areas identified on the Wetlands Map of the Nottingham Natural Resource Inventory dated 5/27/99. Actual determination of Critical Wetland boundaries will be determined by onsite delineation of wetlands according to the standards of the NH Department of Environmental Services Wetland Bureau Administrative Rules by a New Hampshire Certified Wetland Scientist. There shall be no development in the Critical Wetland or the 100-foot buffer to the Critical Wetland. All structures will be set back 100 feet from the Critical Wetland boundary.

## **X. FLOOD HAZARD AREAS**

Revised 03/1/94

## **New Hampshire Model Floodplain Development Ordinance For Communities with Special Flood Hazard Areas Meets the Minimum Requirements of Section 60.3(b) of the National Flood Insurance Program Regulations**

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Nottingham Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Nottingham Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

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 Rate Maps dated *May 17, 2005 for Rockingham County* which are declared to be a part of this ordinance and are hereby incorporated by reference. **(Amended 3/8/05)**

Item I Definition of Terms: The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of Nottingham.

"Area of Special Flood Hazard" is the land in the floodplain within the Town of Nottingham subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as Zone A.

"Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.

"Basement" means any area of a building having its floor subgrade on all sides.

"Building" - see "structure".

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

"FEMA" means the Federal Emergency Management Agency.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Nottingham.

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

"Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

"Floodway" - see "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

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

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

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.

"Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"100-year flood" - see "base flood"

"Recreational Vehicle" is defined as:

- A. built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. designed to be self-propelled or permanently towable by a light duty truck; and
- D. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

"Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. (See-"Area of Special Flood Hazard")

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

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

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

"Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

## Item II.

All proposed development in any special flood hazard areas shall require a permit.

## Item III.

The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (ii) be constructed with materials resistant to flood damage,
- (iii) be constructed by methods and practices that minimize flood damages,
- (iv) be constructed with electrical , heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### Item IV.

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

#### Item V.

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the building inspector:

- (i) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- (ii) if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- (iii) any certification of floodproofing.

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

#### Item VI.

The Building Inspector shall not grant a 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.

#### Item VII.

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Board.

2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

Item VIII.

1. In unnumbered A zones the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
2. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in zone A that:
  - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;
  - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - (i) be floodproofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
  - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; 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;

- d. All recreational vehicles placed on sites within Zones A1- 30, AH, and AE shall either:
  - (i) be on the site for fewer than 180 consecutive days;
  - (ii) be fully licensed and ready for highway use; or
  - (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.
  
- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two 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 floodwater.

Item IX Variances and Appeals:

- 1. 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.
  
- 2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
  - (a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

- (b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - (c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
  4. The community shall (i) maintain a record of all variance actions, including justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **XI. BOARD OF ADJUSTMENT**

A. Function - the primary function of this Board is to service as a first Board of Appeal from any administrative decision relative to zoning and to consider applications for special exception or variance to provision of the Zoning Ordinance.

1. by anyone aggrieved, including an applicant, an abutter or an individual affected.
2. by the Planning Board, the Selectmen for the Town or an administrative official involved.

B. Procedure

1. application shall be made to the Clerk of the Board on the form available.
2. a public hearing shall be held, a notice posted at least five (5) days prior to the hearing in two (2) public places and advertised in a newspaper of local circulation and sent to abutters as provided by law.
3. costs incurred shall be paid by the applicant prior to the hearing.
4. if a rehearing is desired, application must be made within twenty (20) days of notification of decisions, the Board shall grant or deny within thirty (30) days of application. Application must include all evidence to be considered.
4. if a rehearing is denied, or if decision at a rehearing is questioned, remedy is application to the Superior Court within thirty (30) days of decision by the Board.

## **XII. NONCONFORMING USE**

- A. Any nonconforming use which was legal prior to adoption of the Zoning Ordinance or of an amendment thereto may continue, except as provided herein.
- B. Whenever a lot which is nonconforming due to insufficient area, frontage, or setback abuts other property having the same ownership, all such property or lots shall be considered as a single tract for purposes of further development or for the sale of any portion thereof. This provision may be modified by the Planning Board, if it is established that substantial development has created vested interests which make change to conformity unreasonable or unjust.

