

**TOWN OF TILTON, NEW HAMPSHIRE  
ZONING REGULATIONS  
March 9, 2016  
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## ARTICLE I. PURPOSE

1.1 The Zoning Regulations and Districts as herein set forth have been made for the purpose of promoting the health, safety, morals and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools and other public requirements.

## ARTICLE II. DEFINITIONS AND STANDARDS

### 2.1 DEFINITIONS

For the purpose of these Regulations, certain terms or words used herein shall be interpreted as follows:

The word **Person**: includes a firm, association, partnership, trust company or corporation as well as an individual, and shall apply to the owner, agent, contractor or others acting on the behalf of any of the above.

The word **shall** is mandatory, the word **may** is permissive.

The word **lot** includes the words plot or parcel.

- **Accent Lighting**; means any directional lighting that emphasizes a particular object or draws attention to a particular area.
- **Accessory use or building**; Any use or non-permanent building on the same lot with, and of a nature customarily incidental and subordinate to, the principle use or structure.
- **Adjacent**: Bordering, contiguous, or neighboring. The term includes wetlands that directly connect to other waters of the United States, or that are in reasonable proximity to these waters, but physically separated from them by man-made dikes or barriers, natural river berms, beach dunes, and similar obstructions.
- **Apartment**; A dwelling unit in a multiple dwelling intended or designed for use as a residence.
- **Aquifer**; A soil deposit with capacity to transmit and store a large amount of ground water, having the potential to meet public or private water needs.
- **Auto Service Station**; Any area of land including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of cars, trucks and motor vehicles, and which may include facilities used or designated to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing or repairing such cars, trucks and motor vehicles.

- **Back Land Lots;** A lot used for residential purpose shall have road frontage or shall contain within its bounds an exclusive access at least fifty (50) feet in width, or have an easement for an exclusive right of way of similar width such that each lot has private access to a Class 5 or better road. No two exclusive rights of way or exclusive accesses shall be closer together than the minimum frontage as per the Table of Dimensional Values. In a subdivision, the width of an exclusive right of way or easement shall not be a part of the frontage of any individual lot but shall be in addition to any frontage requirement.
- **Bed and Breakfast;** Single-family dwelling having a mixed use as a home for the residential owner and as an accessory use for guest lodging. The home is to be the primary legal residence for the owner.
- **Bog;** A wetland distinguished by stunted trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil or water conditions.
- **Buffer;** The protected upland areas adjacent to wetlands and surface waters in the Wetlands Conservation Overlay District.
- **Building;** Any enclosure for the shelter, or support of persons, animals, chattels or property of any kind.
- **Certified Wetland Scientist;** A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.
- **Change or Expansion of Use;** Changes or Expansion of Use means any different use of a site, or introduction of the new use in addition to existing use(s) of a site, or substantial increase in size or scale of the use(s) of a site.
- **Church;** A building, together with accessory buildings and uses, where persons regularly assemble for religious worship and which building together with its accessory buildings and uses, is maintained and controlled by a state recognized religious body organized to sustain public worship.
- **Child Daycare;** Child Daycare shall be defined as per RSA 204-C:72 II. (c)
- **Child Daycare Agency;** means any person, corporation, partnership or other organization registered with the state as nonprofit or for profit child care organization, or any business organization which, as a service to its employees, regularly receives for child day care one or more children, unrelated to the operator or staff of the agency. The total number of hours in which a child may remain in child day care shall not exceed 13 hours per day, except in emergencies. The types of child day care agencies are defined as follows:
  - **“Group child day care center”;** means a child day care agency in which child day care is provided for preschool children and up to 5 school age children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled progressive school, Montessori school, or by any other name.
  - **Club;** An establishment operated for social, recreational or educational purposes but open only to members and not the general public.
  - **Clubhouse;** A structure, public or private, for the use of persons for meetings and gatherings in conjunction with club activities.

- **Cluster Development;** Subdivision for residential purposes to promote an efficient use of land through networks of lots, utilities and streets, to preserve natural topographic features and create a more desirable environment than possible through strict application or other sections of this ordinance.
- **Condominium;** The definition of condominium and associated terms shall be according to RSA 356-B:3.
- **Conforming Use;** Any use that is in accordance with the Permitted Uses as specified elsewhere in this ordinance.
- **Developer;** A person or business that develops real estate on a speculative basis.
- **Development;** Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, excavation or drilling activities.
- **Direct light;** means light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractors or diffuser lens of a fixture.
- **Disabling glare;** means lighting that impairs visibility and creates a potentially hazardous situation for either pedestrians or motorists.
- **Dwelling Unit;** A building or portion thereof provides living facilities for one or more households and complies with all Tilton Zoning Codes, Health Codes, Tilton Northfield Fire District Codes and all applicable chapters of NH RSAs in TITLE XII: PUBLIC SAFETY AND WELFARE. (Adopted 3/12/13)
- **Dwelling, Single Family Detached;** is a single residential dwelling unit comprised of a building or portion thereof, that provides complete and independent living facilities and is arranged, intended or designed for occupancy by a single household for year round habitation, consisting of contiguous rooms providing permanent provisions for living, sleeping, eating, self-sufficient bathroom and kitchen facilities connected to all required utilities, thus providing a complete independent living arrangement. Unit must comply with all Tilton Zoning Codes, Health Codes, Tilton Northfield Fire District Codes and all applicable chapters of NH RSAs in TITLE XII: PUBLIC SAFETY AND WELFARE. (Adopted 3/12/13)
- **Dwelling, Two Family;** A single residential building containing two dwelling units designed for occupancy by not more than two families. Units must comply with all Tilton Zoning Codes, Health Codes, Tilton Northfield Fire District Codes and all applicable chapters of NH RSAs in TITLE XII: PUBLIC SAFETY AND WELFARE.
- **Dwelling, Multi-family;** A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided. Building must comply with all Tilton Zoning Codes, Health Codes, Tilton Northfield Fire District Codes and all applicable chapters of NH RSAs in TITLE XII: PUBLIC SAFETY AND WELFARE. (Adopted 3/12/13)
- **Earth; (As per RSA 155-E:1 I. 1988)** Earth means sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing, or any other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock.

- **Excavation; (As per RSA 155-E:1 II. 1988)** Excavation means a land area which is used, or has been used, for the commercial taking of earth, including all slopes.
- **Excavation Site; (As per RSA 155-E:1 V. 1998)** Excavation site means any area of contiguous land in common ownership upon which exaction takes place.
- **Existing Non-Conforming Uses;** Any use existing in a District where it is not allowed and which existed prior to the adoption of the Zoning Ordinance.
- **Façade;** The exterior front wall-face of a building.
- **Façade Signage:** Refers to a sign that is mounted flush (not perpendicular\*) to the building> \*except in the Downtown District.
- **Family Apartment;** An apartment made in or added to a single family dwelling for relatives of the family.
- **Fixture or luminaire;** means a complete lighting unit including the lamps or bulbs together with the parts required to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.
- **Flea Market;** means any location other than a permanent retail store at which space is rented or otherwise made available to others for the conduct of business as transient or limited vendors. This term shall not include those persons who sell by sample, catalog, or brochure for future delivery, or those persons who make sales presentations pursuant to a prior invitation issue by the owner or the legal occupant of the premises. (RSA 358-Q:1)
- **Full Cutoff;** means that no light rays are emitted by a fixture above the horizontal plane measured through the lowest point of the housing from which the light is emitted.
- **Fully-shielded;** when a fixture is fully shielded, no rays of light shall be emitted from the fixture horizontally, or above the horizontal plane. A fully shielded condition may be accomplished by architectural structure i.e. recessed lights or awnings.
- **Glare;** means the brightness of a light source that causes eye discomfort or loss of visibility.
- **Grandfathered fixtures;** means fixtures not conforming to this chapter that were in place at the time this chapter went into full force and effect. (March 2009)
- **Greenhouse;** A structure, generally of glass or light transmitting material such as Plexiglas, for the production, cultivation, and growing of agricultural, floricultural or horticultural commodities.
- **Height;** The vertical distance measured from the lowest established finished lot grade at the building line to the highest level of the roof.
- **Height of Light Fixture;** The height of a fixture shall be the vertical distance from the ground directly below the center line of the fixture to the lowest direct light emitting part of the fixture.
- **Home Business;** An accessory use of a dwelling unit involving the manufacture, provision for sale of goods and or services carried on by members of the family residing on the premise.

- **Home Occupation;** One that does not involve the sale or service of products from the premises that would require customer contact on the premise or accessory uses of the building structures for warehouse purposes.
- **Hospital;** An institution providing health services, primarily for in-patients, and medical and surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient department, training facilities, central service facilities and staff offices.
- **Hotel / Motel;** A commercial facility offering transient lodging accommodations to the general public and possibly providing additional services such as restaurants, meeting rooms, and recreation facilities.
- **Hydric Soils:** Soils that are saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers.
- **Indirect Light;** means light that has been reflected or has scattered off other surfaces.
- **Industry – Light;** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
- **Industry – Heavy;** A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.
- **Inn;** A commercial facility for the housing and feeding of transients.
- **Junk Yard;** means any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper cordage, or other waste or discarded or second hand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles. Junk yard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrape. In addition definitions found in RSA 236:91, II, III, & IV shall also apply.
- **Lamp or bulb;** means the light producing source installed in the socket portion of a fixture.
- **Light pollution:** means general sky glow caused by unshielded and scattered artificial light in the atmosphere, which results in decreased ability to see the natural night sky.
- **Light trespass;** means light emitted by a fixture that shines beyond the property on which the fixture is installed. Light levels shall not exceed a maximum of 0.05 lumens per square foot at the property line as measured at a vertical point five (5) feet above grade. Light trespass measurements shall be made at the property line with the meter held normal to a line between any offending light source (s) and the light meter.

- **Lot;** Lot means a parcel of land or any part thereof capable of being occupied by at least one principal structure or use and accessory structures or uses incidental thereto, and designated on a plat to be filed with the Registrar of Deeds as a separate lot. For the purposes of these Regulations, a lot shall have boundaries identical with those recorded with the Registrar of Deeds.
- **Lot Measurements;** Depth of a lot shall be the average distance between the front and rear lot lines. Width of a lot shall be the average distance between the side lot lines.
- **Lot of Record;** A lot which is part of a subdivision approved by the Planning Board and recorded in the Belknap County Registry of Deeds, or a lot described by metes and bounds, the description of which was so recorded prior to zoning.
- **Lumen;** means a unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this chapter, the lumen output values shall be the initial lumen output ratings of a bulb. "Initial" refers to the manufacturer's stated rating for a new bulb.
- **Luminaire;** means the same as fixture.
- **Luminous tube;** a glass tube filled with a gas or gas mixture (including neon, argon, mercury or other gases), usually of small diameter (10-15 millimeters), caused to emit light by the passage of an electric current and commonly bent into various forms for use as decorations or signs. A "neon" tube does not include common fluorescent tubes. Neon signs shall be treated as internally illuminated signs for the purposes of this chapter.
- **Manufactured Housing/Mobile Homes;** The definition of manufactured housing shall be according to RSA 674:31 as amended. "Manufactured housing" means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet for more in width and 40 body feet in length, or when erected on sited, 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 pre-site build housing as defined in RSA 674:31a.
- **Manufactured Housing Park;** Land under single ownership upon which two or more homes are parked and occupied for living purposes regardless of whether or not a charge is made for such accommodations.
- **Manufactured Housing Subdivision;** Land subdivided into a community of individually owned plots upon which a single unit of manufactured housing may be installed for living purposes.
- **Manufacturing;** The making of goods or wares by manual labor or by machinery especially on a large scale.
- **Marina (Commercial);** A place for docking or storage of pleasure boats and providing service to pleasure boats, including servicing and repair, sale of fuel and marine supplies.
- **Marina (Residential);** A place to provide secure mooring or docking for pleasure boats, but offering no other services such as boat storage, fuel, repairs, maintenance.

