



TOWN OF NOTTINGHAM NEW HAMPSHIRE ZONING ORDINANCE REGULATIONS

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**TOWN OF NOTTINGHAM, NH
ZONING ORDINANCE**

TABLE OF CONTENTS

ARTICLE I PREAMBLE

A. AUTHORITY.....	2
B. PURPOSE	2

ARTICLE II ZONING DISTRICTS AND DISTRICT REGULATIONS.....3

A. ZONING MAP.....	3
B. ZONING DISTRICTS.....	3
C. RESIDENTIAL - AGRICULTURAL DISTRICT.....	3
D. TOWN CENTER DISTRICT	5
E. COMMERCIAL/INDUSTRIAL ZONE (ROUTE 4)	6
F. MULTI-FAMILY DEVELOPMENT.....	8

ARTICLE III OVERLAY DISTRICTS10

A. AQUIFER PROTECTION DISTRICT.....	10
B. WETLAND CONSERVATION AREAS	15
C. FLOOD HAZARD AREAS (REVISED 03/1/94).....	17
D. WIRELESS COMMUNICATION OVERLAY DISTRICT	23
E. STREAM PROTECTION OVERLAY DISTRICT	23

ARTICLE IV GENERAL PROVISIONS26

A. MASTER PLAN MAPS	26
B. APPLICABILITY OF OVERLAPPING AREAS OR DISTRICTS.....	26
C. RECLASSIFICATION OF TRACTS	26
D. TRACTS FOR SPECIAL PURPOSES	26
E. SOLID WASTE	27
F. WATER BOTTLING/LIQUID PROCESSING	27
G. HOME OCCUPATION	27
H. EARTH EXCAVATION.....	28
I. JUNK YARDS	28
J. HAZARDOUS WASTE	28
K. DAMAGED STRUCTURES	29
L. SANITARY PROTECTION	29
M. FILL AND DREDGE IN WETLANDS	29
N. SIGNS (AMENDED 3/14/06)	29
O. MANUFACTURED HOUSING PARKS	31
P. MOTOR HOMES AND TRAVEL	31
Q. OUTDOOR LIGHTING	31
R. BUILDING PERMITS	33
S. OPEN SPACE DEVELOPMENT (AMENDED MARCH 9, 2010)	33
T. BACK LOT SUBDIVISIONS FOR SINGLE FAMILY HOMES	39
U. NONCONFORMANCE.....	39
V. RESIDENTIAL TIMING AND PHASING	40
W. IMPACT FEES.....	41

ARTICLE V ADMINISTRATION AND ENFORCEMENT47

A. ADMINISTRATION.....	47
B. ENFORCEMENT.....	47
C. ZONING BOARD OF ADJUSTMENT.....	47
D. AMENDMENTS.....	47
E. SAVING CLAUSE.....	48
F. ADOPTION	48

ARTICLE VI DEFINITIONS49

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ARTICLE I PREAMBLE

A. Authority

This chapter is adopted pursuant to the authority granted by NH RSA 674:16, as amended, which provides for the local legislative body to adopt or amend a Zoning Ordinance under the Ordinance Enactment Procedure of NH RSA 675:2-5.

B. Purpose

The provisions of this Ordinance are intended to regulate the use of land for the purpose of protecting the public health, safety, convenience and welfare of the residents of Nottingham. This Ordinance is consistent with the goals of the Nottingham Master Plan 2004, as amended, specifically:

TO PRESERVE the rural character and natural resources of the Town.

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.

TO ASSURE that basic needs of health, safety, education, housing and recreation will be met and maintained at satisfactory levels.

TO PROVIDE for orderly growth of the Town, consistent with the financial ability to provide increased services and facilities necessitated thereby.

TO ASSURE that land use does not have a deleterious effect on other property, either ecologically, aesthetically or economically.

TO SECURE safety from fire, panic, and other dangers by providing adequate areas between buildings and various rights-of-way.

ARTICLE II ZONING DISTRICTS AND DISTRICT REGULATIONS

A. Zoning Map

The Zoning Map of the Town of Nottingham shall show the location of the various zones set forth in this Article. The Zoning Map, as amended, is hereby incorporated as part of this Ordinance and is on file in the Nottingham Town Hall.

B. Zoning Districts

The Town of Nottingham shall be divided into the following districts:

RESIDENTIAL - AGRICULTURAL DISTRICT

TOWN CENTER DISTRICT

COMMERCIAL - INDUSTRIAL DISTRICT

The use of land, buildings, and structures shall conform to the provisions of the district in which it is located except as otherwise specifically provided in this Ordinance.

C. Residential - Agricultural District (amended March 10, 2020)

This zoning district shall encompass most of the Town of Nottingham as shown on the Zoning Map, as amended. It shall be a zone of low density residential and agricultural uses consistent with the Vision of the Master Plan to retain Nottingham's rural landscape.

1. Permitted Uses

- a) Single family residences and associated accessory dwelling units
- b) Duplex or two-family residences
- c) Multi-Family not to exceed six (6) units per building
- d) Seasonal dwellings
- e) Accessory use outbuildings
- f) Farming and related agricultural uses
- g) Home occupations
- h) Manufactured homes (excluding recreational vehicles) when placed on a permanent foundation

2. Requirements

- a) No lot shall be less than two (2) acres in area.
- b) Each lot shall have a minimum contiguous frontage of two hundred (200') feet, including a curb cut for approved access, except to the extent with regard to frontage of back lots approved in accordance with Article IV, Section T.
- c) Each single parcel of land is required to contain a driveway (curb cut) within the required minimum frontage. The required driveway may be either a single or common/shared driveway serving no more than two residences;
 - (1) Shared driveways will be kept to the common boundary.
 - (2) Shared driveways will be put in each owner's deed of record.
 - (3) Driveways and accesses, including any apron or curbing, shall be placed a minimum of ten (10) feet from any property line.

- d) The right of way of all new roads or streets within a subdivision shall maintain a twenty-five foot (25') no-disturb, natural vegetative buffer from any property line shared with a lot abutting the subdivision.
- e) Each lot must contain a 200'x 200' square fit for building or a thirty thousand (30,000') square foot contiguous area lot envelope in which a house and septic system shall be placed to meet all existing setbacks ordinances, consisting of upland soils. However, a pre-existing non-conforming lot shall be exempt from these provisions, provided it was legal under the provisions in effect immediately prior to the passage of this Ordinance or substantial 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.

3. Setbacks

- a) Setbacks between property lines or the water's edge and primary use buildings, septic systems, or accessory buildings shall be as follows:

Setback Requirements	Pre-existing non-conforming lots*	All other lots
Between all property lines and any dwelling	20'	50'
Between lot frontage property line and accessory buildings	20'	50'
Between side and rear property lines and accessory buildings and septic systems	20'	20'

*Applicable only to pre-existing non-conforming lots of less than two (2) acres, as of the date of passage (03/08/94)

- b) Special exceptions to these setback provisions 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 non-habitable
 - (1) whether the goal set forth in N.H. RSA 674:17 I. will be infringed by granting such special exception;
 - (2) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted; and
 - (3) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.
- 4. The Planning Board may require additional acreage for tracts of land which contain areas which are classified as unfit for building under definition article.
- 5. Dwelling Units on Single Tracts - 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.
- 6. Building Height - Maximum building height shall be 34 feet measured from grade.
- 7. Accessory Dwelling Units
 - a) Purpose

For the purpose of providing expanded housing opportunities and flexibility in household arrangements to accommodate family members or nonrelated people of a permitted, owner-occupied, single-family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood.
 - b) Requirements/ Limitations
 - (1) ADU's shall be secondary and accessory to a principal single-family dwelling unit.

- (2) An ADU shall not be considered to be an additional dwelling unit for the purpose of determining minimum lot size.
 - (3) Only one ADU shall be allowed per principle single family dwelling unit and/or lot.
 - (4) An ADU is permitted on any residential property in which the owner of record of the property personally resides.
 - (5) The gross living area of an ADU shall not exceed 750 square feet.
 - (6) If a property containing an approved ADU is conveyed and the new owner wishes to maintain the ADU, the new owner shall apply for a certificate of occupancy for the dwelling unit to ensure that one of the two dwelling units is owner occupied.
 - (7) The replacement or proposed septic system must be designed and certified by a licensed septic designer as adequate to support the accessory dwelling unit in accordance with New Hampshire RSA 485A:38.
 - (8) An ADU use shall be recorded by addendum to the property deed at the county Registry of Deeds indicating all of the terms of the approval granted.
 - (9) ADU's may not be a manufactured home.
 - (10) ADU's shall have an interior door provided between the principal dwelling unit and the ADU.
 - (11) No ADU or structure shall be converted to a condominium or any other form of ownership distinct from the ownership of the single-family dwelling.
 - (12) A building permit for an ADU must be approved and issued prior to the construction of such unit.
- c) Standard for Review
- (1) The property and proposed use must conform to the dimensional requirements of a single-family residential lot.
 - (2) The ADU must be developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single-family residence.
 - (3) Adequate off-street parking shall be provided to serve the combined needs of the principle single family dwelling unit and the ADU.
 - (4) Adequate provisions must exist or be made for ingress, egress and turning of vehicles within the site.
 - (5) Any necessary additional entrances shall be located to the side or rear of the building whenever possible.
 - (6) Attached ADU shall be designed to allow for reincorporation into the principle dwelling unit.

D. Town Center District

This zone 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 Map 38, Lot 1, inclusive, and Map 37, Lot 2, inclusive, to Map 42, Lot 23B, inclusive, and Map 43, Lot 17, inclusive; also from Map 43, Lot 50, inclusive, and Map 43, Lot 23, inclusive, to Map 43, Lot 41A, inclusive, Map 43, and Lot 42. (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.

1. Permitted Uses

- a) Residential - Single-family and multi-family not to exceed four (4) units
- b) Retail/wholesale establishment
- c) Service facility, including eating and lodging

- d) Theater/cultural center
- e) Houses of worship
- f) Professional office space
- g) Government buildings
- h) Mortuaries
- i) Educational facilities
- j) Other uses by special exception from the Board of Adjustment, utilizing the following special exception criteria:
 - (1) whether the goals set forth in N.H. RSA 674:17 I. will be infringed by granting such special exception;
 - (2) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted; and
 - (3) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.

2. Requirements

- a) Setbacks - 50' setbacks from all property lines. Existing buildings exempt from setback requirements (Article II, Section C. 2.).
- b) Lot Sizes - as defined by Article II, Section C. 1.
- c) Signs - Deleted (voted 03/14/2006).
- d) Site Plan Review required.
- e) Maximum lot coverage - 40%.
- f) Maximum building height - 34 feet.

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

- (1) whether the goals set forth in N.H. RSA 674:17 I. will be infringed by granting such special exception;
- (2) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted; and
- (3) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.
- g) Frontage - Each lot shall have 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 Article IV, Section T.

E. Commercial/Industrial Zone (Route 4)

This zone extends back one thousand (1000') feet from the nearest edge of each side of Route 4 in Nottingham, but only includes lots with frontage on Route 4.