## **XIII. SITE PLAN REVIEW AUTHORITY**

The Planning Board is hereby authorized, pursuant to N.H. RSA 674:43, to review and approve or disapprove site plans for the development or change or expansion of use of tracts for nonresidential uses or for multi-family dwelling units, which are defined as any structure containing more than two dwelling units, whether or not such development includes a subdivision or resubdivision of the site.

## **XIV. ENFORCEMENT**

- a. It shall be the duty of the Board of Selectmen to enforce the provisions of this Ordinance, and said Board is hereby given power and authority therefore.
- b. all complaints of violations shall be made in writing to the Selectmen, who shall investigate and take appropriate action to abate violation.
- c. upon any well-founded information that this Ordinance is being violated, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of the Ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the provisions of the above regulations shall be punished upon conviction, by fine not exceeding one hundred (\$100.00) dollars for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the Selectmen that he is in violation of such regulations, whichever date is earlier.

## **XV. DEFINITIONS**

Undefined Terms - undefined terms shall have their usual meaning, and the Planning Board shall have the authority to settle disputes.

Defined Terms - for the purposes of this Ordinance, the following definitions apply:

1. **ADVERTISING SIGN** - a structure, building wall or other outdoor surface or any device used for visual communication which is employed for the purpose of bringing the subject thereof, to the attention of the public, or to display, identify, or publicize the name and produce or service of any person.
  - a. Accessory sign - any sign relating to business on the premises on which the sign is located.
  - b. Non-accessory sign - any sign, advertising business or businesses at other locations.
2. **ANIMAL FEEDLOT** - an agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) adult animals are raised simultaneously.
3. **AQUIFER** - for the purpose of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies.
4. **BUILDABLE AREA** - An area of specified dimensions (for example 200 x 200 foot square, 60,000 contiguous square feet, etc.) depicted on the Subdivision Plat, Building Permit Application, or Site Plan, in which a building and septic system can be placed (1) that will meet all existing setback ordinances and all State of New Hampshire Water Supply and Pollution Control requirements for setbacks from wetlands and (2) that consist of upland soils classified by High Intensity Soil Survey (HISS) as Class I through IV. Contiguous areas shall also be of adequate width and/or depth so as not to create an hourglass effect of less than fifty (50') feet at the narrowest point.
5. **BUILDING INSPECTOR** - refers to the Board of Selectmen whenever no active Building Inspector is available in Town.
6. **CAMPGROUND** - any area of land on which are located two or more cabins, tents, trailers, shelters or other accommodations of a design or character suitable for seasonal, temporary living purposes, regardless of whether such structures or other accommodations actually are occupied or otherwise.
7. **CLUSTER DEVELOPMENT** - a residential single family subdivision of a tract where, instead of dividing the entire tract into house lots which meet the minimum requirements of article VI, Dwelling Unit Requirements and Setbacks, Paragraph A1, a similar number of dwelling units may be clustered on lots of reduced dimensions. The units may be clustered on lots of reduced dimensions. The remaining land in the tract is not to be built upon and is reserved as common land to be held in perpetuity by a mandatory homeowners' association which will legally prevent the common land from ever being further subdivided or developed.