- **Motor Vehicle;** Any self-propelled vehicle, not operated exclusively upon stationary tracks, originally intended for use on public highways.
- **Non-conforming Lot;** Any isolated lot of record, bounded by land of others than the owner, not meeting the requirements or the ordinance.
- **Non-conforming Structure;** Any structure, which is not in accordance with the permitted uses as specified elsewhere in this ordinance.
- **Non-Conforming Use;** Any use of land, building, or premise which is not a use permitted by the provisions of this ordinance for the district in which such land, building, or premise is situated. RSA 674:24 IV.
- **Nuisance glare;** means light that creates an annoyance or aggravation but does not create a potentially hazardous situation.
- **Obnoxious Use;** Any use that may be obnoxious or injurious by reason of production, emission or odor, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that is dangerous to the comfort, peace, enjoyment, health, or safety of the community or lending to its disturbance or annoyance.
- **Organized Recreational Camp;** A camping or recreational area offered to the public as a profit or non-profit business.
- **Outdoor lighting;** means the night time illumination of an outside area or object by an man-made device located outdoors that produces light by any means.
- **Permanent Foundation;** A solid poured concrete or cement block base.
- **Permit:** A written order granting leave to do something, or an authoritative or official certificate of permission: a license.
- **Permitted Use;** A use that is allowable in the District as a matter of right under the terms of the ordinance.
- **Pre-site Built Housing/Modular;** As defined in RSA 674:31-a. "Pre-site 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, pre-site built housing shall not include manufactured housing, as defined in RSA 674:31, but shall include modular housing as defined in RSA 205.c;1.
- **Recreational Vehicle;** Recreational vehicle means any of the following vehicles:
  - **Motor-home or van;** which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
  - **Pickup camper;** which is a structure designed to be mounted on a truck chassis for use as temporary dwelling for travel, recreation and vacation.
  - **Recreational trailer;** which is a vehicular, portable structure built on a single chassis, 400 square feet or less when measured by taking the measurements of the exterior of the recreational trailer including all siding, corner trim, molding, storage space and area enclosed by windows but not the roof

overhang. It shall be designed primarily not for use as a permanent dwelling, but as a temporary dwelling for recreational, camping, travel, or seasonal use.

- **Tent Trailer;** which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation, and vacation purposes.
- **Recreational Vehicle Park;** A parcel of land which is used for the rental or lease of lots for transient campers, trailers, motor homes, or temporary parking of any other recreational vehicle that is not a manufactured home.
- **Reclamation Plan;** A plan submitted with an excavation site plan detailing restoration of the land. A Reclamation Plan must conform to RSA 155-E:5.
- **Roadside Stand;** A structure for the sale of products, which are grown or produced.
- **Rooming House;** Single room, one week or longer occupancy, with common kitchen and bathroom facilities.
- **Seasonal dwelling;** eliminated – substituting **Transient Lodging** (adopted 3/12/13)
- **Setback;** The minimum distance from the property line to a structure or accessory building as established by the requirements of this ordinance for each zoning district. It is a line which runs parallel to the property lines. The areas between the property line and the minimum setback shall remain unoccupied except as denoted in the ordinance. Front setback shall run the full distance between side boundaries.
- **Sexually Oriented Business;** An adult arcade, adult bookstore or video store, adult cabaret, adult motion picture theater, adult theater, nude model studio or any establishment where, as one of its principal business purposes, the public is permitted and invited where “specified sexual activities” are depicted, described or performed or “specified anatomical areas” are displayed, or their images are displayed, sold, or presented, including instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”
- **Shorefront Lot;** A lot where one boundary line abuts a body of water.
- **Shoreline;** Shall be the shoreline, which exists when the surface of the water is at the mean high water level.
- **Sign:** A board, poster or placard displayed in public view to advertise or to convey information or direction.
- **Sign-Banners and or flags-commercial;** A flag or banner, which presents commercial advertising copy or other graphic material (logos or other symbols) associated with commercial business.
- **Sign-Inflatable signs;** An inflated three-dimensional object, which is anchored or affixed to a structure or site for the purpose of advertising or attracting attention to a business.
- **Sign, Portable;** Signage that is not permanently attached to a fixed location in the ground.
- **Sign, Temporary;** Signage that is to be displayed for less than 90 days.
- **Silviculture;** The art of cultivating a forest; forestry.
- **Special Exception;** A use, which may be permitted under the ordinance that contains certain stated conditions applied by the Zoning Board of Adjustment after review and consideration.

- **Spotlight or floodlight;** means any light fixture that incorporates a reflector or a refractors to concentrate the light output into a directed beam in a particular direction.
- **Structure;** Any object constructed or manufactured or installed by humans, as opposed to that occurring in nature and the use of which requires location on the ground or attachment to something on the ground. This definition includes, but is not limited to buildings, barns, fixed or portable carports, parking lots, driveways, stadiums, reviewing stands, platforms, stagings, observation towers, radio or telecommunication towers, water tanks, trestles, piers, wharves, open and closed sheds or other storage buildings, storage containers gazebos, open or closed decks, porches or breezeways, in or above ground swimming pools, tennis courts, animal shelters, coal bins, tents shelters of any type, and display signs. Structures which provide only a safe means or egress or ingress, such as handicap ramps, fire escapes, or stairs, may be exempt from property line setback requirements provided that the structure does not exceed the minimum requirements prescribed by the applicable code(s) adopted by the Town. All structures exempted pursuant to this section shall require a building permit. (Adopted 3-12-13)
- **Structure, Accessory;** An accessory structure is one that is customarily incidental and subordinate to the principal building on the property and is physically detached to the principal building. Accessory structures must be on the same property as the building or use to which they are accessory. Including but not limited to; garage, workshop, garden, shed, gazebo, carport, pool house or cabana. Other structures may also be considered accessory structures.
- **Surface Waters:** Perennial and seasonal streams, lakes, ponds, marshes, water courses, and other bodies of water, natural or artificial.
- **Temporary Outdoor Lighting;** means the specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of not more than seven (7) days and that occurs only once within a one hundred eighty (180) day time period.
- **Temporary Structure;** A structure used in conjunction with construction work and permitted only during the period that the construction is in progress.
- **Transient Lodging;** means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guest for temporary occupancy such as but not limited to inns, motels, hotels, bed & breakfasts, tourist homes and cabins, ski lodges, lodging homes, condominiums, rooming houses, boarding houses, private clubs, hostels, cottages, camps, chalets, barracks, dormitories, apartments or other seasonal dwelling units for periods of less than 180 consecutive days.
- **Utilities;** A service such as water, sewer, electricity, telephone, gas, etc.
- **Variance;** A departure from the strict letter of the Zoning Ordinance as it applies to a particular piece of property permitting a property to be developed in a manner that conflicts with specific terms of the Zoning Ordinance, but for which approval is granted by the Zoning Board of Adjustment after public hearing and review.
- **Vernal Pool:** A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support

viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, Identification and Documentation of Vernal Pools in New Hampshire, rev 2004.

- **Warehouse;** A structure or part of a structure, for storing goods, wares, and merchandise, whether for the owner or for others.
- **Water Bodies;** All rivers, streams, creeks, rivulets, lakes, dammed waters, ponds, and springs whether intermittent or not.
- **Wetland;** An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in hydric soil conditions.

## **2.2 STANDARDS**

**2.2.1 SETBACKS:** See table of Dimensional Values.  
Accessory buildings may not occupy more than ten (10) percent of side and rear setbacks

**2.2.2 MINIMUM GROUND FLOOR AREA**  
The minimum first floor area per dwelling shall be six hundred and fifty (650) square feet FOR ALL DISTRICTS.

**2.2.3 MINIMUM LOT SIZE:** See table of Dimensional Values

**2.2.3.1 MAXIMUM LOT COVERAGE PERCENTAGE:** See table of Dimensional Values.

**2.2.3.2 BUILDING HEIGHT:** See Table of Dimensional Values

## **2.3 SIGNAGE:**

### **PURPOSE**

The purpose of the signage section is to protect the health, safety and public welfare by achieving the following:

1. Control signs, which increase the likelihood of accidents by distracting attention or obstructing vision.
2. Preserve and protect property values and civic beauty by not permitting signs of excess size, height, number, visual impact and undesirable locations.
3. Establish standards that permit businesses a reasonable and equitable opportunity to advertise but which will avoid excessive intrusion on the visual aesthetics of an area.
4. Provide signs that are compatible (color and design) with their surroundings and appropriate to the types of activity to which they pertain.

**2.3.1 SIGNAGE:** Freestanding name plates or signs intended to promote or advertise a business or commodity offered on the property where posted, shall not exceed the specifications established for their respective district. Signage shall also include banners, commercial flags and inflatable signs.

**2.3.2** Off premise signs are not permitted. Roof signs are prohibited. No signs shall be erected or placed within a traffic median or right of way or public sidewalk. All signs and sign structures shall be properly maintained so as not to become a public hazard or to become a detriment to the street environment. Any business, which has closed, other than for seasonal purposes, shall remove all signage associated with that business within 90 days.

**2.3.3** Additional signage, where needed, may be posted on the business provided that it is limited to 10 percent of square footage of the facade. Portable signs are to be placed by permit only.

**2.3.4 ALL PORTABLE OR TEMPORARY SIGNAGE** displayed after 5/1/03 in excess of that which is specifically allowed for in this ordinance will require a special permit to be issued by the land use office. Special permits will be issued for not more than one 90 day period per year with fees set by the Board of Selectmen. Failure to obtain a permit will constitute a violation of the Zoning Ordinance. (Sect. 11-4) All portable and temporary signs must comply with Article 2.3.2.

**MU & MR (Mixed Use and Medium Density Residential Districts)** One unlighted name plate or sign, not exceeding 1.5 square feet in area for each dwelling unit indicating the name of the occupant or use of the premises, one identification sign not exceeding 12 square feet in an area for buildings, other than dwelling, an unlighted sign or signs appertaining to the prospective rental or sale of the property on which said sign or signs are located. Maximum height, to top of sign, not to exceed 6 feet above grade except by special exception in the MR District and 12 feet in the MU District. EXCEPTION: In the MU District, any business that fronts along Rt. 3 & 11 will meet the same standards set in the Regional Commercial, Resort Commercial & General Commercial Districts.

**VR (Village Residential District)** One unlighted name plate or sign, not exceeding 1.5 square feet in area for each dwelling unit indicating the name of the occupant or use of the premises, one identification sign not exceeding 12 square feet in area for buildings other than dwelling, an unlighted sign or signs appertaining to the prospective rental or sale of the property on which said signs are located. Maximum height, to top of sign, not to exceed 6 feet above grade by special exception.

**RA (Rural Agricultural)** One or more unlighted signs pertaining to the lease, sale, or use of the premises on which placed, and not exceeding a total area of 30 square feet. Maximum height, to top of not to exceed 6 feet above grade except by special exception.

**DN (Downtown District)** The goals and standards considered for properties located within the boundaries of the Downtown District shall;

1. Insure that the visual impact of all signs shall be consistent with the architectural and historic qualities of the area.
2. Preserve to the extent practicable, the period architectural details of the facades of the buildings in the District.
3. Promote the general visual attractiveness of the Downtown area.

For businesses in the Downtown District, signage will be restricted to 20 square feet to be located on the facade only.

Animated and moving signs are prohibited.

Awnings or canopies may not extend over two-thirds of the sidewalk or 6 feet from the building face, whichever is lesser. Any lettering will be considered part of the total signage.

**RG; RC & GC (Regional Commercial, Resort Commercial and General Commercial Districts)** One sign pertaining to the lease, sale, or use of the premises on which placed, and not exceeding a total area of 40 square feet. In the event of more than one tenant per complex, each additional tenant occupying 1,000 square feet or more is to 20 additional square feet on the same aforementioned signage board. For tenants occupying less than 1,000 square feet, 10 square feet of signage is allowed. Maximum height, to top of sign, not to exceed 20 feet above grade except by special exception.

**IN (Industrial District)** One sign pertaining to the lease, sale, or use of the premises on which placed, and not exceeding a total area of 40 square feet. In the event of more than one tenant per complex, each additional tenant is entitled to 20 additional square feet on the same aforementioned signage board. For tenants occupying less than 1,000 square feet, 10 square feet of signage is allowed. Maximum height, to top of sign, not to exceed 20 feet above grade except by special exception.

## **SECTION 2.4 OUTDOOR LIGHTING (Adopted March 2009)**

### **2.4.1. Purpose**

The purpose of this chapter is to regulate outdoor lighting fixtures and installations to improve nighttime public safety and security; to promote energy efficiency; to reduce lighting which is detrimental to the environment or to public use and enjoyment of public and private property; and to preserve and promote the historic character of Tilton.