1. Permitted Uses

- a) Retail/wholesale establishment
- b) Service facility, including eating and lodging
- c) Theater/cultural center

- d) Houses of worship
 - e) Professional office space
 - f) Government buildings
 - g) Mortuaries
 - h) Educational facilities
 - i) By special exception from the Zoning Board of Adjustment, industrial and other uses, utilizing the following special exception criteria:
 - (1) whether the goals set forth in N.H. RSA 674:17 I will be infringed by granting such special exception;
 - (2) whether the terrain or configuration of the lot make it more appropriate than not for such a special exception to be granted; and
 - (3) whether the granting of such special exception would adversely impact neighboring parcels or rural character of the Town.
2. Requirements
- a) Setbacks
 - (1) Commercial - 100' from all boundaries
 - (2) Industrial - 150' from front line and 100' from all other boundaries
 - b) Lot Sizes
 - (1) No lot shall be less than two (2) acres in area;
 - 1. Each lot shall have a minimum contiguous frontage of two hundred (200') feet, including a curb cut for approved access, except with the extent with regard to frontage of back lots approved in accordance with Article IV, Section T.
 - 2. Each single parcel of land is required to contain a driveway (curb cut) within the required minimum frontage. The required driveway may be either a single or common/shared driveway serving no more than two residences;
 - i. Shared driveways will be kept to the common boundary.
 - ii. Shared driveways will be put in each owner's deed of record.
 - iii. Driveways and accesses, including any apron or curbing, shall be placed a minimum of ten (10) feet from any property line.
 - 3. Each lot must contain a 200'x 200' square fit for building or a thirty thousand (30,000') square foot contiguous area lot envelope in which a house and septic system shall be placed to meet all existing setbacks ordinances, consisting of upland soils. However, a nonconforming lot shall be exempt from these provisions, provided it was legal under the provisions in effect immediately prior to the passage of this Ordinance or substantial 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.
 - c) Roadway Setbacks
 - (1) The right of way of all new roads or streets within a subdivision shall maintain a fifty foot (50') no-disturb, natural vegetative buffer from any property line shared with a lot abutting the subdivision.
 - d) Signs – Deleted (voted 03/14/06, not revised until 05/17/07)
 - e) Site Plan Review required.
 - f) Off-street parking - adequate for employees and expected patrons

- g) Maximum lot coverage - 50%
- h) Maximum building height – 34 feet

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

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

F. Multi-family Development

1. Purpose

The purpose of this Section 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. Standards

- a) Duplex - 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 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.

3. 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 two (2) acres per unit dwelling (e.g. 4 living units will require 8 acres of land). The site shall contain a minimum of thirty thousand (30,000') 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 - Each lot shall have a minimum contiguous frontage of three hundred (300') feet, including a curb cut for approved access, except to the extent with regard to frontage of back lots approved in accordance with Article IV, Section T
- 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 six (6) 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 II, Section C. 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.

4. Multifamily Dwellings-Conversions

For purposes of this section multifamily conversions shall be two (2) or more units in a single structure. Multifamily dwellings will only be allowed through conversion of buildings on residential lots in existence prior to March 30, 2010. The maximum number of dwelling units per residential lot shall not exceed eight (8) units and the number allowed in a building will be determined by the combination of units such that no individual one-bedroom unit is less than 350 square feet, an individual two-bedroom no less than 550 square feet, and where there are more than four (4) dwelling units in the conversion fifty (50) percent or more shall be two-bedroom units.

In addition to any other requirements of this Zoning Ordinance, multifamily conversions will be subject to the following:

- a) Multifamily units must be developed in a manner consistent with Nottingham's rural character and which do not adversely alter the exterior character or appearance of the existing dwelling unit.
- b) The multifamily units shall not be considered to be additional dwelling units for the purpose of determining minimum lot size.
- c) Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.
- d) A building permit for a multifamily conversion must be approved and issued prior to the conversion of such unit.
- e) For purposes of this Section, the adequacy of off street parking shall be determined by the Planning Board and it shall provide for the combined needs of all the units within the building structure.
- f) Adequate provisions must exist or be made for ingress, egress and turning of vehicles within the site.
- g) Any exterior fixtures that are supportive of the multi-family conversion, such as dumpsters, fire escapes, and above ground gas tanks, shall be located to the side or rear of the building. The Planning Board may require that such fixtures be screened with fencing or vegetation.
- h) The existing, replacement or proposed septic system must be certified by a licensed septic designer in accordance with New Hampshire RSA 485A:38

ARTICLE III OVERLAY DISTRICTS

A. Aquifer Protection District

1. Authority: The Aquifer Protection District is an Innovative Land Use Control adopted pursuant to RSA 674:21, I (j)

2. 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 for establishing an Aquifer Protection District are:

- a) To protect the public health and general welfare of the citizens of Nottingham and adjacent affected towns.
- b) To prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifers; including primary and secondary recharge areas.
- c) 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.
- d) 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.

3. District Boundaries

- a) 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.

- b) 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.

4. Use Regulations

- a) 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.
- b) 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 for any uses.
- c) 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:
 - (1) 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.
 - (2) On-site disposal, storage, processing or recycling of toxic or hazardous materials or wastes, including the development or operation of a junk or salvage yard.

- (3) Buried storage of petroleum fuel and other refined petroleum products except as regulated by the NH Water Supply and Pollution Control Commission (Ws 411 Control of Nonresidential Underground Storage and Handling of Oil and Petroleum Liquids).
 - (4) The development or operation of gasoline stations.
 - (5) Outdoor unenclosed or uncovered storage of road salt and other de-icing chemicals.
 - (6) Dumping of snow containing road salt or other de-icing chemicals.
 - (7) Animal feedlots.
 - (8) Dry cleaning establishments.
 - (9) 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.
 - (10) The development or operation of a waste water or septage lagoon, or waste injection wells.
 - (11) Non-municipal wells that may result in an aquifer volume reduction that exceeds the recharge rate.
- d) Conditional Uses - The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted in the underlying district, if the permitted use is involved in one or more of the following:
- (1) Storage, handling, and use of regulated substances in quantities exceeding 55 gallons or 660 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Article VII, is approved by the [local Fire Department, Health officer or Emergency Management officer].
 - (2) Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.
 - (3) Any activities that involve blasting of bedrock.
 - (4) In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use (as listed in Article IX of this Ordinance) and will be in compliance with the Performance Standards in Article VI as well as all applicable local, state and federal requirements. The Planning Board may, at its discretion, require a performance guarantee or bond, in an amount and with surety conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.
 - (5) Conditional uses shall develop stormwater management and pollution prevention plans and include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (US EPA, Feb 2009) The plan shall demonstrate that the use will:
 - a) Meet minimum stormwater discharge setbacks between water supply wells and constructed stormwater practices as found within the Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent (Post- Construction) Stormwater Management, (NHDES, 2008 or later edition).
 - b) Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into stormwater.
 - c) Stipulate that expansion or redevelopment activities shall require an amended stormwater plan and may not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).

- d) Maintain a minimum of four feet vertical separation between the bottom of a stormwater practice that infiltrates or filters stormwater and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, engineer or other qualified professional as determined by the Planning Board.
- (6) Conditional uses using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Town Administrator and Fire Chief, who then shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. It shall include:
 - a) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
 - b) Contact list and phone numbers for the current facility response coordinator(s), cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
 - c) A list of all regulated substances in use and locations of use and storage.
 - d) A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
 - e) A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.
 - f) List of positions within the facility that require training to respond to spills of regulated substances.
 - g) Prevention protocols that are to be followed after an event to limit future large releases of any regulated substance.
- e) Permitted Uses - The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance:
 - (1) Any use permitted in the underlying district of the Zoning Ordinance, except as prohibited and/or regulated by Special Exception in Section f of this Article.
 - (2) Maintenance, repair, or any existing structure, provided there is no increase in impervious surface above the limit established in Section 4 and Section 6 of this Article.
 - (3) 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.

f) Special Exceptions 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:

- (1) 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 March 13, 1990, when this Aquifer Protection District was adopted.
- (2) 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.
- (3) Due to the provisions of the Aquifer Protection District, no reasonable and economically viable use of the lot can be made without exception.

- (4) The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.

g) 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. All existing non-conforming uses must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices Rules.

5. Hydrogeologic Study

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

6. Design and Performance Standards

- a) Nitrate Loading - No development shall cause the nitrate-nitrogen (NO₃-N) concentration to exceed 5 mg/l in the groundwater beyond the site.
- b) Safeguards - Provisions shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through the following measures:
- (1) Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, (June 2011) and any subsequent revisions; NH Department of Agriculture, Markets and Food (DAMF) maybe consulted to help determine whether a particular facility is in compliance with the agriculture BMPs. NH DAMF may order property owners to develop a nutrient management plan when state BMPs related to manure or fertilizers are not followed and RSA 431:35 authorizes local health authorities and NHDES to enforce the plan.
 - (2) All regulated substances stored in containers with a capacity of five gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains.
 - (3) Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.
 - (4) Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems.
 - (5) Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s).
 - (6) Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.
 - (7) Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.
 - (8) Blasting activities shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells.

- c) For operations 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.
- d) 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.
- e) 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.
- f) 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 wastewater 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:

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

7. Exemptions:

The following uses are exempt from the specified provisions of this ordinance as long as they are in compliance with all applicable local, state, and federal requirements.

- a) Any private residence is exempt from all Performance Standards;
- a) Any business or facility where regulated substances are stored in containers with a capacity of less than five gallons is exempt from Section 6, Design and Performance Standards, subsection b, items 1 through 9;
- b) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard E;
- c) Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards E through H;
- d) Storage and use of office supplies is exempt from Performance Standards E through H;

- e) Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards E through H if incorporated within the site development project within six months of their deposit on the site;
- f) The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;
- g) Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Performance Standards E through H;
- h) Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Section 8 of this ordinance.

8. Maintenance and Inspection

- a) For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Strafford County. The description so prepared shall comply with the requirements of RSA 478:4-a.
- b) Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Town Administrator at reasonable times with prior notice to the landowner.
- c) All properties in the Aquifer Protection District known to the Town Administrator as using or storing regulated substances in containers with a capacity of five gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section 7, shall be subject to inspections under this Article.
- d) The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41-9:a.

9. 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.

10. 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.

B. Wetland Conservation Areas

1. Description

- a) 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 and as amended.
- b) 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 the Zoning Board of Adjustment.