8. COMMERCIAL SOIL STRIPPING - removal of loam, clay, sand, gravel, peat, quarried stone, or construction aggregate for use off the premises, except when incidental to construction for which a building permit has been obtained.
9. COMMERCIAL USE - facilities for the sale, lease, trade or delivery of products, goods or services, and their accessory uses. Home business excluded from this category.
10. COMMON CONSERVATION LAND - common land area within the cluster development which shall not be built upon and shall forever remain in its natural state to include wetlands, flood plains, steep slopes, buffer zones, and other environmentally sensitive areas.
11. COMMON LAND - any land and all portions of tract other than the individually owned lots.
12. COMMON USABLE SPACE - all other common land.
13. DEVELOPMENT - 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.
14. DWELLING UNIT - a building or that portion of a building consisting of one or more rooms designed for living and sleeping purposes, including kitchen and sanitary facilities and intended for occupancy by not more than one family or household.
15. ENGINEER - a person licensed by the State of New Hampshire in accordance with NH RSA Chapter 310-A sections 2-27 as amended.
16. FIT FOR BUILDING - any land which is not classified as floodplain, wetland, watershed protection area and does not have slopes of 25% or more and where soil tests indicate suitability.
17. FOSTER HOME - homes for the care of more than four non-related people.
18. FRONTAGE - the length of the lot bordering on public right-of-way.
19. GROUNDWATER - all the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.
20. GROUNDWATER RECHARGE - the infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface water, including lakes, streams, and wetlands.
21. HOMEOWNER'S ASSOCIATION - a homeowner's association is a private, nonprofit corporation, association, or other nonprofit entity established by the applicant or the developer for the purposes of managing and maintaining all common land, open space

and natural areas. Membership in said association shall be mandatory for all property owners and made a required covenant in any deed issued or passed.

22. HOME PRODUCE - includes everything of an agricultural nature grown, produced or conditioned on the property of the resident; also, such an article as is manufactured or altered by members of the household or the bona fide resident of any property.
23. HOTEL OR INN - any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms with no installed cooking facilities in an individual room or apartment.
24. INACTIVE SOIL STRIPPING - a soil stripping area that has not been in use as a commercial soil stripping area for two years or more.
25. INDUSTRIAL USE - facilities for the manufacture, compounding, processing, packing, treatment or warehousing of goods and products; printing and/or publishing or newspapers, books, etc., laboratories for research and/or testing; and their accessory uses. Home business is excluded from this category.
26. INHARMONIOUS USE OF WETLANDS - those uses incompatible with the purposes of this Ordinance; provided that, in cases of uncertainty, the use shall be denied; and determined upon appeal to the Board of Adjustment in the usual manner determined by statute.
27. JUNK - any old metals, old bottles, cotton or woolen mill waste, unfinished cloth, unfinished cotton or woolen mill yarn, old paper products, old rubber products, two or more unregistered motor vehicles, used parts and materials or motor vehicles and other articles, the accumulation of which is detrimental or injurious to the neighborhood.
28. LAND SURVEYOR - means a professional specialist in the technique of measuring land, educated in the basic principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence and all requisites for the surveying of real property and engaged in the practice of land surveying and licensed by the State of New Hampshire.
29. LAND SURVEYING - means any service or work, the adequate performance of which involves the art of locating and measuring lines, angles, and features for the purpose of determining areas for the monumenting of property boundaries and for the platting and layout of lands and for the preparation and perpetuation of record plats that represent these surveys.
30. LEACHABLE WASTES - waste materials, including solid wastes, sludge, and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

31. LOT OF RECORD - land designated as a separate and distinct parcel in a legally recorded deed or plan filed in the Registry of Deeds of Rockingham County, New Hampshire.
32. MANUFACTURED HOUSING - manufactured housing means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674:31-a.
33. MATERIALS STORAGE - storage of materials intended for wholesale distribution or for use in a manufacturing or repair facility.
34. MINING OF LAND - the removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.
35. MOBILE HOME PARK - any tract of land on which two or more manufactured homes are located for the use as living quarters, whether occupied or not, except where two (2) acres of that tract of land are associated with each mobile home as in a regular subdivision.
36. NON-CONFORMING USE - any lawful use of buildings, structures, premises, land or parts therefore existing as of the effective date of this Ordinance, or amendment thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use. No non-conforming use may be expanded, changed to another non-conforming use, or renewed after it has been discontinued for a period of 12 months or more.
  - a. (Grandfather Clause) a use which was lawful prior to the adoption of this Ordinance or amendments thereto and which does not conform with the use regulations hereof.
  - b. a lot of record which does not satisfy the requirements for area, frontage or any other provision of the Ordinance.
  - c. a structure which does not satisfy the requirements for area, setback or any other provision of the Ordinance.
  - d. use of land or structures in a manner for which a special exception or variance is required.
37. NON-MUNICIPAL WELL - any well not owned and operated by the Town of Nottingham or its agent.