### **2.4.2. Definitions (see section 2.1)**

### **2.4.3. Applicability**

- A.) The provisions of this chapter shall apply to all outdoor lighting fixtures used for illumination or advertisement.
- B.) All outdoor lighting fixtures existing and legally installed and operative before the effective date of this chapter are exempt from these requirements until the end of the grandfather period.
- C.) When existing lighting fixtures are replaced or relocated, their replacements shall be

subject to all the provisions of this chapter.

D.) All governmental agencies, federal, state, or county, which operate within the town limits of Tilton, are encouraged to comply with the provisions of this chapter.

#### **2.4.4. General Standards and Provisions**

The following general standards and regulations shall apply to all outdoor lighting installed after the effective date of this chapter with the exception of lighting which is exempt pursuant to the section addressing grandfather clauses.

A. Residential and commercial outdoor lighting fixtures and devices shall be fully-shielded and aimed downward in such a manner that light rays emitted by a fixture whether directly from a bulb or from the fixture, are restricted to regions below an angle fifteen (15) degrees beneath the horizontal plane running through the point on the fixture where the light is emitted.

(1) Fully shielded wall mounted fixtures shall be limited to a total light output of 3,000 lumens (e.g. a 150 watt incandescent bulb), and the number of said fixtures shall be limited to one per every 400 square feet of wall.

(2) Unshielded wall mounted fixtures limited to 800 lumens (e.g. a 40 watt incandescent bulb) shall be limited to one per every 400 square feet of wall surface.

(3) Fully shielded pole mounted fixtures shall be limited to 9,500 lumens (e.g. a 100 watt high pressure sodium bulb) and the number of said fixtures shall be limited to one per every 8,000 square feet of ground surface area.

(4) Fully shielded condition can be accomplished by using a surrounding architectural structure. Opaque awnings can be used to meet this condition.

B. If a motion sensor is used, unshielded lights may be up to 1800 total lumens per fixture, provided that the lights do not remain on longer than 10 minutes after being triggered, are aimed at least 45 degrees below the horizontal and are not aimed onto adjacent property.

C. Any light shining onto an adjacent property or street which results in light trespass, nuisance glare or a disabling glare shall not be permitted.

D. Lighting, other than street lights, mounted on poles or structures shall not exceed a mounting height of 15 feet. If needed, additional shielding shall be added to the light fixture to eliminate light trespass and disabling glare.

E. Existing fixtures may be adapted to comply with this chapter by adding a properly designed fully shielded structure.

F. Lighting for signs shall be directed downward onto the sign's surface and not toward the sky or adjacent properties. Such lighting shall be limited to 1800 initial lumens (e.g. a 100 watt incandescent bulb) per every 15 square feet of sign surface.

G. Up lighting on landscaping and foliage shall be limited to 900 initial lumens (e.g. a 40

watt incandescent bulb) with a limit of one lamp fixture per each 900 square feet of landscaped area.

H. Up lighting for architectural illumination is permitted provided that the total output is less than 5,400 initial lumens per 3,000 square feet of wall surface area and less than 1,800 initial lumens per fixture (e.g. a 100 watt incandescent bulb). No illumination may project beyond the highest point of the structure or beyond the structure's edges. Side shielding shall be used to avoid light trespass or disabling glare.

I. Flag illumination is limited to 800 initial lumens (e.g. a 40 watt incandescent bulb) and when possible shall originate from a fixture at the top of the pole.

J. Internally illuminated signs shall be constructed so that the top of the sign does not allow light to emit directly towards the sky and so that the light is encased all the way around.

K. Any light source permitted by this chapter may be used to light 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 this chapter, or be designed with or provided with sharp cut-off capability so as to minimize up light, spill light, light trespass and glare. Such installations shall be placed per manufacturer's recommendations and in a manner to maximize shielding.

(2) All events shall be scheduled so that all activity is complete before or as near to 11:00PM as practical. Under no circumstances shall any illumination of the playing field, court or track be permitted after 11:30PM except to conclude a scheduled event that was in progress before 11:00PM and circumstances prevented conclusion by 11:00PM.

L. In order to comply with "The New Mexico Night Sky Protection Act" mercury vapor lamps shall not be sold or installed in the town of Tilton, NH. A suggested replacement is high-pressure sodium lights.

M. Parking lot lighting shall be shut off by 11:00PM unless a specific scheduled event requires parking lot lighting to be left on until the event is finished. In this situation, the lights shall be shut off within a reasonable period of time following the end of the event.

N. Light emitted from inside of a structure to the outside of the structure shall be subject to control by this chapter if it is determined that such light constitutes a nuisance glare, a nuisance light trespass or a disabling glare as defined by this chapter, and should therefore be treated as if it were outdoor lighting.

#### **2.4.5. Further Restrictions**

The town of Tilton reserves the right to further restrict outdoor lighting, including by not

limited to searchlights for special events, quartz lighting, laser lights, pole height, and level of illumination when it is deemed to be in the best interests of the public and in keeping with the stated purpose of this chapter.

#### **2.4.6. Exemptions**

The following are exempt from the provisions of this ordinance.

- A. Unshielded outdoor light fixtures, single or multiple, provided that each lighting fixture does not exceed a total light output of 800 lumens (e.g. a 40 watt incandescent bulb).
- B. Traffic control signals and devices.
- C. Temporary emergency lighting (e.g. fire, police, repair workers)
- D. Moving vehicle lights
- E. Navigation lights (e.g. airports, heliports, radio/television towers).
- F. Seasonal decorations with individual lights in place no longer than 60 days.
- G. Other special situations approved by (the governing body) for temporary or periodic events (e.g. rodeos, revivals, fairs, fiestas, carnivals, night-time construction)

#### **2.4.7. Grandfathering**

- A. All lighting installations must be brought into compliance with the provisions of this chapter within ten (10) years of its effective date.
- B. This grandfathering provision does not apply to the following:
  - (1) Lighting on an existing building with a change of roof line or building size exceeding fifty percent (50%) of the square footage due to renovations or remodeling shall be brought into full compliance before reoccupation or re-use.
  - (2) Fixtures that are replaced or relocated. Such fixtures shall be brought into full compliance at the time of replacement or relocation.
  - (3) Existing fixtures that direct light toward streets or parking lots and that cause disabling glare to motorists or cyclists.

#### **2.4.8. Submittals**

Applications for building permits, including new construction and remodeling, or applications for subdivisions which include the installation of outdoor lighting fixtures for any purpose shall provide evidence of compliance with the requirements of this chapter. The submittal shall contain the following information and be submitted as part of the site plan to the Planning and Zoning department for recommendation for approval:

- (1) Plans indicating the location, type and height of luminaries including both building and ground mounted fixtures;
- (2) A description of the luminaries, including lamps, poles or other supports and shielding devices, which may be provided as catalogue illustrations from the manufacturer.
- (3) Photometric data, such as that furnished by the manufacturer, showing the angle of light emission for fixtures with an output of 5,000 lumens or more; and
- (4) Additional information as may be required by the Planning and Zoning department in order to determine compliance with this chapter.

#### **2.4.9. Variances**

Variance from the provisions of this chapter shall not be permitted unless specifically authorized pursuant to the provisions of (cite location of requirements for application of variance in the town code).

#### **2.4.10. Enforcement**

A. Duty to Enforce. It shall be the duty of the persons designated by the Selectmen of the Town of Tilton to enforce the regulations contained in this chapter.

B. Notice of non-compliance and abatement. The town may issue a written notice of non-compliance directed to the owner of record of the property on which the non-compliant lighting fixture(s) or installation(s) exist or to the occupant or tenant of the property, or both. The notice shall describe the violation and shall establish a reasonable time limit for abatement, which shall be not less than ten (10) days or more than ninety (90) after service of the notice. The notice may be served either personally or by registered mail to the owner's last known address.

C. Complaint: In the event the owner or occupant of the property where the non-compliant lighting fixture(s) or installations(s) exist has failed, within the prescribed time, to abate the violation, then the town shall file a complaint charging violation(s) of this chapter with the municipal court.

D. This chapter does not grant to any party other than the town of Tilton the right to enforce this chapter or to bring any suit in any court for violation of this chapter. It does not create a private cause of action.

#### **2.4.11. Penalties for Violation**

A. Any person, firm or corporation or any officer or employee thereof, who violates the provisions of this chapter shall be deemed guilty of a petty misdemeanor and upon conviction may be punished by a fine of not more than \$500.00 or imprisonment for not more than 90 days or both by such fine and imprisonment for each separate offense.

B. Each 24 hour period during any portion of which any violation of this chapter is

committed or continues to exist shall constitute a separate offense.

**Section 2.4.12. Severability**

Should any section, paragraph, clause or provision of this ordinance for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

**Section 2.4.13. Repealer**

All ordinances or resolutions or parts thereof, inconsistent with the provisions of this ordinance are hereby repealed to the extent only of such inconsistency or conflict. This repealer shall not be construed to revive any ordinance or resolution or part thereof, heretofore repealed.

**Section 2.4.14. Effective date**

This ordinance shall be in full force and effect five (5) days after its approval, adoption and publication as provided by law.

## **ARTICLE III            GENERAL PROVISIONS**

**3.1 SEVERANCE CLAUSE** - The invalidity of any section or provisions of this Ordinance shall not invalidate any other section or provision thereof.

**3.1.2 INTERFERENCE WITH OTHER ORDINANCE** - This Ordinance shall not interfere with or annul any ordinance, rule, regulation or permit, provided that unless specifically excepted, where this ordinance is more stringent it shall control.

**3.1.3 EFFECTIVE DATE** - This Ordinance shall take effect on its passage.

**3.1.4 ENFORCEMENT:** Pursuant to RSA 676, any person, firm or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this ordinance shall be charged with a violation, and upon conviction thereof shall be punishable by a fine of not more than the State of New Hampshire maximum penalty for each day of the violation.

**3.1.5 AMENDED** as of 1986, 1987, 1988, 1989, 1991, 1992, 1993, 1994, 1998, 1999, SPECIAL TOWN MEETING 9/21/99, Town Meetings 3/14/2000, 3/13,2001, 3/12/2002, 3/11/03, 3/09/04, 3/08/05, 3/14/06, 3/13/07, 3/11/08, 3/10/09, 3/9/10, 3/8/11, 3/13/12, 3/12/13 and 3/8/16.

### **3.2 EXCAVATION REGULATIONS:**

**3.2.1** No person, firm, or corporation shall strip, excavate, or otherwise remove earth from the Village Residential, Mixed Use or the Medium Density Residential Districts for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.

**3.2.2** No person, firm, or corporation shall remove earth from the Rural Agricultural, Downtown, Regional Commercial, Resort Commercial, General Commercial, or Industrial Park Districts within the Town of Tilton without a special permit issued by the Zoning Board of Adjustment. The Zoning Board of Adjustment shall make its determination to issue said permit and may set such restrictions as are just and in the best interest of the Town of Tilton. Topsoil or loam purchased from another locality and brought into the Town of Tilton, for the purpose of resale is permitted, however, proof of such transactions may be required by the Zoning Board of Adjustment. (Amended 3/8/2005)

**3.2.3** Persons, firms, and / or corporations stripping, excavating and / or removing earth shall restore the excavated area to an acceptable condition within ninety (90) days after depleting of the deposit or completion of the work, or no later than two hundred and fifty (250) days after the last day of the deposit.

**3.2.4** All excavations shall be conducted according to the provisions of the RSA 155-E:1 through RSA 155-E:11.

**3.2.5 SPREADING of BIO-SOLIDS/SLUDGE:** The stockpiling and land spreading of Class B sewage containing heavy metals, pathogens, parasited, radioactivity, superfund wastes and hazardous organic chemicals: and the stockpiling and land spreading of industrial paper mill sludge containing cyanide dioxins, furans, and other toxic substance, is not allowed in the Town of Tilton. This ordinance shall not apply to septage/sewage/sludge generated within the Town of Tilton. (See also Town Ordinance adopted 9/25/97.)

### **3.3 Impact Fee Ordinance**

#### **PURPOSE:**

This ordinance is enacted pursuant to RSA 674:16 and 674:21 and in order to: Promote public health, safety, convenience, welfare, and prosperity; to assist in the implementation of the Town's Master Plan and Capital Improvements Program; to make provision for public capital facilities necessitated by new development; and to assess an equitable share of the cost of such public capital facilities to new development in proportion to the facility demands of that new development. Prevent scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services.