- c) 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.
 - d) Specific description of freshwater wetlands is described in Statutory Authority RSA 482-A: 4, specifically in chapter definitions "fresh water wetlands" with its Appendix A.
- 2. 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.
- 3. Vegetative Buffers
 - a) There shall be a twenty-five (25) foot no-disturb vegetative buffer around vernal pools as defined by a certified wetland scientist. This vegetative buffer is not eligible for a Conditional Use Permit.
 - b) There shall be a twenty-five (25) foot no-disturb vegetative buffer around wetlands as defined by a certified wetland scientist. This vegetative buffer is eligible for a Conditional Use Permit.
- 4. Non-conforming Structures and Uses - Any nonconforming use or structure which was legal prior to adoption of this Zoning Ordinance or any amendment thereto, may continue.
- 5. 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, without a Conditional Use Permit, such as:
 - a) forestry - tree farming
 - b) agriculture, including grazing, farming, truck gardening and harvesting crops but not including the stockpiling of manure.
 - c) construction of well water supplies
 - d) wildlife habitat development and management
 - e) parks and such recreation uses as are consistent with the purpose and expressed intentions of this ordinance.
 - f) conservation areas and nature trails
 - g) open space in accordance with subdivision regulations and other sections of this ordinance.
- 6. Conditional Uses – A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 11) for the construction of roads, other access ways, pipelines, power lines, and other transmission lines in areas designated as non-critical wetlands. Conditional Use Permits will only be granted provided that no alternative route, which does not cross a wetland or has less detrimental impact on the wetland, is feasible and all of the following conditions are found to exist:
 - a) The proposed construction is essential to the productive use of land not within a Wetland Conservation Area and the upland area considered for development is not smaller (acreage) than the wetland area (acreage) being considered;
 - b) Designs, construction, and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and conditions;

- c) The Nottingham Conservation Commission has provided comments relative to the value of the wetland under construction and design of the proposed project as it relates to the wetland.
 - d) Economic advantage alone is not a reason for the proposed construction;
 - e) Prior to the granting of the Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to ensure all construction is carried out in accordance with an approved design. The security shall be submitted in a form and amount, and surety and conditions satisfactory to 1) the Planning Board for site plan and subdivision application and 2) the Board of Selectman in all other cases. The security shall be submitted and approved prior to issuance of any permit authorizing construction.
 - (1) Proper surety in the form of cash bonds must be submitted to the Town to ensure the completion of work. No work shall start on the property until proper surety is in place. The surety amount shall be 115% of the current estimated cost.
 - (2) An itemized cost estimate shall be submitted for approval to the Planning Board, and Town Counsel prior to the surety being accepted. The cost estimate shall include the costs of inspection and testing. Surety may be drawn down no more frequently than monthly. In no case shall the surety be drawn below ten percent until the completed road has successfully stood for two (2) years.
 - (3) The surety may be used by the Town to repair work that has failed or was not performed in accordance with the plans and specifications, to restore the site should the project default, to cover the cost of testing and inspections and to cover legal or other fees the Town may incur during the collection process.
 - f) The Planning Board may require the applicant to submit an Environmental Impact Assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.
7. 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.
8. Critical Wetlands - Critical wetlands are those areas identified on the Wetlands Map of the Nottingham Natural Resource Inventory dated 5/27/99 and as amended. 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 Wetlands Bureau Administrative Rules by a New Hampshire Certified Wetlands 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. Critical Wetlands are not eligible for a Conditional Use Permit.

C. Flood Hazard Areas (Revised 03/1/94)

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 03/08/05)

1. Definition of Terms

The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of 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 FIRM 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 the overflow of inland or tidal waters, and 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.

ONE HUNDRED 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 FIRM as zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. (See-"Area of Special Flood Hazard")

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.

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.

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 saturation 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.

2. Permits: All proposed development in any special flood hazard areas shall require a permit.
3. Construction Requirements: The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:
 - a) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b) be constructed with materials resistant to flood damage;
 - c) be constructed by methods and practices that minimize flood damages;
 - d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. Water and Sewer Systems: Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.
5. Certification: For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the building inspector:
 - a) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
 - b) if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
 - c) any certification of floodproofing.

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

6. Other Permits: 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.
7. Water Courses:
 - a) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services 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 Bureau.
 - b) 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.
 - c) 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.”
8. Special Flood Hazard Areas
 - a) 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).
 - b) The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in zone A that:
 - (1) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated one (1) foot above the 100-year flood elevation or higher;
 - (2) 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:
 1. be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 3. 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.
 - (3) 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;
 - (4) All recreational vehicles placed on sites within Zones A1- 30, AH, and AE shall either:
 1. be on the site for fewer than 180 consecutive days;
 2. be fully licensed and ready for highway use; or

3. meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c) (6) of Section 60.3.
- (5) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet 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.
9. Variances and Appeals:
 - a) Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
 - b) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - (1) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - (2) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - (3) that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - c) The Zoning Board of Adjustment shall notify the applicant in writing that:
 - (1) 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
 - (2) 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.
 - d) The community shall:
 - (1) maintain a record of all variance actions, including justification for their issuance; and
 - (2) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

D. Wireless Communication Overlay District

This overlay district is enacted in accordance with RSA 674:16 and 674:21. II. This ordinance is enacted in order to establish general guidelines for the siting of personal wireless service towers and antennas and to preserve the authority of the Town of Nottingham to regulate and to provide for reasonable opportunities for the siting of personal wireless service facilities while ensuring that the wireless provider's service remains effective and efficient; to minimize adverse impacts such facilities may create including, but are not limited to, impacts on: aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety concerns and diminution of property values; to provide for co-location and minimal impact siting options through an assessment of current technology and locational options, future location availability, innovative siting techniques, and siting possibilities beyond the geographic boundaries of the town; to permit the construction of new towers only where all other reasonable alternatives have been exhausted, and to encourage the owners and users of towers and antennas to configure them in a manner that minimizes visual impacts of said structures; to require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town of Nottingham; to provide constant maintenance and safety inspections for any and all facilities and to provide for the demolition and removal of abandoned facilities or facilities that constitute a danger to persons or property.

E. Stream Protection Overlay District

1. Authority:

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

2. Purpose:

The purpose of the Nottingham Stream Protection Ordinance is to delineate stream buffers that will preserve the overall quality of Nottingham's surface waters and the adjacent land.

More specifically, the intent of the regulations established in this Article are to:

- a) Ensure protection of groundwater and drinking water supplies
- b) Prevent flooding, sedimentation, and pollution from impervious surfaces and other sources
- c) Protect aquatic and riparian ecosystems associated with the town's rivers and ponds
- d) Maintain the town's rural character by preserving the aesthetic values of shoreline areas
- e) Prevent unnecessary expenses to the Town for providing services and maintaining roads
- f) Encourage uses that can be appropriately located near the town's surface water resources

3. District Boundaries:

Stream Protection District: The Stream Protection District shall include all land located within fifty (50) feet of the ordinary high water mark, as defined by RSA 483-B:4, XI-e, of all first (1st) and second (2nd) order streams, and seventy-five (75) feet of the ordinary high water mark of all third (3rd), fourth (4th), and higher order streams in Nottingham including, but not limited to, the Little River, North River, Bean River, Mile Brook, Elliott River, Pawtuckaway River, and those tributaries unnamed.

<u>Stream Order</u>	<u>District Boundary</u>
First and second order	50 feet
Third and fourth order and higher	75 feet

Interpretation of District Boundaries: Where uncertainty exists as to the exact location of district boundary lines, the town Building Inspector with the assistance of the N.H. Department of Environmental Services (DES) shall be the final authority of the boundary location.

4. Definitions:

FIRST ORDER STREAMS: The smallest streams with a year-round flow and no tributaries.

SECOND ORDER STREAM: Formed when two first order streams flow into each other.

THIRD ORDER STREAM: Formed when two second order stream flow into each other.

FOURTH ORDER STREAM: Formed when two third order streams flow into each other.

FIFTH ORDER STREAM: Formed when two fourth order streams flow into each other.

STREAM BUFFER: Those areas adjacent to the stream which contain the natural vegetation extending from the edge of the stream bank into the upland that serve to protect the stream from the impact of adjacent land uses.

BASAL AREA: The cross-sectional area of the stem of the plants at a height of four and one half (4.5) feet above the ground, usually expressed in square feet per unit of land area.

5. Administration:

The Nottingham Building Inspector shall uphold the applicable restrictions for new construction and vegetation removal within the district.

A reduction of the required stream buffer width may be granted by the Planning Board if the following criteria are met:

- A hydrologic or other study that provides documentation and justification that even with the reduction, the same or a greater degree of water quality protection would be afforded as would be with the full-width stream buffer area.
- The stream buffer width for third order and higher streams does not exceeded an absolute minimum of 50 feet
- The stream buffer width for first and second order streams does not exceed an absolute minimum of 25 feet

In granting such a reduction, the Planning Board may require certain conditions of approval, which may include, but are not limited to restrictions on use, type of construction, a change in the total impervious surface area, and erosion, runoff or sedimentation control measures as deemed necessary to protect water quality.

When applications regarding this article are made to the Nottingham Zoning Board of Adjustment, all applications shall also be referred to the Nottingham Conservation Commission for review and comment prior to the Zoning Board hearing.

6. Non-Permitted Uses: Within this district the following restrictions shall apply (except where otherwise permitted or required by state or federal regulations)

- a) Roads, driveways, or parking areas
- b) Permanent or temporary dwellings or other structures established, with the exception of structures necessary for the housing of pumps. Existing structures may be replaced or remodeled, but may not be expanded within the Stream Protection District. Expansion shall mean up, down or out from the existing footprint and structure, including attachments there-to such as, but not limited to, decks, open porches, enclosed porches, etc. or an increase of use
- c) Wastewater disposal systems

- d) Excavation or filling unless approved by the Planning Board. Review by the Conservation Commission will be requested, and approvals only granted if other options with less detrimental impact are not feasible.
- e) Cutting/removing vegetation within the Stream Protection District except where permitted under the provisions of this section. No more than fifty percent (50%) of the basal area of trees shall be cut or otherwise felled over the course of a ten (10) year period, leaving a well-distributed cover of healthy, growing trees or other vegetation within the Stream Protection District, and according to RSA 483-B:9, Agriculture and Forestry, conducted according to Best Management Practices, as recommended by the Division of Forest and Lands and Department of Agriculture Markets and Food, are exempt under this RSA. Unbroken vegetative cover for wildlife travel lanes is an important consideration for the Stream Protection District.
- f) Application of fertilizers except for slow-release or controlled-release fertilizer, which may be used beyond 25 feet of the stream.
- g) Application of pesticides or herbicides.
- h) Storage of hazardous materials or dumping.
- i) Piling or storage of animal manure.
- j) Disposal of lawn debris such as leaves, needles, branches, and grass.
- k) Animal housing, such as barns, sheds, kennels, coops, and lean-tos.

7. Permitted Uses:

Within the Stream Protection District, the following uses are permitted:

- a) Recreational trails and trail bridges
- b) Wells and well lines
- c) Fenced grazing
- d) Dry hydrants
- e) Removal of state-identified invasive plant species
- f) Planting of new riparian vegetation with native species to maintain or improve the integrity of the stream buffer

Exemptions from Regulations:

- a) Structures, driveways, or wastewater systems that existed prior to June 8, 2021, are exempt from these stream protection restrictions.
- b) Removal of hazardous trees with preapproval from the Town's Building Inspector
- c) Exemptions to the setback provisions of Section 11.2 of this Article shall be made for the installation of docks, floats and other structures that are customarily associated with the recreational use of water.

ARTICLE IV GENERAL PROVISIONS

A. Master Plan Maps

The following maps, with subsequent refinements and corrections adopted by the Planning Board are hereby made a part of this ordinance by reference. The applicable map, used in conjunction with this ordinance or as an overlay on the Zoning Map, will define the classification of an area to determine site suitability.

1. Bedrock geology
2. Elevation
3. Existing land use
4. Floodplain map
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 of Overlapping Areas or Districts

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.

E. Solid Waste

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.

F. Water Bottling/Liquid Processing

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.

G. Home Occupation

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 provision is to allow home occupations that are compatible with residential areas. Minor home occupations do not require Site Plan Review and shall be consistent with the definition of minor home occupation as per Article VI, Definitions, of this Ordinance.

1. Permitted Uses:

- a) Manufacture and/or sale of products as a retail operation such as arts and crafts, jewelry, pottery or similar small objects including antiques.
- b) Professional offices including medical, dental, legal, design, engineering, real estate and insurance, bookkeeping, accountants, secretarial services.
- c) Services including beautician, barber, tailor, seamstress, pet groomer, woodworker, upholsterer, small engine repair.
- d) Family day care home for up to six (6) preschool and up to three (3) school-age children except children who are ten (10) years or older; consistent with RSA 170 E: 2 (a) and the NH Department of Health and Human Services "He-C 4002.N.H. Child-Care Facility (Day Care) Licensing and Operating Standards".
- e) Occupations not listed above that are of a similar nature and only if the Planning Board finds that the occupation meets all of the provisions of this section.