38. PIER - a vertical member that supports a non-habitable structure.
39. PRESITE BUILT HOUSING - as used in this subdivision, "presite built housing" means any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purpose of this subdivision, presite built housing shall not include manufactured housing, as defined in RSA 674:31.
40. RAZE - to burn, demolish, or otherwise destroy to ground level, whether by man or natural causes.
41. RECHARGE AREA - the land surface area from which groundwater recharge occurs.
42. REFERENCES - whenever reference is made to any Ordinance law, regulation, map or publication, any amendment or other revision thereto, is to be applicable as of the effective date thereof.
43. RIGHT-OF-WAY - right of access over property including but not restricted to all Town, State, and Federal highways and the land on either side of same as covered by statutes to determine the widths of the rights-of-way.
44. SEASONALLY WET SOILS - those soils having a water table within 1.5 to 2.5 feet of the ground surface during particular but not specified periods of the year.
45. SLUDGE - residual materials produced by a sewage treatment process.
46. SOIL SCIENTIST - a person qualified in soils classification and licensed by the State of New Hampshire.
47. SOLID WASTE - any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules [He-p 1901.03](#). Solid wastes includes solid, liquid, semi-solid, or gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations.
48. SPECIAL EXCEPTION - a use of a building or lot which may be permitted under this Ordinance but is allowable only upon application to the Board of Adjustment and subject to the approval of that Board. Conditions established for the granting of Special Exceptions are contained in this Ordinance.
49. STRUCTURE - anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.
50. SUBDIVISION - the division of a lot, tract or parcel of land into two or more lots, plats, sites or other division of land for the purpose, whether immediate or future, of sale, rent,

lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided. This definition uses the same language as NH RSA 672:14, I in defining a subdivision.

51. TOURIST COURT, CABINS, MOTEL - any group of two or more detached or semi-detached buildings containing guest rooms or apartments designed or used primarily for temporary accommodations.
52. TOURIST HOME - any place consisting of a room or group of rooms located on one premises where transient accommodations for sleeping or living purposes for not more than six persons, are provided for a price.
53. TOXIC OR HAZARDOUS MATERIALS - any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of the Town. Toxic or hazardous materials include, without limitation, volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids, and alkalies, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Ws 410.04 (1), in New Hampshire Solid Waste Rules He-P 1901.03 (v), and in the code of Federal Regulations 40 CFR 261 as amended.
54. TRAILER PARK - see mobile home park
55. TRAVEL TRAILER/RECREATIONAL VEHICLE: - a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
56. UNFIT FOR BUILDING - any land which is classified as floodplain, wetland (by soil type), watershed protection area, excessive slope of 25% or more, or where soil tests indicated unsuitability for subsurface waste disposal.
57. VARIANCE - a departure from the terms of this Ordinance not otherwise permitted, which may be granted by the Board of Adjustment, upon appeal in specific cases, pursuant to its discretionary powers. A variance may be granted if all the following facts are found by that Board and such findings are specified in its decision.
  - a. that there are unique physical circumstances or conditions including irregularity, narrowness or shallowness of lot, size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Ordinance in the neighborhood or district in which the property is

located.

- b. that because of such physical circumstances or conditions there is no reasonable possibility that the property can be used in strict conformity with the provisions of this Ordinance for a permitted use of the applicant's choice and that the authorization of a variance is therefore necessary to enable to reasonable use of the property.
- c. that the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property not to be detrimental to the public welfare.
- d. that the variance, if authorized, will represent the minimum variance that will afford reasonable relief; and
- e. that the spirit of the Ordinance shall be observed and substantial justice is done.

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

**58. WETLANDS** – Wetlands means 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 adopted for life in saturated soil conditions. **(Adopted 3/8/05)**

Very Poorly Drained Soils - those in areas of periodic flooding and/or those having the most severe limitations because of high water table as designated by High Intensity Soil Survey (HISS) as Class VI Soils.