Provide for the harmonious development of the municipality and its environs;

Ensure the proper arrangement and coordination of streets; and,

Ensure streets of sufficient width to accommodate existing and prospective traffic.

#### **AUTHORITY TO ASSESS IMPACT FEES:**

Nothing in this section shall be construed to limit: (a) The Planning Board's existing authority to disapprove purposed development which is scattered or premature, or which would require an excessive expenditure of public funds, or which would otherwise violate applicable ordinances and regulations; (b) The Planning Board's authority to require the payment of exactions for off-site improvements for highway, drainage, and police upgrades, necessitated by the development, in accordance with RSA 674:21, V (j); (c) The authority of the Town to assess other types of fees under the authority to require off-site work to be performed by the applicant, or to impose other types of conditions of approval.

#### **DEFINITIONS:**

**Fee payer** means the applicant for the issuance of a permit that would create new development as defined in this Section.

**Impact fee** means a fee or assessment imposed upon development, including subdivision, building construction or other land-use change, in order to help meet the needs occasioned by the development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities, wastewater treatment and disposal facilities, sanitary sewers, storm water, drainage and flood control facilities, the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities, solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public recreation facilities, not including public open space.

**New development** means an activity that results in:

The creation of a new dwelling unit or units; or

The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or

The creation of a new non-residential development, or construction which results in a net increase in the floor area of any existing non-residential building; or

The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that is the subject of impact fee assessments.

New development shall not include the replacement of an existing structure where there is no change in its size, density or type of use, and where there is no net increase in demand on the public capital facilities of the town of Tilton.

#### **STANDARDS AND METHODOLOGY FOR ASSESSMENT:**

The amount of any impact fee shall be a proportional share of municipal capital improvement costs, which is 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.

Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees. In the case of new development created by the conversion or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee which would be assessed for the new use, as compared to the impact fee which was or would have been assessed for the use which was in existence on the effective date of this ordinance.

The Planning Board may prepare, adopt, or amend studies or reports that are consistent with the above standards, and which define a methodology for impact fee assessment for public capital facilities, and impact fee assessment schedules. Similarly, the Planning Board may at any time make adjustments to any fee schedule or methodology, based on the most recent relevant data. No impact fee assessment schedule, methodology of assessment or amendment to such methodology shall be adopted by the Planning

Board until it has been the subject of a public hearing in accordance with RSA 675:6 and :7.

**WAIVERS:**

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular public capital facilities for which impact fees are normally assessed. A fee payer may request a full or partial waiver of public school impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 55 or over in a development that is also 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 the property will be bound by lawful deeded restrictions on occupancy by senior citizens age 55 or over for a period of at least 20 years.

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 of 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 would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Town's legal Counsel for 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.

All costs incurred by the Town for the review of such proposal, including consultant and counsel fees, shall be paid by the fee payer.

The Planning Board may agree to waive all or part of an impact fee assessment for affordable housing based on income.

The Planning Board may waive an impact fee, in whole or in part where, in the opinion of the Board based upon legal advice, and upon specific relevant facts considered on an impartial basis, such fee would be contrary to vested constitutional rights.

**ADMINISTRATION OF IMPACT FEES:**

All impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Between the date of assessment and collection, the Planning Board may require fee payers to post security, in the form of a cash bond, letter of credit or performance bond so as to guarantee future payment of assessed impact fees.

Impact fees shall be collected as a condition for the issuance of a Certificate of Occupancy. The Planning Board and the fee payer may establish an alternate, mutually acceptable schedule of payment of impact fees.

Each impact fee shall be accounted for separately, shall be segregated from the Town's general fund, may be spent upon order of the governing body, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs for which fees are collected to meet.

In the event that bonds or similar debt instruments have been or will be issued by the Town of Tilton for the funding of capital improvements that are the subject of impact fee assessment, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.

The Treasurer for the Town of Tilton shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership and tax map reference number of properties for which fees have been paid under this section for each permit so affected for a period of at least six years from the date of receipt of the impact fee payment associated with the issuance of each permit.

#### **REFUND OF FEES PAID:**

The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest under the following circumstances; When either the full or partial portion of the impact fee, whichever is applicable, has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six years from the date of the full and final payment of the fee; or

When the Town of Tilton has failed within the period of six years from the date of the full and final payment of such fee, to appropriate their proportionate non-impact fee share of related capital improvement costs.

#### **APPEALS UNDER THIS SECTION:**

A party aggrieved by a decision made by the Code Enforcement Officer relating to administrative decision in the assessment or collection of impact fees may appeal such a decision to the Planning Board within 30 days of the administrative decision, and not afterward. As set forth in RSA 676:5, III, a party aggrieved by a decision of the Planning Board under this section may not appeal to the Zoning Board of Adjustment, but may appeal to the Belknap County Superior Court as provided by RSA 677:15 as amended.

**APPLICABILITY:**

This ordinance shall not be deemed to affect the existing authority of the Planning Board over subdivisions and site plans, including, but not limited to the authority 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). Payment of the impact fee under this section does not restrict the Town of Tilton or the Planning Board from requiring other payments or improvements from new development. Nothing in this section shall be construed to affect fees that are assessed under the authority of other statutes, town ordinances or regulations.

**3.4 SEASONAL RESORT COMMUNITY REGULATIONS**

(Uses found in the Resort Commercial District) (Adopted 3/13/2012)

**Purposes and Intent:**

To provide regulations and guidance for seasonal cottage and recreational vehicle oriented resorts with special attention to preserving and enhancing the existing land uses, vegetation, visual landscape, and amenities for future generations, thereby retaining the historic “way of life” and character of the area while considering the needs of the neighboring properties. Tilton has many “seasonal resort communities” located near Lake Winnisquam that were built long before zoning was in place. In recent years the different resorts have been coming before the planning Board in an effort to modernize and turn the resorts into a condominium form of ownership. The main purpose of this section is to tie this use into our zoning regulations in order to eliminate confusion and preserve the harmony of our modern day zoning regulations.

**Allowed uses:**

Seasonal Resort Community to the extent present on (date of the passage of this regulation) provided that the existing Seasonal residential units and accessory structures may be modified, replaced, relocated or reconstructed as provided in this section. A Seasonal Resort Community may not be expanded to increase the number of Seasonal Residential Units after the passage of this regulation.

Seasonal Cottage Site located in a Seasonal Resort Community.

Recreational Vehicle Site located in a Seasonal Resort Community

Single Family Residential

Municipal Use.

Family Day Care Facility

Medical Care Facility

Agricultural Use over 5 Acres

Non Profit Educational Use

Child Care Facility

## Religious Uses

Commercial businesses associated with resort uses (see chart of permitted uses)

Accessory structures and uses to any of the above noted uses

### **Definitions:**

The following definitions are specific to this section of the Tilton zoning:

**Seasonal Cottage:** A building containing a single unit made up of a room or group of rooms containing facilities for eating, sleeping, bathing and cooking and is designed for seasonal use and not as a year-round dwelling unit.

**Seasonal Resort Community:** A site generally consisting of three or more Seasonal Cottages and/or Recreational Vehicle Sites which may also contain subject to the other provisions hereof other accessory structures, neighborhood convenience store, temporary seasonal retail facilities, recreational facilities, common facilities and an owner's / manager's unit.

**Owner's / Manager's Unit:** A residential unit located on a property used for a seasonal resort community used by the owner or manager of the facility. The Owner's /; Manager/s Unit may be a year-round dwelling, including covered parking and a garage.

**Recreational Vehicle:** A vehicle that:

- A. Is built on a single chassis
- B. Contains 400 square feet or less of floor area
- C. Is self-propelled or towed by a passenger car or truck
- D. Is designed as atemporary living quarters for recreational, camping, travel or seasonal use, not as a dwelling unit; and is built to ANSI Standards (American National Standards Institute) for recreational vehicles

**Recreational Vehicle Accessory Enclosure:** A factory-manufactured rigid metal or plastic/composite enclosure, with the dimensions not exceeding twelve feet in width nor the length of the patios, awnings, awning tents, screen panels and unenclosed roof projections.

**Recreational Vehicle, Park Model:** A recreation vehicle containing between 320 and 400 square feet of floor area, not counting Recreational Vehicle accessory enclosures. Recreational Vehicle, Park Models are built to ANSI standards.

**Recreational Vehicle Site:** A site within a Seasonal Resort Community provided for occupancy by Recreational Vehicle or Recreational Vehicle Park Model.

**Seasonal Cottage Site:** A site within a Seasonal Resort Community provided for occupancy by a Seasonal Cottage.

**Recreational Facilities:** Facilities provided for the amusement and enjoyment of the residents of the Seasonal Resort Community and not hired or rented out for use by individuals not associated with the Seasonal Resort Community.

**Resort Convenience Store:** A resort convenience store is intended primarily to serve the day to day needs of a seasonal resort community primarily with the sale of merchandise, including but not limited to items such as foodstuffs, prepared foods, nonprescription medical supplies, sanitary supplies, newspapers, emergency home repair articles, household cleaners, toiletries, and other household items. A resort convenience store may include the provision of a coffee shop, deli or ice cream shop.

**Common Facilities:** Seasonal resort communities generally include common facilities such as laundry facilities, picnic areas, clubhouse, meeting areas and other recreational facilities for the use of the residents.

**Maintenance Garage:** An accessory structure intended to serve the operation and /or maintenance needs of a seasonal resort community including for the storage of maintenance vehicles, equipment and supplies, the housing of infrastructure systems and/ or office or workshop space related to the same.

**Development Standards:**

**Lot area:** Minimum lot size in the Resort Commercial District is one acre. As part of the site plan, the Planning Board shall look at the lot density in regard to how many recreational vehicles; the area required for each unit and any internal roads necessary for emergency vehicles to be able to get to each of the units. Also considered is the setbacks and buffer areas created to provide privacy for neighboring properties.

**Setbacks:** Setbacks in the Resort Commercial District are 30 feet in the front and 20 feet on the sides and rear of the property.

Recreational vehicles and seasonal cottages already existing that are located within the setback area may remain in their current footprint. No expansion to these recreational vehicles or seasonal cottages may occur without approval of a modification to a pre-existing non-conforming structure or use by the Tilton Board of Appeals. The Tilton Board of Appeals may approve such expansions based upon a finding of the change not being substantially more detrimental to the surrounding neighborhood based upon the proposal meeting screening requirements and other considerations established in this section. However, the ZBA shall consider the potential cumulative effects of any such permits.

No accessory uses or structures (including sheds, propane tanks, outdoor showers and similar facilities) may be placed within this setback after the passage of this regulation and the Board of Appeals shall consider whether it is feasible to relocate existing accessory structures and uses from this setback when considering permitting modifications to non-conforming cottages and RV's located within the setback areas.

The purpose of the setback area is to provide for a fenced, and/or vegetated buffer between the Seasonal Resort Community and adjacent residential neighborhoods.

**Parking:** There shall be a minimum of two parking space per seasonal residential unit located within the Seasonal Resort Community.

**Landscaping and Buffering Requirements:**

Landscaping and buffering shall be provided along lot lines which abut a residential area. This landscaping and buffering shall provide a visual screen between adjacent residential uses and the seasonal resort community, parking lots, outdoor business storage areas and outdoor business uses shall be visually screened from adjacent residential lots.

Said visual screening shall consist of a continuous landscaped border of vegetation, except where encroached upon by pre-existing cottages, recreational vehicles, or accessory structures and uses four feet wide and at least six feet in height and/or solid fencing six feet in height. A landscaped strip four feet wide shall be provided between any outdoor business, storage area or parking lot and a street right-of-way. The Zoning Board may approve other buffer configurations for this area when considering requests to modify pre-existing seasonal residential units located within the setback area.

**Provisions Affecting Seasonal Resort Communities:**

New Seasonal Resort Communities may be open between April 1<sup>st</sup> and October 31<sup>st</sup> inclusive. Seasonal Resort Communities may provide for short term use, up to four days in any thirty day period, during the remainder of the year, provided that there is an occupancy permit which ensure sanitary facilities are provided.

Seasonal Resort Community facility office. All seasonal resort communities shall maintain an office on the premises. The office shall be occupied at all times the Seasonal Resort Community is open for occupation by residents.