2. Non-Permitted Uses

- a) Auto Repair
- b) On-site Auto Sales
- c) Machine Shops
- d) On-site Lawnmower/Tractor Sales

3. Criteria for Major Home Occupation

- a) A Home Occupation shall be carried on by the occupant only within a dwelling or accessory structures and shall be incidental and secondary to the use of the property as a dwelling.
- b) There shall be no on-site sale of goods except as incidental to the primary activity or service.
- c) Allowable space—Home Occupation activities shall be limited to no more than 25% of the gross floor area of all the building structures on the lot.

- d) Employees – Not more than one non-resident of the home may be employed in the home occupation on the premises. Upon request for a Special Exception, the Board of Adjustment may permit the employment of one additional employee on site.
- e) Residential appearance – The use shall not change the residential character of the dwelling, the property on which dwelling is situated or the neighborhood in which the property is located. 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. All outdoor storage shall be visually screened from abutters.
- f) Not more than one (1) commercial vehicle may be kept overnight outdoors on the premises.
- g) General nuisances – No activity shall be allowed that would interfere with radio or television transmission or become a nuisance by way of traffic, noise, odor, smoke, dust, fumes, gas, vibrations, light or electrical interference noticeable at or beyond the property line or a public street.
- h) Parking – Off street parking shall be provided for at least occupant-owned vehicles—one non-residential space and one space for a pick-up delivery vehicle where applicable. There shall be no on-street parking.
- i) If there is a change of ownership of the property where a home occupation has been approved by the Planning Board and the new property owner proposes to continue the same home occupation, then the new property owner must notify the Building Inspector in writing before conducting the home occupation in the same manner and under the same conditions as originally approved by the Planning Board or must reapply to the Planning Board for a site plan review approval.
- j) Signs consistent with Article III, N.3.b (Signs, Residential) are allowed.

H. Earth Excavation

1. A Planning Board permit is required. A public hearing at the applicants' expense is required for all commercial earth excavation for the initial permit. This procedure applies to all working pits.
2. All commercial earth excavation must be done in accordance with RSA 155-E.
3. 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 B apply.
4. Acceptable restoration of any earth excavation area may be required if not completed within two years of inactivity, or forthwith, if the Selectmen determine a hazard exists.
5. Current working pits will be required to submit restoration plans in accordance with Section H 3, c.

I. Junk Yards

Consistent with NH RSA 236:112, no outdoor storage of junk shall be permitted.

J. Hazardous Waste

Refer to NH RSA Chapters 147-A, 147-B, 147-C and 147-D.

K. 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.

L. Sanitary Protection

Any new or replacement on-site sewage disposal systems shall be consistent with NH RSA 485 and accompanying rules NHDES Env-Wq 1000.

M. Fill and Dredge in Wetlands

Conditions to fill or dredge in wetlands of Nottingham require application in accordance with NH RSA Chapter 482-A-3 and NH Code of Administrative Rules 100-800.

N. Signs (Amended 3/14/06)

1. Purpose of the sign regulation is to:
 - a) Encourage the effective use of signs as a means of communication in the Town of Nottingham
 - b) Maintain and enhance the appearance and aesthetic environment of the Town.
 - c) Retain the Town's ability to attract and encourage economic growth.
 - d) Minimize potential adverse effects of signs on nearby public and private property.
 - e) Enable fair and consistent enforcement of these signs and regulations.
2. Maintenance, Repair, Removal, Inspection
 - a) The owner of any sign shall regularly inspect each sign belonging to them and it shall be the duty of said owner to keep their sign(s) in good repair and appearance at all times.
 - b) When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe or if any sign shall be unlawfully installed, erected, or maintained in violation of any of the provisions of this ordinance, the owner shall immediately make a sign conform to the provisions of this ordinance, or shall remove it.
3. Specifications
 - a) Commercial/Industrial: Only one sign shall be located on commercial/industrial property and shall be no larger than thirty-two (32) square feet in area. The maximum height shall not exceed fifteen (15) feet.
 - b) Residential: Only one permanent sign shall be located in a residential or agricultural zone with approval of a major home occupation per Article IV, Section G and shall not exceed sixteen (16) square feet in area. The maximum height shall not exceed eight (8) feet.
 - c) Computation of area of individual signs: The area of a sign shall be the surface area of the sign, which shall be considered to include all lettering or elements of the sign, accompanying designs and symbols together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself and which are not designed to attract attention. Where a sign consists of letters or symbols affixed to a surface or building, without any distinguishing border, panel or background, the area of the sign shall be considered to be the smallest rectangle or shape, which encompasses all of the letters or symbols.
 - d) Computation of height of a freestanding sign: The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the structure.
4. 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 and/or pedestrians.

5. Illumination Standards

- 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) Lighting fixtures used to illuminate a sign shall be externally mounted on the top of the sign structure.
- c) All such fixtures shall contain light shields to prevent light pollution.
- d) Bottom-mounted sign lighting shall not be used.
- e) No neon, LED, 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 allowed.
- g) Signs shall be illuminated only during business hours.

6. Design and Construction

All signs shall be designed and constructed of durable materials, and in accordance with the requirements of this Ordinance, the Building Code, and the Electrical Code.

7. Other Signs Allowed

The following signs are exempt from the permit requirements of Article IV, Section N., but are subject to the standards contained herein. Any failure to comply with these standards and any other provisions of the section shall be considered a violation of this ordinance.

- a) Signs not exceeding two (2) square feet in area that are customarily associated with a principal residential use and that are not of a commercial nature, including nameplate signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
- b) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informal signs, and traffic, directional, or regulatory signs.
- c) Incidental signs relative to parking spaces, loading spaces, stacking lanes, entry and exit drives, direction of traffic flow, and pedestrian ways on private property that do not exceed four (4) square feet each.
- d) Flags of any governmental organization when not displayed in connection with a commercial promotion or as an advertising device.
- e) One sign per lot containing messages that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Such signs shall not be illuminated and shall not exceed four (4) square feet in area for residential property and twenty-five (25) square feet in area for commercial property, and shall be removed within seven (7) days after sale, lease, or rental.
- f) Construction site identification signs. Such signs shall not be illuminated, and may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain information related to the sale or leasing of the premises. Such signs shall not exceed twenty-five (25) square feet in area and shall not be installed prior to Site Plan approval, Subdivision approval, or building permit issuance and shall be removed within ten (10) days of issuance of the Certificate of Occupancy or the discontinuance of construction whichever comes first.
- g) Displays, including lighting erected in connection with the observance of holidays.
- h) Signs erected in connection with elections or political campaigns pursuant to RSA 664:14-17-a, Political Advertising.
- i) Building marker signs and historical marker signs that do not exceed four (4) square feet in area.

- j) Signs that are recognized as contributing to the National Register status of a property.
 - k) Banners displaying an “Open” or “Sale” message, provided that only one (1) of said banners shall be permitted per principal use, that the size of the banner shall be no greater than three (3) feet by five (5) feet, that the banner shall be flown only during the hours when the principal use is open for business, and that the height of any pole shall not exceed ten (10) feet.
 - l) All temporary signs shall not exceed a total of 16 square feet in area and may be displayed not more than two weeks prior to the event. Such signs shall be removed within two (2) days after the event has finished.
8. Nonconforming Signs

Any sign not conforming to the terms of this Ordinance, upon the date of its adoption, shall be allowed to continue nonconforming. Nothing herein shall prevent the substantial restoration or reconstruction, within one year, of a sign destroyed in part or whole by fire or other casualty so long as this use does not result in a new or increased violation.

O. Manufactured Housing Parks

Manufactured housing parks are prohibited within the Town of Nottingham

P. Motor Homes and Travel Trailers

A Recreational Vehicle may be parked on a property provided the vehicle does not present a health or safety hazard or create a nuisance. Such a vehicle so parked shall not be used as a permanent dwelling unit, but may be occupied for a period of four (4) months with a permit issued by the Building Inspector. A thirty (30) day extension beyond this initial period can be granted with a maximum number of two (2) extensions being granted. Occupation of recreation vehicles are not to exceed a period of six (6) months with in a 12 month period. The permit shall be lot specific, include dates of intended use, and any of the information required to insure conformance with all Town and State laws.

No more than one (1) recreational vehicle may be used for a temporary residence on any lot at any one time. Placement of a recreational vehicle shall comply with the current accessory structure setback requirements of the district where it is located, shall be in compliance with Zoning Ordinance Article IV, General Provisions, Section L, Sanitary Protection, and be approved by the code enforcement officer.

Recreational vehicles in use prior to the addition of this permitting requirement shall not be exempt from this permit.

Q. Outdoor Lighting

1. Statement and Need of Purpose

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

- a) Good outdoor lighting at night benefits everyone. It increases safety, enhances the Town’s nighttime 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.
- b) 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.

- c) 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 luminaires 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.

2. 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 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 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 of 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 Ordinance, the most restrictive shall govern unless otherwise regulated by law.

c) Recreational Facilities

Any light source permitted by this Ordinance 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 Article IV, Section N and Q of this Ordinance, 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.

d) 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.

e) 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
- (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.

f) Authorization for Installation of Public Area and Roadway Lighting

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.

g) Definitions

Definitions for terms used in this section are located in the Definition Article of this Ordinance.

R. Building Permits

The Building Inspector shall not issue a Building Permit unless the provisions of the Nottingham Zoning Ordinance, as most recently amended, and the State of New Hampshire Building Code and the State of New Hampshire Fire Code, as most recently adopted and amended, have been complied with.

1. A Building Permit is required before erection of non-habitable structures of one hundred forty-five (145') square feet in area or greater. (Amended 3/8/05)
2. A building permit is required for any habitable structure
3. Building permits issued hereunder shall not be transferable and shall apply to a specific project, location, and applicant only.
4. Work proposed shall commence within six (6) months of the date of issuance and shall be completed within one (1) year. Failure to commence construction in a timely fashion shall result in the expiration of said permit. One (1) renewal, prior to expiration, is allowed per building permit. Extension of the one (1) year period by special exception for health or financial reasons for owner occupied dwellings is permitted.

S. Open Space Development (amended March 9, 2010)

1. Authority

This Section is enacted in accordance with the provisions of NH RSA 674:21 (Innovative Land Use Controls), NH RSA 674:58-61 (Workforce Housing) and NH RSA 674: 16-20. This authority allows the Planning Board to grant conditional use permits, special use permits and waivers from specific requirements of this Article.

2. Statement of Purpose

The purpose of this Open Space Development Section is to further the recommendations of the Nottingham Master Plan by encouraging flexibility in the design and development of land to preserve open space, greenways and traditional rural character, retaining and protecting important natural, scenic and historic resources, encouraging and promoting a range of housing types, providing for more efficient use of land and town services, and promoting the development of balanced residential communities in harmony with the natural landscape.