Poorly Drained Soils - those characterized as having high water tables within which may be areas suitable for habitable development, if well-planned drainage can be accomplished, designated by High Intensity Soil Survey (HISS) as Class V Soils.

The soils identified as very poorly drained are:

<b><u>Soil Symbol</u></b>	<b><u>Soil Name</u></b>
Ba, Bb	Balch and Littlefield
Fa	Fresh water marsh
La, Lb	Liecester and Ridgebury
Lc, Ld	Liecester and Ridgebury and Whitman
Ra, Rb	Rumney and Saco
Sc	Scantic
Sd	Scarboro
Wa	Walpole

Wc	Walpole and Scarboro
Wh	Waterboro
Wo	Whitman

The soils identified as poorly drained are:

<b><u>Soil Symbol</u></b>	<b><u>Soil Name</u></b>
As, Ab, Ac, Ad	Acton and Scituate
Bze	Buxton
Bzg	Buxton and Scantic
Ea	Elmwood
So, Sp, Sr	Sudbury
Sy, Sz, Sza, Szb	Sutton and Woodbridge

59. WETLAND CONSERVATION AREA - refers to those areas in the Town as outlined on the Official Town Soil Conditions Map, based on the U.S.D. A. Soil Survey in Rockingham County, 1959 and as superimposed on other use districts under this Zoning Ordinance.

## **APPENDIX A**

### **IMPACT CONSIDERATIONS**

Impact considerations will include, but will not be limited to, the following issues:

1. Soil suitability
2. Noise, smoke, fumes, and other hazards
3. Off-street parking, acceptable traffic impact (see NH RSA 249:17 Driveway and Other Accesses to the Public Way)
4. Floodplain - erosion, obstruction of floodwaters and floatable material.
5. Wetlands - groundwater recharge, reduction of sponge effect, and preservation of wildlife habitat.
6. Steep slope - erosion and surface water runoff whenever lot slope of 15 percent or more.
7. Aesthetic value - preservation of view, waterfall, geological formation, natural growth and rural atmosphere in general.
8. Historic District - compatibility whenever tract contains or is near a designated Historic District or other monument of importance.
9. Community - preservation of the rights of others, both individual and group, including safety, economic and environmental impact in general.

## **APPENDIX B**

### **SUGGESTED OUTLINE FOR ENVIRONMENTAL IMPACT STUDY**

- I. Project Description
  - a. purpose of action
  - b. description of action
    - 1. name
    - 2. summary of activities
  - c. environmental setting
    - 1. environment prior to proposed action
    - 2. other related activities
- II. Land Use Relationships
  - a. conformity or conflict with other land use plans, policies, and controls.
    - 1. federal, state, and local
    - 2. Clean Air Act and Federal Water Pollution Control Act Amendments of 1972
  - b. conflicts and/or inconsistent land use plans
    - 1. extent of reconciliation
    - 2. reasons for proceeding with action
- III. Probable Impact of the Proposed Action on the Environment
  - a. positive and negative effects
    - 1. environmental factors
    - 2. impact of proposed action
  - b. direct and indirect consequences
    - 1. primary effects
    - 2. secondary effects

- IV. Alternatives to the Proposed Action
  - a. reasonable alternative actions
    - 1. those that might enhance environmental quality
    - 2. those that might avoid some or all adverse effects
  - b. analysis of alternatives
    - 1. benefits
    - 2. costs
    - 3. risks
- V. Probable Adverse Environmental Effects which Cannot be Avoided
  - a. adverse and unavoidable impacts
  - b. how unavoidable adverse impacts will be mitigated
- VI. Relationship Between Local Short-term Uses of Man's Environment and the Maintenance and Enhancement of Long-term Productivity
  - a. trade-off between short-term environmental gains at expense of long-term losses
  - b. trade-off between long-term environmental gains at expense of short-term losses
  - c. extent to which proposed action forecloses future options
- VII. Irreversible and Irretrievable Commitments of Resources
  - a. unavoidable impacts irreversibly curtailing the range of potential uses of the environment
    - 1. labor
    - 2. materials
    - 3. natural
    - 4. cultural
- VIII. Other Interests and Considerations that Offset the Adverse Environmental Effects of the Proposed Action
  - a. counteracting benefits of proposed action
  - b. counteracting benefits of alternatives