Except as accessory to a designated Seasonal Resort Communities Owner's/Manager's unit, parking garages and covered parking structures accessory to seasonal cottages are prohibited.

No addition to a Seasonal Residential Unit may be located in a location that was used for "common facilities" (picnic, laundry, meeting spaces, etc.) on the passage of this regulation unless equivalent off-set or replacement common facilities are provided elsewhere within the site.

The maximum lot coverage for all other uses except recreational vehicles and seasonal cottage is established and listed in the Table of Dimensional Values located in the Tilton Zoning Regulations.

The maximum building height for all other uses except recreational vehicles and seasonal cottages shall be 40 feet. (See Table of Dimensional Values)

Resort Convenience Stores may be located in the Seasonal Resort Communities within one or two structures. Resort Convenience Stores shall contain no more than a combined total of square feet of gross floor area (active retail, storage, and food preparation area) regardless of the number of structures. There shall be no Resort Convenience Store located within any single Seasonal Resort Community with a total lot is less than five (5) acres. Resort Convenience Stores may be located within structures containing the office, mail room, common facilities or the Owner's/Manager's residence, the floor space of these other uses shall not count against the size of the Resort Convenience Store. A Resort Convenience Store shall only be open for business when the Seasonal Resort Community in which it is located is also open between April 1<sup>st</sup> and October 31<sup>st</sup>.

**Provisions Specific to Recreational Vehicle Sites:**

Recreational Vehicle sites shall conform to the minimum requirements imposed under state licensing procedures and the following standards:

Minimum pad site for each recreational Vehicle shall be 10,000 square feet. No rigid enclosed addition shall be affixed to a recreational vehicle other than a recreational vehicle accessory enclosure as herein defined.

An open deck not exceeding twelve (12) feet deep, and 240 square feet total, maybe attached to each Recreational Vehicle.

There shall be at least ten (10) feet between any Recreational Vehicle including pop-out portions of such vehicles, Recreational Vehicle Accessory Enclosure or open deck and the adjoining Recreational Vehicle(s), Recreational Vehicle Accessory Enclosure(s) or open decks.

There shall be at least eight (8) feet between any Recreational Vehicle including pop-out portions of such vehicles, Recreational Vehicle Accessory Enclosure or open deck and the interior driveway network to the Recreational Vehicle Park.

At no time may a Recreational Vehicle Accessory Enclosure and open deck be placed side-by-side, they may only be placed end-to-end.

Recreational Vehicles and Recreational Vehicles Park Model shall not exceed a total height of 14 feet 6 inches.

**Provisions Specific to Seasonal Cottages:**

Square footage of cottages and location in the resort community will be addressed by the Planning Board. Lot density will be considered. Open space will be part of the overall site plan as will parking, recreational accessories, and safety.

All seasonal cottages must provide a minimum of 10 feet of clearance between any seasonal cottage, porch or deck and the adjacent seasonal cottage, porch or deck even if not located on the same property. If the seasonal cottages, porches, and decks are

separated by less than 10 feet, they shall not be allowed to become any closer together than the pre-existing separation.

### **Project Approval:**

All site plans are required to go before the Tilton Planning Board. Project will also be reviewed by the Tilton Fire Department, Sewer Commission & Water District (if applicable). For regulations regarding what is required, see the Site Plan regulations for the Town of Tilton.

### **3.5 PARKING REGULATIONS (Adopted 3/12/2013)**

Off-street parking shall be provided as follows in connection with all new and renovated buildings erected or converted in the Town of Tilton.

All parking space shall not be less than nine feet (9') by nineteen (19') and the travel way between rows shall be eighteen feet (18') for one way traffic and twenty four feet (24') for two way traffic.

A. Residential dwelling:	Two (2) spaces per dwelling unit.
B. Place of Worship or Auditorium:	One (1) space per every two (2) seats
C. Inn, Hotel, Cottages, or Bed & Breakfast:	One (1) space per guest sleeping room, plus one (1) space for each employee on the largest shift.
D. Restaurant, Diner, or eating place:	One (1) space per two (2) seats plus one space for each employee on the largest shift.
E. Financial Institution or Professional Office:	One (1) space per 200 square feet of floor space.
F. Convalescent Home, Nursing Home:	One (1) space for each staff member on the largest shift plus one (1) space for every bed.
G. Industrial Uses:	One and half spaces (1 ½) for each employee on the largest shift.
H. Retail Stores and Shops:	One (1) space per 300 square feet of floor space plus (1) space for each five (5) employee on the largest shift.
I. Other Commercial Uses:	One (1) space per 300 square feet of floor space plus one (1) space for each five (5) employees on the largest shift.
J. Handicap Parking	Will conform to ADA dimensional requirements.

(Example: Hotel with a restaurant and conference center would include C, D and I)

### **3.6 WETLAND DELINEATION (Adopted 3/12/2013)**

- > Wetland delineations older than 5 (five) years will not be considered valid for the purpose of the site plan/subdivision.
- > No wetland survey's conducted from December 1<sup>st</sup> to March 31<sup>st</sup> will be accepted as valid by the Tilton Planning Board. Also, no wetland survey's conducted at a time when snow cover, permafrost and or seasonal vegetative growth cycles impair the wetland or soil scientist's ability to identify soil and vegetation.

## ARTICLE IV ESTABLISHMENT OF DISTRICTS

The Town of Tilton is hereby divided as shown on the Zoning Map dated 09/21/99 and as may be legally amended, and filed with the Town Clerk, into several classes of districts with the following designation:

<b>VR</b> .....	<b>Village Residential Districts</b>
<b>MU</b> .....	<b>Mixed Use Districts</b>
<b>MU II</b> .....	<b>Mixed Use II Districts</b>
<b>MR</b> .....	<b>Medium Density Residential Districts</b>
<b>RA</b> .....	<b>Rural Agricultural Districts</b>
<b>DN</b> .....	<b>Downtown Districts</b>
<b>RG</b> .....	<b>Regional Commercial Districts</b>
<b>RC</b> .....	<b>Resort Commercial Districts</b>
<b>GC</b> .....	<b>General Commercial Districts</b>
<b>IN</b> .....	<b>Industrial Park Districts</b>

**VR (Village Residential District)** is designed to accommodate single and multi-family dwelling units , in an area that is already extensively developed, served by local streets, and with water and sewer services available.

**MU (Mixed Use District)** is designed to accommodate single and two-family dwelling units together with small scale retail and service uses, in developing areas along Routes 3/11 where water service is available and sewer service is planned.

**MUII (Mixed Use II District)** is designed to accommodate a variety of residential, retail, institutional, recreational and service uses in an integrated, planned, village-like setting, where water and sewer service is available. (This district was approved in March 2005 but is not shown on the Tax Map for the Town of Tilton as no land has been approved for the district at the present time)

**MR (Medium Density Residential District)** is designed to accommodate single-family dwelling units served by collector and local streets where utilities are limited or not now present but sewer service is planned.

**RA (Rural Agricultural District)** is designed for single-family as well as a wide range of agricultural uses on local roads in areas where no utilities exist or are planned.

**DN (Downtown District)** is designed to accommodate a wide range of office, retail, service, restaurant, public, institutional, and high density residential uses in an area extensively developed with structures of historic significance.

**RG (Regional Commercial District)** is designed for large scale retail and service uses, restaurants, and accommodations in recognition of a location at the interchange of a limited access and arterial highway in an area where sewer service is available and extensions planned, intersection, curb cut, and traffic controls are vital to the safe and orderly development of this area.

**RC (Resort Commercial District)** is designed for recreation, restaurant, and accommodations together with small scale retail and service uses along Routes 3/11 adjacent to Silver and Winnisquam Lakes. Sewer is planned but not yet available in this area, and traffic controls are important to safe and orderly development along the arterial highway.

**GC (General Commercial District)** is designed for a wide range of commercial uses in an area along an arterial highway where utilities are either available or planned.

**IN (Industrial Park District)** is designed to accommodate a range of manufacturing, warehousing, and office uses in areas served by arterial or collector streets with sewer service available or planned.

#### **4.1 BOUNDARIES OF DISTRICTS:**

Unless otherwise indicated, the boundaries between Zones are the center lines of streets, alleys, railroads, property lines, natural features or other right-of-way or line parallel to any of the preceding.

#### **4.2 LOTS IN TWO (2) DISTRICTS:**

Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulation for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has the frontage on the street in the less restricted district.

#### **4.3 SETBACKS**

The purpose of a setback ordinances is to provide a buffer that is meant to prevent encroachments over property lines, safety from possible traffic accidents, snow removal, buffers from other land uses such as commercial to residential, and to provide open space around structures and lots. Setback areas can also provide a structure free area for utilities for burying lines and pipes or placing electric/phone poles. The setback distance is determined in the Town of Tilton by the zoning district. For lot lines touching or extending into a roadway, the setback line shall either be measured from the edge of traveled way, or shall correspond with the public right-of-way boundary, whichever is more restrictive. All other setback lines shall be measured from the parcel boundary. Residential districts generally have smaller setback areas than agricultural as the lot sizes are smaller in residential. For complete setbacks for each district, see the Article VII; Table of Dimensional Values (Appendix C) in the Tilton Zoning Regulations.

Items that may be exempt from setback requirements include: fences, gates, signs, lampposts, mailboxes, flagpoles, well coverings and stairs (not attached to a structure), and walkways. All proposed exempt items in residential lots, and signs within all lots, shall be approved by the Code Enforcement Officer to ensure no encroachment onto abutting properties and to ensure site distance along roadways is not diminished.

Commercial lots proposing any items, other than signs, in the setback areas are required to obtain a Variance from the Zoning Board of Adjustment. If such a Variance is granted and if exercising the Variance would represent a change or expansion of use, Site Plan approval shall be obtained from the Planning Board prior to installing the structure.

## **ARTICLE V: MAPS**

See attached. **APPENDIX A**

## **ARTICLE VI: CHART OF PERMITTED USES**

See attached. **APPENDIX B**

## **ARTICLE VII: CHART OF DIMENSIONAL VALUES**

See attached. **APPENDIX C**

## **ARTICLE VIII            MANUFACTURED HOUSING/MOBILE HOME (AND RECREATION VEHICLES) REGULATIONS & STANDARDS**

**8.1** All manufactured housing installed after 1/1/2000 must meet the specifications and standards established by the United States Dept. of Housing and Urban Development (HUD) as of April 1, 1995.

**8.2** No manufactured housing shall be located within the Town of Tilton except in a manufactured housing park, or a manufactured housing subdivision. This section is not intended to interfere with the sale or display of manufactured housing in areas where such is permitted.

**8.2.1** Minimum park lot size shall be ten thousand (10,000) square feet, or as required by NH Water Supply and Pollution Control Division regulations, whichever is larger. Any new park over 6 units shall be connected to public water and municipal sewer systems if available within 500 feet of park property.

**8.2.2** New parks shall be no less than 6 acres minimum.

**8.2.3** Parks shall not exceed 30 units.

**8.2.4** Park Setbacks for individual park lots:

Side- The setback shall be twenty (20) feet from the side lot line.

Front and Rear - The setback shall be ten (10) feet from the lot line.

### **8.3    MOBILE HOME /MANUFACTURED HOUSING SUBDIVISIONS**

**8.3.1** Minimum subdivision lot shall be 3 acres. A minimum of 6 acres shall be required for subdivision into two 3 acre lots.

**8.3.2** All applications for Subdivision permit shall be made to the Town of Tilton Planning Board and shall be subject to the Town of Tilton Subdivision Regulations. Upon approval by a majority vote of the Planning Board, a permit will be issued.

**8.3.3** All other regulations under "Mobile Home Parks" and Mobile Home Subdivisions of the State Health and Welfare Sanitary Laws and Regulations shall apply.

### **8.4    MOBILE HOME-TEMPORARY PERMIT**

**8.4.1** By special exception, as the Board of Adjustment shall rule, an individual manufactured housing unit may be used under temporary permit in cases of hardship and / or as office quarters or storage in proper exercise of a building permit.

### **8.5    RECREATIONAL VEHICLE AND PARKS**

**8.5.1** A Recreational Vehicle Park shall be subject to site review by the Tilton Planning Board and shall be subject to those provisions of the Tilton Subdivision Regulations as the Board may deem to be applicable.