3. Objectives

Open Space Development (OSD) will promote the following objectives:

- a) Implement the municipality's Master Plan with respect to protection of Nottingham's natural environment and rural landscape and maintaining large tracts of contiguous open space with higher density housing.
- b) Maintain rural character through preservation of farmland, forests and rural viewsapes and encouraging residential development that is sited in harmony with the environment and promotes a sense of neighborhood.
- c) Preserve those areas of the site that have high environmental or ecological value including, but not limited to, upland wildlife habitat (as identified in the Nottingham Master Plan and areas of high quality habitat as based on NH Fish and Game's Wildlife Action Plan or Core Conservation Areas designated by the Land Conservation Plan for the Coastal Watershed) and significant water resources such as, but not limited to, critical watersheds, aquifers, wetlands, streams and rivers.
- d) Provide for alternative housing opportunities, including workforce housing.
- e) Reduce impact of development sprawl by decreasing potential for consecutive lot development on major roadways.
- f) Locate buildings and structures on those portions of the site that are the most appropriate for development and avoiding developing in areas not suitable for development such as hydric soil conditions, areas subject to flooding and steep slopes.
- g) Preserve historic, archeological, and cultural features located on the site.
- h) Create a permanently protected contiguous network of open spaces or "greenways" by linking the common open spaces within the open space subdivision and to open space on adjoining lands wherever possible.
- i) Reduce the amount of roads, sidewalks, and storm water management structures that must be built and maintained.
- j) Provide undeveloped frontage, where appropriate, along wildlife corridors and existing roads, protecting transportation corridors from encroachment of structures.

4. Applicability

- a) In furtherance of the goals of the Nottingham Master Plan, any subdivision for residential use that is proposed on a parent parcel within the Agricultural and Residential Zoning Districts of 20 or more acres may be considered for the OSD Option.
- b) Sequential Subdivisions: The provisions of this ordinance shall apply to the sequenced development of a parent parcel over time through separate successive applications. When a subdivision is proposed that involves part of a larger parcel or includes lots that are capable of further subdivision, the Planning Board may require that a site inventory and a long-range plan be submitted for the entire parcel and used to evaluate the proposed subdivision.
- c) Review Process: A subdivision application under this section shall comply with the application and review process specified in the Subdivision Regulations. If there are any conflicts, the provisions of this article shall apply.

d) Legal Review: Prior to final approval of the Open Space Development Subdivision Application by the Planning Board, the applicant shall submit for review by qualified counsel any deeds, restrictive covenants, condominium or cooperative agreements, conservation easement, deed restrictions, legal documents related to the Homeowners' Association or other legal agreements proposed for use in the open space subdivision. Such counsel shall advise the Planning Board of the adequacy of such legal provisions. The applicant shall pay all associated costs of the legal review.

e) Any Open Space Development with workforce housing shall only be permitted in the Residential Agricultural District.

5. Permitted Uses

Land within an OSD subdivision may be used for the following purposes:

a) Single family, duplex residential dwellings and multi-family dwellings not to exceed six dwelling units per building, accessory uses and buildings, and home occupations as permitted in the zoning district in which the parcel lies.

b) Uses permitted within the Designated Open Space as described in Section 9 of this Article.

c) Development Density - The total number of dwelling units allowed in an Open Space Subdivision shall not exceed the number of dwelling units that would be allowed under a conventional subdivision for the zoning district in which the site is located. In no case shall the density exceed the soil's carrying capacity to accommodate a septic system as required by the NH DES consistent with RSA 485A:38. The allowable number of units will be determined from a submission of a yield plan by the applicant.

6. Workforce Density Incentive

The permitted maximum density calculated above may be increased in accordance with the following:

a) For a 20 to 50 acre parcel, there would be a 25% bonus in the number of units allowed.

b) For a 51 to 81 acre parcel, there would be a 20% bonus in the number of units allowed.

c) For a parcel of 82 or more acres there would be a 15% bonus in the number of units allowed.

7. Procedural Requirements

a) A subdivision application under this section shall comply with the application and review process specified in the Subdivision Regulations, except that sections of the Subdivision Regulations that are clearly not applicable to an open space subdivision design shall not be imposed on the applicant by the Planning Board.

b) Authorization to Issue a Conditional Use Permit:

c) Notwithstanding other provisions of Nottingham's zoning ordinance, authority is hereby granted to the Planning Board, as allowed under RSA 674:21, II, to issue a Conditional Use Permit to modify the requirements of this section as follows:

d) such modifications shall be consistent with the purposes and objectives of this section;

e) all lots shall comply with the NH Department of Environmental Services for subsurface wastewater management under RSA 485A:38;

f) all lots shall fall within the standards contained herein, and

g) shall not be detrimental to public health, safety or welfare.

h) In the event a conflict is found to exist between any provision of this Open Space Development Ordinance and any other provision of the Nottingham Zoning Ordinance, the provisions of the Open Space Development Ordinance shall control and prevail.

8. Standards and Conditions

a) Open Space Developments are subject to the following lot, dimensional and building separation requirements.

Dimension	Residential & Agricultural District	
	Single-Family/Duplex	Multifamily
Minimum Lot Area*	30,000 SF	3.0 acres
Maximum Lot Area	150%	150%
Minimum Frontage	100 ft	100 ft
Minimum Front Yard	35 ft	40 ft
Minimum Side/Rear Yard	25 ft	30 ft
Height	34 ft	34 ft
Minimum Separation Between Buildings	30 ft	40 ft

*Unless otherwise required by NH DES to meet subsurface permitting requirements.

- b) Alternative Lot Sizing: The Planning Board may authorize variations from the minimum lot sizes specified above by Conditional Use Permit, provided the Planning Board determines that the following conditions are met:
 - (1) All lots comply with the New Hampshire Department of Environmental Services requirements for subsurface wastewater management (developments may utilize individual or community wells and/or septic systems); and
 - (2) The objectives and design standards of this article and the Subdivision Regulations are otherwise achieved.
- c) Applicants are encouraged to vary lot sizes, lot dimensions, and the location of building envelopes and structures from the access road and from lot to lot within the subdivision to retain significant, natural vegetation along the access road or existing adjacent public road; provide increased privacy for residents on adjacent lots; and increase the visual variety provided by the arrangement of homes within the subdivision.
- d) Lots may be irregular in size and shape provided they conform to the natural topography and features of the parcel (e.g., the lot lines follow an existing stone wall, stream, or other natural dividing feature).
- e) The Planning Board encourages applicants to be flexible in the site layout design to account for soil conditions, topography, natural features and unique characteristics of the land and may authorize variations from the above standards, except for any requirement provided by state regulation or mandated elsewhere in this ordinance, by a Conditional Use Permit issued pursuant to Section 5 for the purpose of providing flexibility in the design of the subdivision to meet the objectives of this section.
- f) Driveways - Common driveway providing access to no more than two residential lots shall be allowed.
- g) Landscape Buffer - An Open Space Development shall have a buffer of no less than 100 feet between abutting land uses and the development to retain the community's rural character. The buffer area shall remain free of buildings and whenever possible, the natural vegetation shall remain. The Board may require vegetative plantings to supplement or replace inadequate natural buffers. Only the primary access road may be permitted in the landscape buffer. If abutting land uses are compatible (i.e. residential; agricultural residential), the applicant may propose a lesser buffer or even no buffer by a Conditional Use Permit issued pursuant to paragraph 7b of this section. The Landscaped Buffer is not to be calculated as part of the Designated Open Space.
- h) Design Standards for Developed Areas - Subdivision plans shall comply with any additional applicable standards governing the location and layout of lots and structures found elsewhere in this ordinance and as set forth in the Subdivision Regulations. In addition, all Open Space Development shall:
 - i) Minimize impact to environmental resources through the use of Low Impact Design features; and
 - j) Provide trails or green space connections with adjacent properties where applicable.
- k) All dwellings in an Open Space Subdivision shall be compatible in architectural style and exterior appearance and consistent with Nottingham's historic architectural style.

- l) Additional Criteria for OSD Workforce Housing
 - m) The workforce housing units shall retain the development criteria and affordability standards herein for a minimum period of thirty (30) years through a suitable deed restriction, restrictive covenant, easement or other instrument deemed acceptable to the Nottingham Planning Board and as monitored through reports provided to the Nottingham Planning Department prior to the time of unit sale or resale in the case of ownership, and annually in the case of rental units. Such document(s) shall be recorded at the Rockingham County Registry of Deeds with each property transfer. Reports shall be prepared by persons with appropriate training in determining affordable housing eligibility as defined by the U.S. Department of Housing and Urban Development.
 - (1) All of the bonus units gained under this provision must meet the affordability requirements for workforce ownership housing in Article VII, Definitions. In the event of a workforce unit sale or transfer, the purchaser will be certified for eligibility to be at or below 100% of AMI by a third-party agent acceptable to the town prior to sale or transfer and as further described in a suitable restrictive covenant.
 - (2) Occupancy of the development is not restricted to any age group.
 - (3) More than fifty percent of the workforce housing units in the development shall contain two or more bedrooms.
 - (4) Phasing - the phasing plan for the development shall provide for the development of workforce housing units concurrently with the market-rate units.
 - (5) The workforce housing units should be interspersed throughout the overall development.
9. Permissible Uses of Open Space
- a) The total area of Designated Open Space shall equal at least 50 percent of the Open Space Development's gross tract area. Not more than 50 percent of the Designated Open Space may consist of otherwise non-buildable areas. A minimum of sixty (60) percent of such Designated Open Space shall be contiguous and should, when practical, connect with existing trails, conservation easements, parks and other types of open space. Furthermore, any such contiguous area shall not have a horizontal dimension of less than seventy-five (75) feet.
 - b) Portions of the parcel that comprise part of an individual house lot, roadway, driveway, access road, roadway right-of-way, other new or existing right-of-way, utility easement, private or community leachfields or other components of a wastewater management system, stormwater management structures, or are part of a required buffer between any new structure and an existing right-of-way shall not count toward the calculation of the Designated Open Space.
 - c) The following uses generally are permitted in the Designated Open Space, unless specifically prohibited or restricted as a condition of subdivision approval for the purposes of protecting important natural features or characteristics of the parcel:
 - (1) Forest management activities and agricultural cultivation and pastures provided that all applicable best management practices are employed.
 - (2) Passive (non-motorized) trails and recreational uses such as walking, hiking, bird watching, skiing and snow shoeing.
 - (3) Horseback riding and cycling.
 - d) Up to 30 percent of the Designated Open Space may be transferred to the Common Area if permitted by Conditional Use Permit to be used for the following. The Planning Board may impose specific criteria or restrictions on such uses as deemed necessary to support the goals of this section:
 - (1) Agriculture such as community gardens.
 - (2) Active outdoor recreation uses, including formal playgrounds and fields as well as accessory recreation facilities (clubhouse, swimming pool, etc.),
 - (3) Parking areas for access to the Designated Open Space.