EFFECTIVE MARCH 8, 2005

## **Amendment #1**

### **TOWN OF NOTTINGHAM, NEW HAMPSHIRE INTERIM GROWTH MANAGEMENT ORDINANCE**

#### **A. Authority**

This Interim Growth Management Ordinance (IGMO) is enacted pursuant to authority granted by RSA 674:23.

#### **B. Statement of Need**

The continuing unprecedented influx of residential development proposals, the issuance of a record-setting number of housing unit building permits in 2004, and the continual increases to local property taxes has put an inordinate strain on our citizens, many of who are elderly and on fixed incomes and/or are considered low to moderate income wage earners. This raises serious questions about whether the existing Master Plan, Capital Improvement Program, and Zoning Ordinance adequately reflect the Planning Board's and the community's expectations for logical and desirable development in this community.

Specifically, the planning board makes the following **FINDINGS OF FACT**:

1. Development is causing the fragmentation of wildlife habitats, and the existing Master Plan does not inventory with sufficient detail and prioritize those remaining undeveloped areas of land based upon their environmental characteristics and sensitivity and designate areas based on such priorities for conservation and preservation;
2. The land use and housing sections of the Master Plan were last updated in 1990. Land use and housing change seen in Nottingham during in the last 3 years has moved from development along existing roads to new tracts of land being opened up for development. This change in the character and type of development has strained Nottingham's resources to service these new areas without investing in new equipment and personnel.
3. There is a shortage of undeveloped land with access to water services. The current Nottingham Aquifer Protection Districts only protect Nottingham's sand and gravel aquifers, per NHDES/USGS mapping, and does not adequately protect other types of aquifers in Nottingham;
4. On July 1, 2004, New Hampshire Department of Environmental Services (NHDES) approved a Large Groundwater Withdrawal Permit (LGWP) from a bedrock aquifer along Route 4 in Nottingham.
  - a. The permit identifies a 14 square mile area known as the Source Water Protection Area (SWPA), to represent the "feed" area for the withdrawal.

- b. It is unclear how this withdrawal will affect present and future development in this area.
5. According to the OSP 2004 Household Estimates, Nottingham has the highest household increase for 2003 in our region. Nottingham had 3.29% growth in 2003 compared to the average for our surrounding towns of 1.75%, and over 57% higher than the second highest growth rate of 2.09% in Barrington. The 3 year growth for Nottingham is 8.64% which is higher than the regional average growth of 6.25%. (source: <http://www.nh.gov/oep/programs/DataCenter/Housing/documents/HouseholdEstimates2003.pdf> )
  6. According to the OSP 2003 Housing Supply Report, Nottingham has the highest housing stock increase for 2002 in our region. Nottingham had 3.34% growth in 2002 compared to the average for our surrounding towns of 1.93%, and over 58% higher than the second highest growth of 2.1% in Barrington. (source: [http://www.nh.gov/oep/programs/DataCenter/Housing/documents/hse2002\\_r.pdf](http://www.nh.gov/oep/programs/DataCenter/Housing/documents/hse2002_r.pdf))
  7. Nottingham issued a record number of building permits for housing units in 2003. The 75 permits issued represented an increase of 17 or 27% over 2002. By Dec 7th, 2004 Nottingham has again issued a record number of permits and to date has issued 102 new home permits representing an increase of 36% over 2003. The last three years (2002 – 2004) have seen consecutive double digit permit increases, year over year. The 2004 permit numbers represent a 142% increase over 2001. (source: Nottingham Town Report 2003, current YTD data)
  8. These planning issues are very complex, are often inseparably intertwined, and have not been amenable to satisfactory solution under the terms of the current Master Plan, Capital Improvement Program, and Zoning Ordinance; and
  9. The Planning Board has been so burdened with the responsibilities of subdivision and site plan review that it has not had the time or resources to adequately take up and study these issues and concerns.
  10. The planning board needs the opportunity to address these concerns by discussing and proposing comprehensive changes without being burdened with large subdivisions being proposed at various times, and avoiding conflicts between any ordinance changes and proposed developments.