**8.5.2** The Planning Board, before issuing a permit, will establish the conditions under which the permit will be issued: this will be done with the best interests of the Town of Tilton being considered.

**8.5.3** A Recreational Vehicle Park shall meet all the requirements of the NH Water Supply and Pollution Division.

**8.5.4** Recreational Vehicle Parks shall be for seasonal use only.

**8.5.5** Recreational vehicles may not be inhabited on a private lot for longer than 30 days in any one (1) calendar year or be utilized for the purpose of establishing a rental dwelling unit.. Temporary use (6 months to 1 year) after a fire or catastrophe may be granted by special exception.

**8.5.6** The Planning Board shall be charged with full application of local and State regulations and requirements to the proper development of the properties already committed as park sites and subdivisions.

## **ARTICLE IX           NON-CONFORMING USES**

**9.1** Any lawful building or use of a building or premises or part thereof in existence previous to the passage of this ordinance may be continued although such building or use does not conform to the above provisions hereof.

**9.2** The Board of Adjustment may order the issuance of a permit for any non-conforming use to be changed to another non-conforming use not substantially different in its purpose and manner of application and no more harmful or objectionable to the neighborhood, provided that the building involved shall neither be structurally altered nor enlarged to an extent in the aggregate greater than twenty percent in volume and fifty percent of the assessed value of the building and land as of the date of passage of this ordinance. The extension must be of the same or better type of material and construction as the original building. No non-conforming use, if once changed to a use permitted in the district in which located, shall be changed back to a non-conforming use.

**9.3** A non-conforming use may be expanded only with the permission of the Zoning Board of Adjustment, and only within the limits of the lot on which it existed at the time of passage of the portion of the Zoning Ordinance which caused it to become non-conforming.

**9.4** The Board of Adjustment may order the issuance of a permit for a quarry or gravel or sand pit or for non-conforming temporary building or use incidental to the development of a neighborhood, such permit to be issued for an initial period of not more than two years and only upon application accompanied by bond payable to the Town of Tilton in such amount and in such form as the Board of Adjustment may order, to become effective in case the building is not removed prior to the expiration of the permit. Such permit may be ordered renewed by the Board for successive periods of not more than one year each.

**9.5** Nothing herein shall prevent the substantial restoration within one year of any building damaged by fire or any other casualty. Re-establishment of a non-conforming use or structure after a discontinuance of one year is not permitted.

## ARTICLE X. BUILDING STANDARDS

**10.1 BUILDING PERMIT-** No building shall be erected, altered or improved (including prefabricated mobile homes) without having its plans approved and a building permit issued by the Board of Selectmen and / or the Building Inspector.

**10.2 BUILDING PERMITS RENEWAL-** Building permits must be renewed one year after issue if the work has not been completed. There shall be no additional charge for renewal and variances and / or special exceptions need not be reapplied for.

### **10.3 FEES:**

Permit fees are set by the Board of Selectmen upon recommendation of the Planning Board. The **Permit Fee Schedule** is located on the bottom of each permit application. (Adopted March 13, 2012)

**10.4 CERTIFICATE OF OCCUPANCY-** After 5/1/99, all new residential and commercial structures require a Certificate of Occupancy issued by the Town of Tilton before use... In order to secure a certificate of occupancy a structure must be found to be in compliance with all applicable requirements of this Zoning Ordinance approved site plans, stipulations of local Land Use Boards and applicable State laws and regulations. All structures must be completed as approved in applicable building permits. No new structures will be used or occupied without obtaining a certificate of occupancy. Failure to obtain a certificate of occupancy will constitute a violation of the Zoning Ordinance.

**Business Registration;** Any new business moving into existing commercial structure shall require a certificate of occupancy. All new businesses coming into town will be **required to register** with the Land Use Office in the Town of Tilton.

## **10.5 WATER AND SEWERAGE**

**10.5.1** All residential structures shall be equipped with running water.

**10.5.2** All dwelling units and all commercial, public or industrial buildings shall be connected to a sewage disposal system. When a public system is not available, a private **sewer** (sewage) system is required. **Portable toilets (commonly know as port-a-potties) or outhouses shall not be acceptable.** \* The type, size, location, and construction of all septic tanks and drainage fields shall conform to all current rules and regulations promulgated by the NH Water Supply and Pollution Control Commission and shall be approved by both the NHWSPCC and the appropriate town official. Approval by NHWSPCC shall not be binding on the town nor shall such approval by the NHWSPCC negate conformity with the aforementioned rules and regulations. (Amended March 10, 2009)

**\*See paragraph 14.4.1 in ARTICLE XIV WETLANDS CONSERVATION DISTRICT.**

**10.6 FIRE RUINED BUILDINGS -** No owner or occupant of land in any district shall permit fire or other ruins to be left indefinitely, but within one year shall remove or refill the same to clear ground level or shall repair, build, or replace the structure. If

restoration is intended, all burned, charred or otherwise weakened material shall be removed from the original structure.

**10.7 ALLOWED DWELLINGS PER LOT** - No more than one dwelling shall be permitted on any lot except in those zones where apartment houses are permitted, except for any apartment which falls under the following description:

**10.8 FAMILY APARTMENT** - An apartment may be made in, or added to a single family dwelling for relatives of the family. Such apartment shall not be converted to rental for non-family use except where permitted by zoning.

**10.9 OFF STREET PARKING:** Two off street parking spaces required for each unit in condominium, apartment, and multi-family dwellings. (Petition passed at the March 14, 2006 Town Meeting)

**10.10 PERFORMANCE AND PAYMENT BOND** - The developer shall post a performance bond in an amount sufficient to cover the cost of the preparation and installation of streets and the extension of utilities, as well as storm drains, under drains, monuments, erosion control structures, etc. The bond shall be approved by the Board of Selectmen and legal counsel of the Town of Tilton. The bond shall be in an amount of 100% of the estimated cost for the necessary improvements and approved by the Boards of Selectmen and Planning. (See also Town Ordinance Article 12 as amended and adopted March 15, 1980.)

## **ARTICLE XI. ADMINISTRATION**

**11.1 Building Inspector:** The selectmen shall appoint a Building Inspector and he shall administer this Ordinance.

**11.2** Within thirty (30) days after the adoption of this ordinance and thereafter as terms expire or vacancies occur, the Board of Selectmen shall appoint a Board of Adjustment consisting of five members whose duties, terms and powers shall conform to the provisions of Chapter 673, 674, 676, and 677, NH Revised Statutes Annotated, 1983, as amended. Thereafter, as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership of the Board of Adjustment

**11.3** The Board of Selectman shall also appoint to the Board of Adjustment three alternates who shall complement the Board as required.

### **11.4 SPECIAL EXCEPTIONS:**

**11.4.1** The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, grants permits for uses permitted as special exceptions as set forth in the Articles of this ordinance. Before reaching a decision under this Article, three members of the Board shall have viewed the subject area. Said viewing shall be noted in their records. The Board, in acting on the application for special exception, must find that all of the following conditions are met:

**11.4.2** The specific site is an appropriate location for such a use.

**11.4.3** No factual evidence is found that property values in the district will be reduced, due to incompatible land use, by such a use.

**11.4.4** There is no valid objection from the abutters based on demonstrable fact.

**11.4.5** No nuisance or hazard is involved.

**11.4.6** Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

**11.4.7** There is adequate area for safe and sanitary sewage disposal.

**11.5** Action by the Board: In acting on such exceptions, the Board shall take into account the general purpose and intent of this Ordinance to preserve community values and may impose conditions and safeguards in addition to those specified in this Ordinance if the occurrence of certain characteristics of the use of the site warrants such.

**11.6** Two copies of plans for the proposed development of a site for a Special Exception shall be submitted with an application for a permit, and such plans shall show the location of all buildings, parking area, traffic access, and circulation drives, open

spaces, landscaping, lighting, and other pertinent information that may be necessary to determine that the proposed use meets the requirements and spirit and intent of this Ordinance. One copy of said plans shall be transmitted by the Board of Adjustment to the Planning Board for review.

**11.7** The permit shall expire if such use shall cease for more than one (1) year.

**11.8** The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the District and the location, nature, and height of the buildings, walls, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. In this regard the Board may impose the following safeguards in addition to the applicable requirements of this Ordinance including but not limited to the following:

**11.8.1** Front, side, and rear setbacks greater than the minimum requirements of this Ordinance.

**11.8.2** Screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting, or other devices.

**11.8.3** Modification of the exterior features or appearance of the building or structure.

**11.8.4** Limitations of size, number of occupants, method or time of operation or extent of facilities.

**11.8.5** Regulation of number, design and location of drives or other traffic features.

**11.8.6** Control of the number, location and size of lighting and signs.

**11.8.7** Operations in connection with such a use shall not be more objectionable to nearby properties by reason of noise, fumes, odor, or vibration than would be the operation of any permitted uses in the District which are not subject to special exception procedures.

## **11.9 CELLULAR COMMUNICATIONS (Adopted 3/14/2000)**

The advent of wireless telecommunications (cellular phones) has resulted in the need by providers to identify appropriate antenna tower and supporting equipment sites in order to achieve total, uninterrupted and reliable communications for their users. Under the telecommunications reform act of 1996, providers enjoy certain fundamental rights to construct antenna towers in geographically suitable areas without discrimination, prohibition or regulation solely on the basis of radio frequency emissions or radiation. The same act also provides a substantial amount of local control over the placement, construction and modification of personal wireless services. Categories of local control include restriction of tower facilities to specific zoning districts, mitigation of visual impacts (i.e. aesthetics), height restrictions, lot size requirements, multiple user

co-locations, site plan approval and the possibility of local intervention by those with direct interest in tower site location.

Processing of an application for special exception to place a telecommunications tower within the Rural Agricultural or Industrial District shall be a two-part process involving the Board of Adjustment and the Planning Board with possible input from the Conservation Commission when required. In Addition to Articles 11.2.2.3.1 through 11.2.2.3.6, the Board of Adjustment shall consider:

- a. The safety and protection of surrounding properties by requiring adequate setbacks as related to height of the tower, guide wires and accessory buildings.
- b. The use of adequate security fencing to preclude intrusion by unauthorized persons.
- c. Mitigation of visual impacts by camouflaging the tower where possible; vegetation and/or berms for surface concealment.
- d. Provision that more than one provider will be permitted to share the proposed tower.
- e. Assurance that surrounding property values will not be adversely affected by the present of a tower complex.

Other criteria unique to wireless telecommunications and tower complexes are contained in Tilton Site Plan Regulations to be considered by the Planning Board.

#### **11.10 BED AND BREAKFAST: (Adopted 3/09/04)**

**11.10.1 Purpose:** The purpose of the Bed and Breakfast establishment section is to protect the health, safety and public welfare by achieving the following:

To regulate Bed and Breakfast establishments to insure compatibility with the surrounding neighborhoods in residential districts.

#### **11.10.2 REVIEW REQUIREMENTS:**

1. Bed and Breakfast establishments shall require a special exception from the Zoning Board.
2. Applicant shall submit the information required for a site plan review and approval.

#### **11.10.3 MINIMUM REQUIREMENTS:**

1. Bed and Breakfast establishment and operation shall be located within an existing owner-occupied single family dwelling containing a minimum of 4 bedrooms.
2. Not more than forty five (45) percent of the entire habitable living space shall be allocated for Bed and Breakfast establishment purposes.
3. The owner of the property shall be responsible for the operation of the property and shall be a resident of the property when the Bed and Breakfast establishment is in operation.
4. The single family residence in which the Bed and Breakfast operation is located shall be maintained so that the appearance of the building and grounds remain that of a single family residence.

5. There shall be at least one (1) bathroom solely dedicated to the guest of the Bed and Breakfast establishment.
6. Parking for a Bed and Breakfast facility shall be located on the premises. There shall be two (2) parking spaces for the home owner and one (1) parking space for each room that the Bed and Breakfast establishment has available for rent to guests.
7. Signage will be complaint with the Tilton zoning regulations.
8. Bed and Breakfast facilities must be complaint with all State Fire and Health Codes.
9. On site septic systems must be verified by a septic site assessment conducted by a licensed septic designer or design plan approved by the NH DES.

### **11.11 HOME BUSINESS (Adopted 3/09/04)**

**Purpose:** The purpose of this regulation is to,

1. Protect residential areas from the adverse impacts of activities associated with home businesses.
2. Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income and;
3. Establish standards for home businesses conducted in dwelling units and their accessory structures.