- (4) Individual or community wells provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of these facilities.
 - (5) Any other use that is agreed upon by the Homeowners' Association consistent with the Purpose and Objectives of this Section.
 - e) The Common Area shall be accessible to pedestrians within the Open Space Development. The Planning Board may require pedestrian trails or walkways for the purposes of providing pedestrian access from streets situated within the Open Space Development to those common open space areas intended to be used for recreation, agriculture or other active community purpose.
 - f) The removal of soil, trees and other natural features from the Designated Open Space is prohibited, except as consistent with forestry management, conservation objectives or permitted uses as provided in paragraph 9 c of this Section.
 - g) The Designated Open Space shall be retained in a natural, undisturbed state, except for those activities permitted and approved as provided above, or as required for active management according to a conservation agreement and management plan written by a certified natural resource professional.
10. Protection and Management of Open Space

Prior to the approval of the final plat by the Planning Board, the Designated Open Space Area, not defined as Common Area, shall be protected and managed by one or more of the following methods subject to Planning Board approval:

- a) Easement deed conveyed to a land trust or other recognized conservation organization the principal purpose of which is the conservation or preservation of open space, or
- b) Easement deed conveyed to the town with permanent deed restrictions or conservation easement under the care, custody and control of the Conservation Commission, and be accepted by it for open space use. Land conveyed to the town shall be open for public use.
- c) The Common Area, to be managed for the Open Space Development, shall be conveyed to a cooperative legal entity of individual owners and maintained by a Homeowners' Association and shall be used and maintained exclusively for the purposes approved by the Planning Board in accordance with paragraph 9. d) of this Section. Ownership of the Common Area shall pass with conveyance of the lots or residential units with the Open Space Development. Uses of the Common Area shall be written into the deeds and the Common Area shall be monitored by the Homeowners' Association.
- d) The developer is responsible for the maintenance of the Common Area and other facilities to be held in common until such time as the Homeowners' Association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the Common Area. The Planning Board shall require the applicant to provide documentation that the Homeowners' Association is a mandatory association that has been established prior to the conveyance of any lots within the subdivision.
- e) Deed restrictions and/or conservation easement documents shall be placed on file with the town clerk upon receipt of Planning Board subdivision approval and duly recorded at the County Registry of Deeds.
- f) Design Guidelines for Designated Open Space. The location and layout of the open space shall conform to the standards and process set forth in the Subdivision Regulations.
- g) Monitoring of the Designated Open Space. The applicant shall provide sufficient funds to the town as a one-time stewardship fee, which shall be placed in a designated escrow account for the purpose of the town's monitoring of the designated open space. The town's Conservation Commission or a non-profit conservation organization will provide this service and certify that the Designated Open Space is being used and managed in accordance with the approved plan consistent with paragraph 9. g) of this Section.

T. Back Lot Subdivisions for Single Family Homes

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 II C. 1. a).

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 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 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.

U. Nonconformance

1. Non-conforming uses

Any non-conforming use existing on the effective date of these ordinances may be continued indefinitely provided that such use shall not be:

- a) Expanded, enlarged, extended or moved to any other portion of the lot (except as provided for in Section 2 below).
- b) Changed to another non-conforming use.
- c) Re-established if such use has been discontinued for a period of twelve (12) months, or has been changed to, or replaced by a conforming use.
- d) Restored for other than a conforming use after damage for any cause, unless the non-conforming use is reinstated within one year of such damage. If the restoration of such building is not completed within twelve (12) consecutive months, the non-conforming use of such building shall be deemed to have been discontinued, unless carried on without interruption in an undamaged part of the building.

2. A nonconforming Lot of Record which does not meet the requirements for area or town requirements established by this Ordinance, may be used for the purposes provided in the zoning district in which the property is located if: the Code Enforcement Administrator determines that the use of the lot will not create potential health or safety problems due to inadequate areas for on-site waste disposal and water supply, and/or access for police and fire protection or other factors.

3. Nonconforming Structure

- a) When a nonconforming building or structure, a structure on a nonconforming lot or a structure containing a nonconforming use is destroyed by fire or other hazard, such structure may be restored to its former building footprint provided that it was not destroyed voluntarily and restoration is begun within twelve (12) consecutive months after the act of destruction and completed within two (2) years after the original damage except for the following:

- (1) A single-family home located on a non-conforming lot so long as the enlargement conforms to all applicable setback and district requirements and a single family residence is a permitted use in that district.
- (2) The Zoning Board of Adjustment may, upon application, grant a special exception in accordance with Article V, C., permitting the enlargement of a single-family home which does not conform to an applicable setback or district requirements so long as the proposed enlargements will not increase the existing nonconformity, will not violate any other provision of the zoning ordinance and is a permitted use in the district.
- b) No nonconforming structure may be enlarged or altered in any way except to decrease a nonconformity and except for the following:
 - (1) A single-family home located on a non-conforming lot so long as the enlargement conforms to all applicable setback and district requirements and a single family residence is a permitted use in that district.
 - (2) The Zoning Board of Adjustment may, upon application, grant a special exception in accordance with Article V, C., permitting the enlargement of a single-family home which does not conform to an applicable setback or district requirements so long as the proposed enlargement will not increase the existing nonconformity, will not violate any other provision of the zoning ordinance and is permitted use in the district.

V. Residential Timing and Phasing

1. Purpose

The intent of this Ordinance is to:

- a) balance residential growth pressures with the ability of the Town of Nottingham to accommodate such growth with due consideration for public facility and service provision, fiscal constraints, protection of natural resources, preservation of the Town's rural character and landscape, and the need to continually monitor land use regulations designed to promote orderly growth and
- b) to ensure fairness in the allocation of building permits.

2. Authority, Municipal

The timing and phasing of development limitations contained within this ordinance are derived from the policies, objectives and recommendations found in the adopted Nottingham Master Plan, 1987, as may be amended. The Planning Board, at its discretion, shall undertake periodic updates of the Master Plan as changing conditions warrant reexamination of its policies, objectives and recommendations. This ordinance supports the implementation of the adopted Nottingham Capital Improvement Plan, as may be amended.

3. Authority, State

Pursuant to the provisions of the NH RSA 674:21, the Town of Nottingham adopts the Residential Development and Timing Phasing to be administered by the Planning Board in conjunction with the Subdivision and Site Plan Regulations of the Town of Nottingham.

4. Timing of Subdivision Development

When a plat is recorded with Rockingham County Registry of Deeds, there shall be no additional lot(s) of record created from this plat or parent lot for at least four (4) years from the date of recordation. Lot line adjustments are exempt from this provision.

5. Phasing of Subdivision Development

All subdivision applications shall provide a phasing plan specifying the number of dwelling units that can be constructed in any one phase and the total number of phases and estimated timing involved, subject to the Town of Nottingham Subdivision and Site Plan Regulations.

W. Impact Fees

1. Objective

Provide general authority to the Planning Board to adopt methods for the calculation of impact fee assessments and related impact fee schedules for application to new development. Under this authority, impact fee schedules and studies documenting the basis for the particular fee amounts, may be adopted by the Board for application to new development. The impact fees or subsequent changes to the fees could be adopted by the Board only after a public hearing.

2. Authority

This Article is authorized by New Hampshire RSA 674:21, V, and other pertinent state law, as an innovative land use control. Under this authority, new development in the Town of Nottingham may be assessed impact fees in proportion to its demand on the public capital facilities of the Town and School District.

The public facilities for which impact fees may be assessed in Nottingham may include municipal office facilities; public school facilities; the proportional share of capital facilities of a cooperative or regional school district of which Nottingham becomes a member; public safety facilities; public road systems and rights-of-way; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; public recreation facilities, not including public open space; water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; and storm water, drainage and flood control facilities.

3. Findings

The Town of Nottingham hereby finds that:

- a) The Town of Nottingham is responsible for and committed to the provision of public facilities and services at standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety, and welfare;
- b) The Town's legislative body has authorized the preparation of a Capital Improvements Program per N.H. RSA 674:5-8, and the Capital Improvements Program Committee prepares and adopts such program annually;
- c) An impact fee ordinance is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Nottingham;
- d) New development in Nottingham will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents, businesses, and other needs occasioned by the development of land;
- e) Impact fees may be used to assess an equitable share of the cost of public facility capacity to new development in proportion to the facility demands created by that development;
- f) Impact fees assessed under this Article will not exceed the cost of:
 - (1) Providing future public capital facilities to accommodate new development in Nottingham, and/or
 - (2) Compensating the Town of Nottingham or the Nottingham School District for facility capacity that it provided in anticipation of new development in Nottingham.

4. Purpose

The purpose of this Article is to:

- a) Assist in the implementation of the Master Plan and Capital Improvements Program;
- b) Enable the Town of Nottingham to assess an equitable share of the cost of public capital facilities to new development in proportion to its demand on capital facilities; and

- c) Provide authority to the Planning Board to adopt appropriate methods to support proportionate impact fee assessments, and to provide for the administration thereof.

5. Definitions

ASSESSED PROPERTY means any land or buildings comprising new development that is subject to an impact fee assessment under this Article.

ASSESSMENT with respect to an impact fee means a notification issued by the Town of Nottingham, its Planning Board, or its Building Inspector, stating the amount of an impact fee due for an assessed property, and the conditions or schedule for its collection.

COLLECTION with respect to an impact fee means the actual delivery of payment of the fee to the Town of Nottingham on behalf of an assessed property.

NEW DEVELOPMENT, for the purpose of impact fee assessment, may include the following land use changes:

- a) The construction of any new dwelling unit; or
- b) Changes to an existing structure that would result in a net increase in the number of dwelling units; or
- c) Construction of a new commercial/industrial building or any net increase in the gross floor area of an existing commercial/industrial building; or
- d) The conversion of an existing seasonal dwelling unit to a year round home through winterization or other improvements that enable the structure to be occupied on a year-round basis, where the conversion could result in a measurable increase in the demand on capital facilities subject to impact fee assessment; or
- e) The conversion of an existing use to another use that is determined by the Planning Board, with consultation/advice of the Building Inspector, to result in a measurable net increase in the demand on the public capital facilities that are the subject of impact fee assessment; however,
- f) New development shall not include the replacement of an existing manufactured housing unit or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use that would increase the demand on capital facilities for which impact fees are assessed.

OFF-SITE IMPROVEMENTS means highway, drainage, and sewer and water upgrades or improvements that are necessitated by a development but which are located outside the boundaries of the property, as determined by the Planning Board during the course of subdivision plat or site plan approval.

PUBLIC OPEN SPACE means a parcel of land essentially unimproved and available to the public only for passive recreational uses such as walking, sitting, picnicking, table games, natural resource conservation, and similar uses. Town parks which do not include “public recreation facilities” constitute public open space within the meaning of this Article.

PUBLIC RECREATION FACILITIES means the land and facilities owned or operated by the Town of Nottingham, other than public open space, which are designed for the conduct of recreational sports or other active leisure time uses of an organized nature, which include equipment or substantial improvements to the land to provide active indoor or outdoor public recreation programs. Public recreation facilities may also include those portions of public open space parcels that are improved with developed trail systems for active uses such as hiking or cross country skiing.

SCHOOL DISTRICT means the Nottingham School District or other regional or cooperative school district of which the Town of Nottingham becomes a member municipality, or any successor school district of which Nottingham is a member.

6. Delegation of Authority to Assess Impact Fees

The Planning Board is hereby authorized to assess impact fees in accordance with the standards set forth in this Article. The Planning Board shall have the authority to adopt regulations to implement the provisions of this Article and to delegate the administrative functions of impact fee assessment, collection and disbursement as necessary. The administrative process of assessment and collection of impact fees will be as outlined in §9. *Assessment and Collection of Impact Fees*.

7. Standards and Basis of Assessment

- a) The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Nottingham. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. Such documentation shall be available for public inspection at the Planning office of the Town of Nottingham.
- b) The amount of any impact fee shall be a proportional share of public facility improvement costs which are reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee.
- c) The Planning Board may prepare, adopt, or amend studies, reports, or cost allocation procedures that are consistent with the above standards, and which define a basis for impact fee assessment for public capital facilities, and the impact fee assessment schedules thereof.
- d) No methodology, cost allocation procedure, or other basis of assessment, nor related impact fee schedules, or changes in the basis of assessment or the fee schedules, shall become effective until it shall have been the subject of a public hearing before the Planning Board.
- e) In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee assessed for the new use as compared to the highest impact fee that was or would have been assessed for the previous use in existence on or after the effective date of this Article.