**C. Purpose**

The purpose of said ordinance shall be to:

1. Promote the orderly development of land within the Town and to promote the public health, safety, and welfare of the residents of the Town;
2. Allow time for completion of updating the town's Master Plan to reflect correct and current local and regional data under RSA 674:2, II a;
3. Develop the Master Plan Land Use section that translates the vision statements into physical terms. Based on a study of population, economic activity, and natural, historic, and cultural resources, it shall show existing conditions and the proposed location, extent, and intensity of future land use as required by RSA 674:2. II a;

4. Allow time for the Capital Improvement Program (CIP) Committee to understand their role in the CIP process and develop suitable CIP for the Town under this new process; and
5. Allowing the planning board to update zoning ordinance and subdivision regulations consistent with the updated Master Plan to regulate and control development, using impact fees and/or other allowed methods.

**D. Subdivisions and Multifamily Housing Limitations**

Under this interim ordinance, the Planning Board shall not accept applications for residential subdivisions or for residential site plan review. Notwithstanding the foregoing, applications for the following are exempt from the limitations of this ordinance when otherwise allowed by the Town of Nottingham Land Use Regulations:

1. Boundary Line Adjustments and subdivisions resulting in 3 lots, or less, in accordance with the Nottingham Subdivision Regulations.
2. Developments for bona-fide permanent affordable housing as defined by the US Department of Housing and Urban Development.
3. Developments for affordable housing for the elderly where occupancy is limited to persons 62 years of age and older that are state or federally financed.
4. Site Plan review of non-residential development.

**E. Building Permits Allowed**

This interim ordinance will not affect the issuance of building permits for the following:

1. lots of record shown by deed prior to (the effective date of this ordinance).
2. lots included on subdivision plans recorded prior to (the effective date of this ordinance).
3. lots or sites on any subdivision or site plan application which has been accepted by the planning board for consideration prior to (the effective date of this ordinance).
4. lots or sites on any subdivision or site plan that has been approved by the planning board prior to (the effective date of this ordinance) and remains in compliance with RSA 674:39.
5. Exempt lots or sites under D.1 through D.4 above approved by the planning board.

**F. Administrative Procedures**

The Planning Board is hereby authorized to establish administrative procedures necessary to implement this regulation. All such procedures shall be posted.

**G. Appeals and Variances**

Appeals and variances shall be handled in accordance with the Town of Nottingham Zoning Ordinance.

**H. Conflicts**

Where the provisions of this regulation conflict with the provisions of any other ordinance or regulation, the more restrictive provisions that impose the higher standard shall control.

**I. Severability**

Should any part of this regulation be held invalid or unconstitutional by a court, such holding shall not affect, impair, or invalidate any other part of this ordinance, and to such end, all articles, sections, and provisions of this regulation is declared to be severable.

**J. Adoption and Amendment**

This Interim Grown Management Ordinance may be adopted or amended in accordance with the procedures set forth in RSA 674:23.

**K. Effective Date**

This ordinance becomes effective upon adoption.

**L. Expiration**

The Planning Board is of the opinion that these findings of fact support a conclusion that there exists, per RSA 674:23, unusual circumstances requiring prompt attention and for the purpose of altering the Town's Capital Improvements Program and Master Plan, and for the purpose of possibly developing a growth management process per RSA 674:22, the Town of Nottingham Planning Board recommends the adoption of an interim restriction on new residential subdivision development and residential site plan review in Nottingham for a period of time not to exceed one year, to permit the Planning Board to study and examine these issues.

**EFFECTIVE MARCH 8, 2005**