#### **11.11.1 REVIEW REQUIREMENTS:**

All new home businesses will be required to do a site plan review.

#### **11.11.2 MINIMUM REQUIREMENTS:**

1. A home business shall be conducted in a manner that does not give an outward appearance of, or manifest characteristics of a business, or would infringe on the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units, or infringe upon or change the intent of the residential zoning district in which it is located. Therefore, there shall not be any outside storage or window display and noise, dust, odors, noxious fumes, radioactive emissions, or vibrations emanating from the premises should not exceed that which is normally produced by a single dwelling unit. Mechanical or electronic equipment, which is incidental to the home business, may be used provided it does not create visible or audible interference in radio or television receivers or cause fluctuations in line voltage off the premises. The home business shall not interfere with the delivery of utilities or other services to the area.
2. The business should not generate significantly greater traffic volume than would normally be expected in a residential district in which the home business is conducted. Generally, delivery and pick-up of materials or commodities to and from the premises by a commercial vehicle should not exceed two trips per

week, except local deliveries such as UPS, FED EX, ETC, or US Postal deliveries.

3. Only one commercial vehicle associated with the activities of the home business may be parked on site. One additional customer on-site parking space shall be required for the home business.
4. Home businesses will abide by all local, State and Federal law as well as the State Fire and Health Codes.

**11.12 VARIANCES:** The Board of Adjustment may authorize a variance from the term of this Ordinance only where the Board finds that all of the following conditions, defined in RSA 674:33 I, II, and III apply.

**11.12.1** There are special circumstances or conditions applying to the lot or structure for which the variance is sought such as, but not limited to, the exceptional narrowness, shallowness, or shape of the lot or structure in question or exceptional topographic conditions which are peculiar to such lot or structure, and application of the requirements of this Ordinance will deprive an owner of such lot or structure a reasonable use of it, and will impose upon such owner a hardship not shared by the owners of other lots or structures in the same district.

**11.12.2** The specific variance as granted is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the lot or structure.

**11.12.3** The granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and with the convenience, welfare, and character of the district within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.

**11.12.4** The use proposed is a permitted use.

**11.12.5** A variance not implemented within two years of the date of the approval or other time period specified in the Notice of Decision shall automatically expire.

**11.12.6** All variance approvals prior to March 2011 become null and void if a zoning amendment that affects the variance approval is enacted before the variance is implemented.

**11.13 APPEALS:** Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer, in the manner prescribed by RSA 676: 5-7, as amended, within the time limit set by the Board of Adjustment according to said statute. The cost of advertising and costs of mailing and the notices of a hearing shall be paid by the person making the appeal prior to the hearing.

## XII SEXUALLY ORIENTED BUSINESS (Adopted 3/14/2000)(Amended 3/13/2001)

**12.1 Purpose:** It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, and general welfare of the citizens of the Town of Tilton and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town of Tilton. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restrictions on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

**12.2 Definitions:** For the purposes and intent of this ordinance and to clearly define the various types of sexually oriented businesses and their associated activities, the following accepted definitions are included:

**a. Adult arcade.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

**b. Adult bookstore or adult video store.** An establishment which, as one of its principal business purposes, offers for sale or rental, or for any other form of consideration, any one of the following:

- (1) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, or other video reproductions, slides, computer software, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (2) Instruments, devices, or paraphernalia, which are designed for use in connection with "specified sexual activities".

**c. Adult cabaret.** A nightclub, bar, restaurant, or similar commercial establishment, or a private membership, fraternal membership, or social club which regularly features:

- (1) Live performances, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or
- (2) Films, motion pictures, video cassettes, or other video reproductions, slides computer software, or other visual representations, which depict or describe "specified sexual activities" or "specified anatomical areas".

- d. **Adult motion picture theater.** An establishment where, for any form of consideration, films, motion pictures, video cassettes, or other video reproductions, slides, other photographic representation are regularly shown which depict or describe “specified sexual activities”.
- e. **Adult theater.** A theater, concert hall, auditorium, or similar place of public assembly which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.
- f. **Nude model studio.** A commercial establishment where a person who appears and displays “specified anatomical areas” and is observed, sketched, drawn, painted sculptured, photographed, or similarly depicted by other persons who pay money and any other form of consideration.
- g. **Principal business purpose.** A principal business purpose shall be deemed to exist, for the purpose of article, if ten percent, (10%) or more of the gross floor area of a business is devoted to the sale, display, depiction, or expression of “specified sexual activities”, “specified anatomical areas”, or instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities”.
- h. **Specified anatomical areas.** Human genitals, anus and female breasts.
- i. **Specified sexual activities.** Specified sexual activities means and includes any of the following:
- 1) Human masturbation, sexual intercourse, oral copulation or sodomy, actual or alone or between members of the same or opposite sex or between humans and animals;
  - 2) Fondling or erotic touching of human genitals, anus, pubic region, buttocks, or female breasts; or
  - 3) Excretory functions, flagellation or torture as part of or in conjunction with any of the activities set forth in 1 and 2 above.

### 12.3 Conditions:

- a. **Signs:** Signs shall not include images, pictures or text which refer to “specified sexual activities”, or “specified sexual activities”, or “specified anatomical areas”, or instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities”.

#### b. Location Requirements:

##### **Minimum Setbacks for Certain Uses:**

A sexually oriented business shall not be located within 500 feet of any property line of any of the following;

- 1) a public or private school;

- 2) a child day care facility or nursery school;
- 3) a publicly owned indoor or outdoor recreational facility; or
- 4) a church or synagogue

**Minimum Setbacks for Certain Zoning Districts:**

A sexually oriented business shall not be located within 500 feet of any of the following zoning district boundaries;

- 1) Village Residential
- 2) Mixed Use
- 3) Medium Density Residential
- 4) Rural Agricultural
- 5) Downtown

**Minimum Separation between Sexually Oriented Businesses:**

There shall be a minimum of 1000 feet of separation between the locations of sexually oriented businesses.

**Screening Requirements:**

“Specified sexual activities” or “specified anatomical areas”, including instruments, devices, or related paraphernalia, or any images of same, shall not be visible in any fashion whatsoever from the exterior of the building in which the business is located.

## ARTICLE XIII FLOODPLAIN DEVELOPMENT ORDINANCE

**Note:** This lengthy Article, as completely re-written in late 1989, was adopted at Town Meeting on March 13, 1990.

FLOOD HAZARD BOUNDARY MAP	FLOOD INSURANCE RATE MAP	FLOOD BOUNDARY FLOODWAY MAP	FEDERAL EMERGENCY MANAGEMENT AGENCY
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This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Tilton, NH Floodplain Development Ordinance.

The regulations in this ordinance shall overlay and supplement the regulations in the Town of Tilton 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 Study for the Town of Tilton, N.H. " together with the associated Flood Insurance Rate Maps, and Flood Boundary and Floodway Maps of the town dated May 1, 2079 which are declared to be a part of this ordinance and are hereby incorporated by reference.

**13.1 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 Tilton.

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

**13.1.3 AREA OF SPECIAL FLOOD HAZARD** is the land in the floodplain within the Town of Tilton subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FHBM and is designated on the FIRM as zones A2-A30.

**13.1.4 BASE FLOOD** means the flood having a one-percent possibility of being equaled or exceeded in any given year.

**13.1.5 BASEMENT** means any area of a building having its floor sub-grade on all sides.

**13.1.6 BUILDING** --SEE STRUCTURE.

**13.1.7 BREAKAWAY WALL** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

**13.1.8 DEVELOPMENT:** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**13.1.9 FEMA** means the Federal Emergency Management Agency.

**13.1.10 FLOOD OR FLOODING** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

**13.1.11 FLOOD BOUNDARY AND FLOODWAY MAP** (Floodway Map) is an official map Of the Town of Tilton, NH on which **FEMA** has delineated the **REGULATORY FLOODWAY**. This map should not be used to determine the correct flood hazard zone or base flood elevation, the **FLOOD INSURANCE RATE MAP (FIRM)** will be used to make determinations on flood hazard zones and base flood elevations.

**13.1.12 FLOOD ELEVATION STUDY** means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

**13.1.13 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 Tilton, NH.

**13.1.14 FLOOD INSURANCE STUDY-** SEE FLOOD ELEVATION STUDY.

**13.1.15 FLOODPLAIN OR FLOOD-PRONE AREA** means any land area susceptible to being inundated by water from any source (see definition of FLOODING.)

**13.1.16 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 improve real property, water and sanitation facilities, structures and their contents,

**13.1.17 FLOODWAY--** SEE REGULATORY FLOODWAY

**13.1.18 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.

**13.1.19 HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of structure.

**13.1.20 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.

**13.1.21 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.

**13.1.22 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.

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

**13.1.24 100-YEAR FLOOD**--see BASE FLOOD

**13.1.25 RECREATIONAL VEHICLE** means 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; &
- d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

**13.1.26 REGULATORY FLOODWAY** means the channel of a river or other watercourse and 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 floodway on the Flood Boundary and Floodway Map.

**13.1.27 SPECIAL FLOOD HAZARD AREA** means an area having flood, mudslide, and or flood-related erosion hazards, and shown on the FHBM or FIRM as zone A1-A30.  
(See  
AREA OF SPECIAL FLOOD HAZARD)

**13.1.28 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.

**13.1.29 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 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 of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

**13.1.30 SUBSTANTIAL DAMAGE:** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**13.1.31 SUBSTANTIAL IMPROVEMENT:** means any combination of repairs,

reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds (50) 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 improvements” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**13.1.32 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.

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

**13.3** The Building Inspector shall review all building permit applications for new construction 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:

- 1) 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,
- 2) be constructed with materials resistant to flood damage,
- 3) be constructed by methods and practices that minimize flood damages,
- 4) 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.

**13.4** Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the 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.

**13.5.** For all new or substantially improved structures located in Zones A1-A30, 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 flood-proofed, the as-built elevation (in relation to

- c) NGVD) to which the structure was flood-proofed.  
any certification of flood-proofing.

**13.6** The Building Inspector shall not grant a Building Permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

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

**13.8.** 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.

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

**13.10** Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-A30 on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**13.11.** In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation according to the data available for zones A1-A30, referring to the elevation data provided in the Town's Flood Flood Insurance Study and accompanying FIRM or FHBM.

**13.12** The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in zones A1-A30 that: zones

- a. all new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevations;
- b. that all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above

the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

- 1.) be flood-proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the 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;
- c. Recreational vehicles placed on sites within Zones A1-A30 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) of Section 60.3
- d. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top of frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements;
1. the enclosed area is unfinished or flood resistant, usable solely for the of 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 met 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 or exit of floodwaters.

### **13.13 VARIANCES AND APPEALS**

1. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law.
  - a. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - b. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - c. that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
  - 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.

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

As completely re-written, adopted at Town Meeting, March 13, 1990.  
 Amended Town Meeting, March 12, 1991.  
 Amended Town Meeting , March 8, 1994.

## **ARTICLE XIV WETLANDS CONSERVATION DISTRICT**

### **14.1 PURPOSE**

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

### **14.2 INTENT**

14.2.1 It is intended that this chapter shall:

- Prevent the development of structures and land uses on naturally occurring wetlands, which will contribute to the pollution of surface and groundwater by sewage and/or toxic substances.
- Prevent the destruction of, or significant changes to, natural wetlands, which provide flood protection.
- Protect unique and unusual natural areas.
- Protect residents against the dangers of increased flooding.
- Protect wildlife habitats and maintain ecological balance.
- Protect potential water supplies and existing aquifers and aquifer recharge areas.
- Prevent expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.
- Encourage those low-intensity uses that can be harmoniously, appropriately, and safely located in and around wetlands.

### **14.2 APPLICABILITY**

14.2.1 All proposed development, removal of vegetation, and alteration of the land surface within the Wetlands Conservation District is subject to this ordinance.

### **14.3 DISTRICT BOUNDARIES**

14.3.1 The Wetlands Conservation District includes:

- Surface waters.
- Wetlands.
- Buffers 100 feet wide around bogs over 1,000 square feet, vernal pools over 500 square feet, wetlands of any size adjacent to open water, and all other wetlands over 40,000 square feet.
- Buffers 20 feet wide around all other wetlands and surface waters

14.3.2 Wetlands constructed for stormwater treatment, agricultural use, waste treatment or other such purpose are exempt from the provisions of the Wetlands Conservation District.