8. Review and Change in Assessment Schedules

An impact fee assessment schedule adopted by the Planning Board shall be reviewed at least every five years following its adoption. However, the fee schedule shall be revised upon the Board's adoption of revisions to a Capital Improvement Program if its adoption would affect the facility standards or capital cost assumptions used to define the fee schedules. Periodic review of fee schedules may result in recommended adjustments in one or more of the fees or the basis of assessment, using the most recent data that affect the variables in the fee calculations. A proposed change in the impact fee assessment schedules or the basis of assessment shall be effective only where such change is adopted by the Planning Board following a public hearing. Failure to conduct a periodic review of the methodology shall not, in and of itself, invalidate any fee imposed.

9. Assessment and Collection of Impact Fees

The administrative process of assessment and collection of impact fees will be the delegated to the Building Inspector. The management and disbursement of impact fee accounts will be the responsibility of the Treasurer.

- a) Where subdivision or site plan approval is required for new development, impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. The amount of such assessment shall be applicable to subsequent building construction within the approved subdivision or site plan for a period of four years from the date of Planning Board approval. Once this four-year period has expired, remaining construction for which no building permit has been obtained shall be subject to the adopted fee schedule in force at the time of the building permit application.¹
- b) With the exception of those plats and site plans meeting the conditions in (a) above, and when no other Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit. The impact fee schedule in force at the time of the building permit application shall apply.
- c) Unless an impact fee is inapplicable to a particular development or has been waived by the Planning Board, no permit shall be issued for new development as defined in this Article until the applicable impact fees have been assessed. The Building Inspector shall not issue a Certificate of Occupancy for the development on which the fee is assessed until the impact fee has been paid in full by cash or certified check.
- d) The Planning Board and applicant may agree to another mutually acceptable schedule for payment. If an alternate schedule of payment is established, the Planning Board shall require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Nottingham.

10. Waivers

The Planning Board may grant full or partial waivers of impact fees to an assessed property, subject to its finding that the proposed development meets one or more of the applicable conditions set forth below:

- a) Age-Restricted Housing: A full or partial waiver of public school impact fees may be granted for residential units that are lawfully restricted to exclusive occupancy by persons age 55 or older within a development that is maintained in compliance with the provisions of RSA 354-A: 15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on such age-restricted units where it finds that those units will be bound by lawful deeded restrictions for a period of at least 20 years on occupancy by persons age 55 or older.
- b) Accessory Apartments: The Planning Board shall grant a waiver of public school impact fees for one-bedroom accessory apartments that are lawfully established in compliance with applicable definitions and standards of the Nottingham Zoning Ordinance.
- c) Other Contributions to Capital Facility: The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that involves a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers of impact fees may not be based on the value of exactions for off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Article.

¹ See NH RSA 674:39 with respect to its provisions regarding impact fee assessment.

- d) Alternative Calculation: An applicant may apply to the Planning Board for a waiver of a portion or the full amount of the impact fee where such waiver application is accompanied by an independent fee calculation that documents the proportionate capital facility cost attributable to the development. The Planning Board shall review such study and may approve a waiver if it finds that the alternative calculation more accurately accounts for the relevant capital facility costs attributable to the development. All costs incurred by the Town for the review of such a study shall be paid by the applicant.

11. Appeals Under This Article

- a) A party aggrieved by a decision made by the Building Inspector or other Town official relating to an administrative decision in the assessment or collection of impact fees authorized by this Article may appeal such decision to the Zoning Board of Adjustment as provided by RSA 676:5, as amended.
- b) A party aggrieved by a decision of the Planning Board under this Article may appeal such decision to the Rockingham County Superior Court as provided by RSA 677:15, as amended.

12. Administration of Impact Fees

- a) Impact fees collected by the Town shall be properly identified and promptly transferred for deposit into an individual public capital facilities impact fee account for each of the categories under which impact fees are assessed, and shall be used solely for the purposes specified in this Article. Impact fee accounts shall be special revenue fund accounts and under no circumstances shall such revenues accrue to the general fund. The Town Treasurer shall have custody of all accounts.
- b) Impact fees shall be paid out or applied to the provision of public capital facilities only upon specific authorization by the Board of Selectmen.
- c) Funds withdrawn from the public capital facilities impact fee accounts shall be used solely for the purpose of acquiring, constructing, expanding or equipping public capital facilities or improvements made within the individual categories established by the fee schedules and basis of assessment adopted by the Planning Board.
- d) The Selectmen's delegate shall record all fees paid, by date of payment, name of the payor, and the parcel, lot or building for which the fee has been paid. The Selectmen's delegate shall maintain an updated record of the current ownership, tax map and lot reference number of each property for which an impact fee has been paid and the amount of that fee for a period of at least six (6) years.
- e) In the event that bonds or similar debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this Article, impact fees may be used to pay debt service on such bonds or similar debt instruments.

13. Refund of Fees Paid

- a) The owner of record of an assessed property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:
 - (1) The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the final payment of the fee; or
 - (2) The Town, or in the case of school impact fees the School District has failed, within the period of six (6) years from the date of the final payment of such fee, to appropriate the non-impact fee share of related capital improvement costs.
- b) The Board of Selectmen shall be responsible for determining whether the owner of record is due a refund based on the above criteria. If the Board determines that a refund is warranted, it shall issue a written notice of the refund amount due, including accrued interest, and make payment of same to the owner.

14. Other Authority Retained

This Article shall not affect other authority of the Planning Board over subdivisions and site plans, including, but not limited to:

- a) The authority of the Planning Board to declare a development to be premature or scattered in accordance with the regulations of the Board and in accordance with RSA 674:36, II(a); or
- b) The authority of the Planning Board to require the payment of exactions for off-site improvements for highway, drainage, sewer and water upgrades necessitated by the development, in accordance with the provisions of RSA 674:21, V (j); or
- c) Other authority of the Town of Nottingham to assess additional fees under the authority of other statutes, ordinances of the Town of Nottingham or the Nottingham Planning Board Site Plan Review and Subdivision Regulations.

15. Effective Date

This Article shall become effective upon adoption. Specific Impact fee amounts shall not become effective until the Planning Board has adopted a basis of assessment and fee schedule for the related capital facility category under the procedures provided by this Article in §7. *Standards and Basis of Assessment* or in §8. *Review and Change in Assessment Schedules*.

ARTICLE V ADMINISTRATION AND ENFORCEMENT

A. Administration

The Town Code Administrator shall administer the provisions of this Ordinance and report violations to the Board of Selectmen.

B. Enforcement

1. Authority - 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.
2. Process - All complaints of violations shall be made in writing to the Selectmen, who shall investigate and take appropriate action to abate violation.
3. Remedy - 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.

C. Zoning Board of Adjustment

1. 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.
 - a) By anyone aggrieved, including an applicant, an abutter or an individual affected.
 - b) By the Planning Board, the Selectmen for the Town or an administrative official involved.
2. Procedure
 - a) Application shall be made to the Clerk of the Board on the form available.
 - b) 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.
 - c) Costs incurred shall be paid by the applicant prior to the hearing.
 - d) 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.
 - e) 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.
3. Expiration of Special Exception Approval

All work proposed in the Special Exception approval letters granted by the Zoning Board of Adjustment shall be completed within two years. Failure to complete that work shall be 'null and void', unless a later date was specified in the approval letter.

D. Amendments

This Ordinance may be amended by a majority vote of any legal Town Meeting when such amendment is published in the Warrant calling for a meeting, pursuant to the provisions of NH RSA 675:6, as amended.

E. **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.

F. **Adoption**

This 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.

ARTICLE VI DEFINITIONS

A. Undefined Terms –

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

B. Defined Terms

For the purposes of this Ordinance, the following definitions apply:

4K AREA: A reserved 4,000 sq. ft. area of land reserved for sewage disposal.

ABUTTER: As defined under RSA 672:3 and 676:4 I, any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate the land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

ACCESSORY DWELLING UNIT (ADU): A residential living unit that is within or attached to a single-family dwelling, that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel as the principal dwelling unit it accompanies.

ACCESSORY SIGN - any sign relating to business on the premises on which the sign is located.

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.

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

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.

AREA MEDIAN INCOME (AMI): the median income of the HUD Fair Market Rent Area to which Nottingham belongs, as established and updated annually by the US Department of Housing and Urban Development.

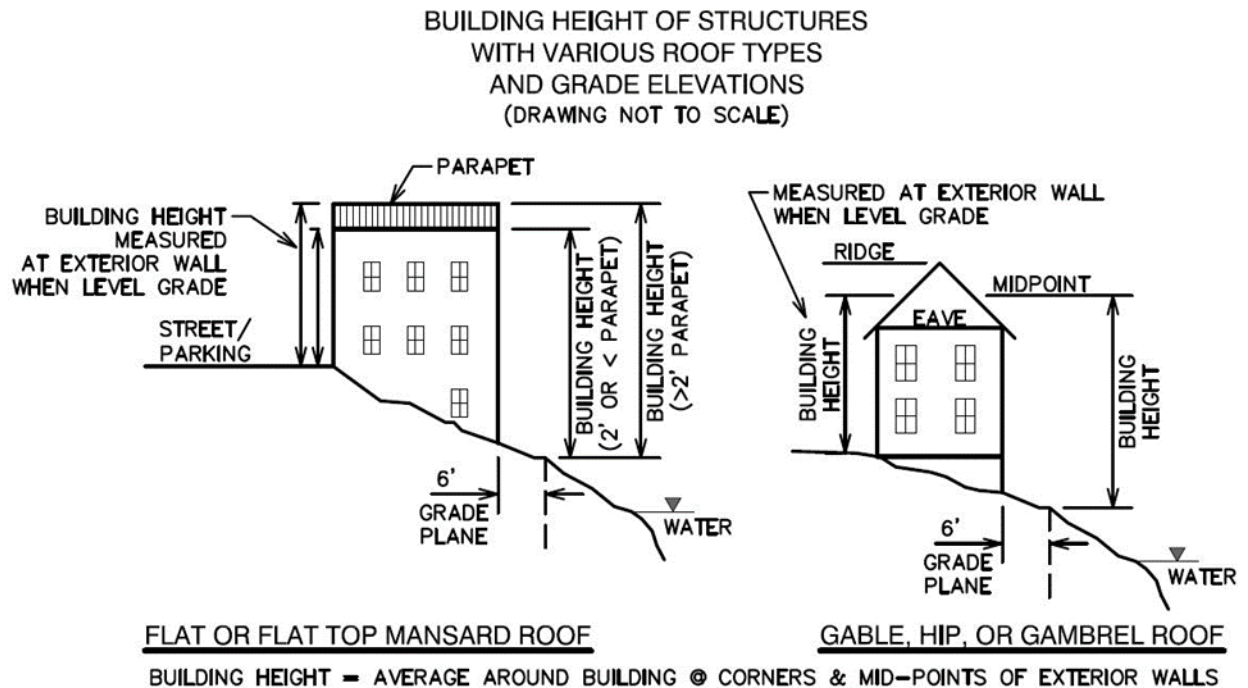
BASAL AREA: The cross-sectional area of the stem of the plants at a height of four and one half (4.5) feet above the ground, usually expressed in square feet per unit of land area.

BUFFER: Land area within which adequate vegetation is maintained or provided to visually separate or screen one use from another and/or to minimize potentially negative impacts on surrounding areas.

BUILDING ENVELOPE: Shall mean the area of a newly created subdivided lot eligible for the placement of dwelling units. Building envelopes are restricted by operation of local federal and state law and can be further restricted in their location by operation of a subdivision approval to enhance the purposes and further the requirements of these regulations.

BUILDING HEIGHT: The greatest vertical measurement between two reference points defined as follows:

- a) The lower reference point shall be the grade plane as defined herein.
- b) The upper reference point shall be any of the following:
 - 1) For a flat or mansard roof, the highest point of the roof surface.
 - 2) For a pitched, hip, or gambrel roof, the elevation midway between the level of the eaves and highest point of the roof. For this purpose, the “level of the eaves” shall mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves, but at no time shall this level be lower than the floor level of the uppermost story or attic.
- c) A parapet wall, fence, railing or similar structure that extends more than two feet above the roof surface shall be included in the determination of building height but shall not be included if it does not extend more than two feet above the roof surface.
- d) To determine building height, measurements shall be taken at every corner and mid-point of an outdoor building wall. An average is calculated from these figures and that figure shall be the building’s height for purposes of this Ordinance.



BUILDING INSPECTOR: The officer or other designated authority charged with the administration and enforcement of the Town Regulations, Zoning Ordinance, and Building Code. Whenever no active Building Inspector is available in Town, this refers to the Board of Selectmen.

CERTIFIED SOIL SCIENTIST: A person who, by reason of his or her special knowledge of soil classification and mapping as acquired by course work and experience, as specified by RSA 310-A:84, I and II and who is certified by the State of New Hampshire Board of Natural Scientists.

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.

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.

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

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.

COMPLETENESS REVIEW: The process used by the Planning Board and/or their designated agent to ensure that all necessary applications/stru/plans/various paperwork required from the applicant have been submitted with the application for Subdivision to be considered for approval by the Planning Board.

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

CRITICAL WETLANDS: Critical wetlands are those areas identified on the Wetlands Map of the Nottingham Natural Resource Inventory dated 5/27/99 and as amended. 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 Wetlands Bureau Administrative Rules by a New Hampshire Certified Wetlands 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. Critical Wetlands are not eligible for a Conditional Use Permit.

DESIGNATED OPEN SPACE: Reserved land that is permanently protected from further development and remains in a natural condition or is managed according to an approved management plan for natural resource functions, e.g., forestry, agriculture, habitat protection, passive recreation (See Article 4, Section S.9.c.2), or limited uses as approved by the Planning Board under this ordinance as part of an open space subdivision.

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.

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.

DRIVEWAY: A travel way which accommodates vehicular and pedestrian circulation between a street and one adjoining lot.

DWELLING UNIT, Single Family - 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.

DWELLING UNIT, Two Family/Duplex – A residential building designed for or occupied by two (2) families living independently of each other in individual attached dwelling units.

DWELLING UNIT, Multi-family – A residential building designed for or occupied by three (3), but not more than four (4) families.

DWELLING UNIT, Multi-family, workforce housing- A residential building designed for or occupied by five (5), but not more than six (6) families

ENGINEER: A person licensed by the State of New Hampshire in accordance with NH RSA Chapter 310-A sections 2-27 as amended.

FIFTH ORDER STREAM: Formed when two fourth order streams flow into each other.

FIRST ORDER STREAMS: The smallest streams with a year-round flow and no tributaries.

FIT FOR BUILDING: Any land, which is not classified as floodplain, wetland, watershed protection area, drainage way, and does not have slopes of twenty-five (25%) percent or more and where soil tests indicate suitability.

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 SPOTLIGHT: 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.

FOURTH ORDER STREAM: Formed when two third order streams flow into each other.

FOSTER HOME: Homes for the care of more than four non-related people.

FRONTAGE: The length of the lot bordering on a Class V road or better.

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.

GRADE PLANE: A reference plane representing the average of finished ground levels adjoining the building at all exterior walls. When the finished ground level slopes away from exterior walls, the reference plane shall be established by the lowest points between the building and a point 6-feet from the building. (See also building height.)

GROUNDWATER: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

GROUNDWATER RECHARGE: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface water, including lakes, streams, and wetlands.

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.

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.

- a) 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.
- b) 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, 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.

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.

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

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.

IMPERVIOUS SURFACE: Any modified surface that cannot effectively absorb or infiltrate water. Impervious surfaces include, but are not limited to, roofs and paved areas such as driveways, parking areas and walkways. Impervious surfaces also include decks, patios and gravel or crushed stone surfaces unless such structures or surfaces have been designed to effectively absorb or infiltrate water.

INDIRECT LIGHT: Direct light that has been reflected or has scattered off of other surfaces.

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.

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.

JUNK: Any material, machine, rubber, metal or plastic product or debris which no longer serves a purpose or which no longer can be made useful including the accumulation of or the parts contained therein, two or more unregistered vehicles or which is detrimental, may incur a health hazard or is injurious or a nuisance to the neighborhood. (Amended 3/14/06)

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

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 the State of New Hampshire

LEACHABLE WASTES: Waste materials, including solid wastes, sludge, and wastes that are capable of releasing contaminants to the surrounding environment.

LIGHT TRESPASS: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

LOT ENVELOPE: A two-hundred by two-hundred (200' x 200') foot square or a minimum of thirty thousand (30,000') contiguous square foot upland buildable soil area, depicted on a plat or building permit, which is being designated as a suitable area that can meet all local and State requirements. The thirty thousand (30,000') contiguous square foot area 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. The lot envelope shall not include either areas unfit for building and their appropriate setbacks or building setbacks.

LOT LINE: A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT OF RECORD: Land designated as a separate and distinct parcel in a legally deed or plan filed in the Registry of Deeds of Rockingham County, New Hampshire.

LOW IMPACT DEVELOPMENT (LID): A sustainable storm water management strategy with the goal of maintaining or replicating the pre-development hydrologic regime of a development site through the use of design techniques to create a functionally equivalent hydrologic site design. Hydrologic functions of storage, infiltration and ground water recharge, as well as the volume and frequency of discharges are maintained through the use of integrated and distributed micro-scale stormwater retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff flow paths and flow time.

LUMEN: A unit of luminous flux. One foot candle 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.

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.

MANUFACTURED HOUSING 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 manufactured home as in a regular subdivision.

MATERIALS STORAGE: storage of materials intended for wholesale distribution or for use in a manufacturing or repair facility.

MULTIFAMILY DEVELOPMENT COMPLEX: shall mean two (2) or more multifamily structures on the same site.

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.

NON-ACCESSORY SIGN - any sign, advertising business or businesses at other locations.

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) (Pre-existing 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.

NON-MUNICIPAL WELL: any well not owned and operated by the Town of Nottingham or its agent.

OPEN SPACE SUBDIVISION: An alternative form of residential development where, instead of subdividing an entire tract into lots of conventional size, a similar number of housing units are arranged on lots of reduced dimensions, with the remaining area of the parcel permanently protected as designated open space.

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.

PARAPET WALL: That part of an exterior wall extending entirely above the roof surface.

PARENT PARCEL: Any lot existing as of the date of the adoption of this ordinance (adopted March 12, 2011).

PIER: a vertical member that supports a non-habitable structure.

PRE-EXISTING LUMINAIRES: Luminaires not conforming to this code that were in place at the time this code was voted into effect. Such luminaires, are already existing outdoor lighting that does not need to be changed unless a specified period is specified for adherence to the code.

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.

PUBLIC HEARING: A publicly advertised item on the Planning Board agenda at which public comment on a specific application is heard, as specified under RSA 675:7.

RAZE: to burn, demolish, or otherwise destroy to ground level, whether by man or natural causes.

RECHARGE AREA: the land surface area from which groundwater recharge occurs.

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.

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.

SEASONAL DWELLING – A residential structure that lacks one or more of the basic amenities or utilities required for year-round occupancy such as a permanent heating system, insulation, and/or year-round usable plumbing.

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.

SECOND ORDER STREAM: Formed when two first order streams flow into each other.

SETBACK: The distance between the street right-of-way lines and the front line of a building.

SETBACK LINE: The line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

SHARED DRIVEWAY: (also COMMON DRIVEWAY) A travel way which accommodates vehicular and pedestrian circulation between a street and multiple adjoining lots.

SIGNS: 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.

SLUDGE: residual materials produced by a sewage treatment process.

SOIL SCIENTIST: See Certified Soil Scientist.

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.

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.

STREAM: Surface water that flows for sufficient times of the year to develop and maintain defined channels but may not flow during dry portions of the year. Includes, but is not limited to, all perennial and intermittent streams located on U.S. Geological Survey Maps.

STREAM BUFFER: Those areas adjacent to the stream which contain the natural vegetation extending from the edge of the stream bank into the upland that serve to protect the stream from the impact of adjacent land uses.

STRUCTURE: That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground, whether installed on, above or below the surface of land.

- a) Structure includes but is not limited to a building, barn, swimming pool, manufactured home, mobile home, septic system, well, gas or liquid storage tank (as specified by NH Building code), deck, porch, balcony, breezeway, carport garage.
- b) Structure shall not include boundary wall, fence, driveway, and in-kind, replacement septic system.

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 re-subdivision 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.

SURVEYING: Any service or work, the adequate performance of which involves the art of locating and measuring lines, angles, features for the purpose of determining areas for the monumenting of property and for the platting and layout of lands and for the preparation and perpetuation of plats that represent these surveys. Land surveyors are required to hold a license from the State of New Hampshire.

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.

Lamp Type	Watts	Lumens
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

THIRD ORDER STREAM: Formed when two second order stream flow into each other.

TOWN: Town of Nottingham officials and/or employees, or its designated agents.

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.

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.

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.

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.

UNFIT FOR BUILDING: Any land, which is classified as: a floodplain; wetland (by soil type); watershed protection area; excessive slope of twenty-five (25%) percent or more; drainage ways; or where soil tests indicate unsuitability for subsurface waste disposal.

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)

VARIANCE: A departure from the terms of this ordinance not otherwise permitted, which may be granted by the Zoning Board of Adjustment, upon appeal in specific cases, pursuant to its discretionary powers and RSA 674:33.

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. The soils identified as very poorly drained are:

Soil Symbol	Soil Name
Ba, Bb	Balch and Littlefield
Fa	Fresh water marsh
La, Lb	Liechester and Ridgebury
Lc, Ld	Liechester and Ridgebury and Whitman
Ra, Rb	Rumney and Saco
Sc	Scantic
Sd	Scarboro
Wa	Walpole
Wc	Walpole and Scarboro
Wh	Waterboro
Wo	Whitman

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 poorly drained are:

Soil Symbol	Soil Name
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

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.

WORKFORCE OPEN SPACE DEVELOPMENT: An Open Space Development that provides rental or ownership housing opportunities to households based on the following standards: (1) workforce rental housing is defined as a housing unit that has a monthly rent not exceeding 30 percent of the gross income of a household earning no more than 60 percent of the median income for a 3-person household for the Western Rockingham Fair Market Rent Area as published annually by the United States Department of Housing and Urban Development; (2) workforce ownership housing is defined as housing that can be purchased at a price, including the combination of mortgage loan debt service, property taxes and insurance, that does not exceed 30 percent of the gross income of a household earning no more than 100 percent of the median income for a 4-person household for the Western Rockingham Fair Market Rent Area as published annually by the United States Department of Housing and Urban Development.

YIELD PLAN: A yield plan is a plan for a conventional subdivision for the subject property used to calculate the number of potential lots and which complies with the requirements for a conventional subdivision.

ENACTED MARCH 11, 1980