- 14.3.3 If a boundary of the Wetlands Conservation District is disputed by either the Planning Board or an applicant, the exact location of the boundary shall be determined by the Planning Board in consultation with the Conservation Commission. The Planning Board, at the applicant's expense, may engage a certified wetland scientist to determine the precise location of the Wetland Conservation District boundary, using the methodology consistent with N.H. Administrative Rules Wt 100-800 (as revised). In the alternative, the applicant may retain such a scientist, acceptable to the Planning Board and the Conservation Commission, to make such determination. A report of the scientist's findings shall be submitted to the Planning Board and the Conservation Commission, and shall include, if warranted, a revised wetland map of the area in question along with a written report of the results of the investigation together with any data forms completed.
- 14.3.4 Relation to Other Districts – Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply. Where any provision of this ordinance is in conflict with State law or other local ordinance, the more stringent provision shall apply.

#### **14.4 PERMITTED USES**

- 14.4.1 The uses listed below are presumed to be consistent with the protection of wetland functions and values when in accord with the following and so are allowed in the Wetlands Conservation District without a Conditional Use Permit. These uses will not:
- Require the erection or construction of any structure.
  - Alter the natural surface configuration by re-contouring or grading of the land.
  - Involve filling, dredging, or draining of the wetland.
  - Change the flow of water.
  - Result in the pollution of the wetlands, surface water, or groundwater.
  - Involve substantial clearing of vegetation, except for the purposes of agriculture or forest management in accord with current best management practices.
- 14.4.2 Permitted uses include:
- Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating.
  - Wildlife or fisheries management.
  - Scientific research and educational activities.
  - Normal grounds maintenance including mowing and trimming of live vegetation and removal of dead or diseased vegetation, but not to include regrading or removal or clearing of vegetation.
  - Forest management in the wetland buffer, consistent with best management practices published by the NH Department of Resources and Economic Development and UNH Cooperative

Extension.

## 14.5 PROHIBITED USES

- 14.5.1 The following uses may not be established or expanded within the Wetlands Conservation Overlay District:
- Structures, except as provided in Section 14.6: Conditional Uses.
  - Salt storage.
  - Storage and disposal of snow and ice collected from roadways and parking areas.
  - Automobile junkyards.
  - Solid or hazardous waste facilities.
  - Use of fertilizer on lawns, except lime or wood ash.
  - Bulk storage or handling of chemicals, petroleum products or hazardous materials.
  - Sand and gravel excavations.
  - Processing of excavated materials.
  - Impervious surfaces, unless associated with a use approved as a Conditional Use.
  - Activities which result in soil compaction such as parking vehicles or heavy equipment, unless associated with a use approved as a Conditional Use.
  - Underground tanks.

## 14.6 CONDITIONAL USES

- 14.6.1 All activities in the Wetland Conservation Overlay District not listed in Section 14.4: Permitted Uses, above are presumed to impair the wetland functions and values unless proven otherwise by the applicant as provided below. The following uses may be granted a Conditional Use Permit by the Planning Board:
- Accessory structures in the wetland buffer associated with legally preexisting primary structures if it is demonstrated that no practicable alternative exists elsewhere on the lot.
  - The construction, repair, or maintenance of streets, roads, and other access ways, including driveways, footpaths, bridges, and utility right of way easements including power lines and pipe lines, if essential to the productive use of land adjacent to the Wetlands Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize any detrimental impact upon the wetlands and consistent with state recommended design standards (see Fish and Game Department 2008), and only if no viable alternative is available.
  - Agricultural activities consistent with best management practices as published by the NH Department of Agriculture Markets and Food.
  - Water impoundments for the purpose of creating a waterbody for wildlife, fire safety, or recreational uses. Conditional Use Permits

may be granted for impoundments for on-site detention of stormwater runoff in buffers only.

- Activities involving draining, dredging, filling or activities altering the flow of water.
- Other uses that the applicant proves will not interfere with the wetlands functions and values, water quality or value as wildlife habitat, pursuant to Section 14.2.1.

## **14.7 SPECIAL PROVISIONS**

- 14.7.1 No septic tank or leach field may be constructed or enlarged for a more intensive use closer than one hundred twenty five (125) feet to any wetland.
- 14.7.2 No part of a wetland may be considered as part of the minimum size requirement of any lot.
- 14.7.3 All construction, forestry and agricultural activities within one hundred feet (100') of any wetland shall be undertaken with special care to avoid erosion and siltation into the wetlands. When deemed necessary a Sediment and Erosion Control Plan, approved by a certified soil scientist or registered professional engineer, may be required by the Code Enforcement Officer or the Planning Board.

## **14.8 NONCONFORMING USES**

- 14.8.1 Expansion of a nonconforming use or structure may be allowed by the zoning board of adjustment in the wetland buffer provided that the encroachment upon the wetland is not increased and review by the conservation commission finds that any potential increased impact upon the wetland functions will be mitigated.

## **14.9 CONDITIONAL USE PERMIT**

- 14.9.1 Application for a Conditional Use Permit shall be made on forms supplied by the Planning Board and shall include a site plan containing the following information on one or more sheets at a scale of 1 inch = 100 feet or larger, and a report demonstrating compliance with the requirements listed below in Section 14.9.2:
- North arrow and date.
  - Property lines.
  - Locus map showing adjacent wetlands and other significant hydrological features.
  - Names and addresses of abutting property owners and holders of conservation restrictions and easements.
  - Name and certification number of certified wetland scientist
  - Wetland limit and wetland buffer.
  - Soil types.

- Vegetation types.
- Topographic contours at no greater than 5 foot intervals.
- Surface drainage patterns, intermittent and year-round.
- Existing and proposed development, removal of vegetation, and alteration of the land surface.
- Computation of the area to be impacted, in square feet of surface area and cubic yards of cut and fill.
- Stormwater management proposed during and after construction.

#### 14.9.2

The Planning Board shall consider all relevant facts and circumstances in making its decision on any application for a permit and shall make findings that the project is both consistent with the purposes of this ordinance and minimizes impacts to the wetland and buffers, including but not limited to the following:

- The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and values of wetlands and wetland buffers, including but not limited to the capacity of the wetland to:
  - Support fish and wildlife
  - Prevent flooding
  - Supply and protect surface and ground waters
  - Control sediment
  - Control pollution
  - Support wetland vegetation
  - Promote public health and safety
  - Moderate fluctuations in surface water levels.
- The proposed activity will have no negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources, including:
  - Erosion
  - Siltation
  - Turbidity
  - Loss of fish and wildlife
  - Loss of unique habitat having demonstrable natural, scientific, or educational value
  - Loss or decrease of beneficial aquatic organisms and wetland plants.
  - Dangers of flooding and pollution.
  - Destruction of the economic, aesthetic, recreational and other public and private uses and values of the wetlands to the community.
- The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer.

- The proposed activity utilizes applicable best management practices.
- Federal and/or state permit(s) have been received for the proposed activity in accordance with N.H. Administrative Rules Env-Wt 100-800 and the Federal Clean Water Act Section 404 Permit.
- Where applicable, proof of compliance with all other state and/or federal regulations has been received.

14.9.3 The Planning Board, in acting on an application for a conditional use permit in the Wetlands Conservation Overlay District, may attach conditions to its approval including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces.

14.9.4 Prior to making a decision, the Planning Board shall afford the Conservation Commission an opportunity to provide comment, and shall consider any such comments provided.

#### **14.10 IDENTIFICATION OF BUFFER**

14.10.1 For uses or activities which involve construction within 25 feet of the wetland buffer, the boundary of the buffer shall be marked with orange construction fencing or silt fence as appropriate prior to the commencement of construction activities. Such fencing shall be maintained throughout the construction process.

**ARTICLE XV TILTON GROUNDWATER PROTECTION ORDINANCE (Adopted 3/9/10) (Re-adopted 3/8/11)**

**A. AUTHORITY**

The Town of Tilton hereby adopts this ordinance pursuant to the authority granted under RSA 674:16, in particular RSA 674:16-II relative to innovative land use controls.

**B. PURPOSE**

The purpose of this ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to aquifers identified as being needed for present and/or future public water supply.

See Article XV.E for applicability to preexisting uses.

**C. DEFINITIONS:**

- › **Aquifer:** a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.
- › **Biosolids/Sludge:** Sludge is an organic solid, semi-solid, or liquid by-product of the wastewater treatment process. Sludge characteristics vary depending on each treatment facility's waste stream and the processes that are used. Sludge that meet EPA standards for land application, which include reduction or elimination of pathogens and very low limits for heavy metals, are referred to as Biosolids.
- › **Gasoline station:** means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.
- › **Groundwater:** subsurface water that occurs beneath the water table in soils and geologic formations.
- › **Impervious:** not readily permitting the infiltration of water.
- › **Impervious surface:** a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.
- › **Junkyard:** an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The work does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.
- › **Overlay district:** A district that is superimposed over one or more zoning districts

or parts of districts and that imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.

- › **Outdoor storage:** storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.
- › **Petroleum bulk plant or terminal:** means that portion of the proper where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.
- › **Public water system:** a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
- › **Regulated substances:** means any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, and potassium permanganate: (1) Oil as defined in RSA 146-A:2, III; (2) Any substance that contains a regulated contaminant for which an ambient groundwater quality standards has been established pursuant to RSA 485-C:6; and (3) Any substance listed in 40 CFR 302, 7-1-05 edition.
- › **Sanitary protective radius:** The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or Env-Dw 302 (for community water systems); Env-Dw 372.14 and Env Dw 373.12 (design standards for small community and non-community public water systems, respectively).
- › **Seasonal high water table:** elevation of the highest annual average groundwater table location and soils data; boring logs may be submitted separately.
- › **Secondary containment:** a structure such as a berm or dike with an impervious surface which is adequate to hold at least 100% of the volume of the largest container holding regulated-substances. Secondary containment areas must be covered if regulated substances are stored outside.
- › **Snow dump:** For the purposes of this ordinance, a location where snow which is cleared from roadways and/or motor vehicle parking is placed for disposal.
- › **Stratified-drift aquifer:** A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand silt, or clay which contains sufficient saturated permeable material to yield significant quantities of water to wells.
- › **Surface water:** streams, lakes, ponds, and tidal waters, including marshes, water-courses and other bodies of water, natural or artificial.
- › **Wellhead protection area:** The surface and subsurface area surrounding water well or well field supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

#### **D. GROUNDWATER PROTECTION DISTRICT**

The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Stratified-drift Aquifers as found within the Geohydrology and Water Quality of

Stratified-Drift Aquifers in the Winnepesaukee River Basin, Central New Hampshire (USGS 1997) shown on the map entitled “Groundwater Protection District Map of Tilton, NH, September 2009”, adopted concurrent with this Ordinance.

District Boundary Disputes: If the location of the Groundwater Protection District in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through application for determination to the Planning Board. The burden of proof shall be upon the owner(s) of the land to demonstrate where the boundaries of the district with respect to their individual parcel(s) of land should be located. Upon application for determination, the Planning Board may engage a professional engineer, hydrologist, geologist, or soil scientist at the expense of the owner(s) for the cost of the investigation. Based on evidence and findings, the Planning Board may adjust the boundary of the Groundwater Protection District or reduce or expand the designation area to more correctly define the location and the extent of the aquifer on a site-specific, case by case basis and shall incorporate such adjustments onto the “Groundwater Protection District Map of Tilton, NH, September 2009”.

**E. APPLICABILITY**

This Ordinance applies to all uses in the Groundwater Protection District, except for those uses exempt under Article XV.J (Exemptions) of this Ordinance.

Preexisting uses not specifically exempt shall comply with Article XV.I, Performance Standards, 1 thru 7. In addition, preexisting Conditional Uses shall comply with Performance Standard 8.c.

**F. PERMITTED USES**

All uses permitted by right or allowed by special exception in the underlying district that are also located within the Groundwater Protection District remain permitted by right or still require a special exception, as applicable, unless they are Prohibited Uses under this Ordinance.

Uses identified as Conditional Uses under this Ordinance also require a Conditional Use Permit. In the instance that both a Special Exception and a Conditional Use Permit are required, the Special Exception shall be approved prior to the Conditional Use Permit.

All uses must comply with the Performance Standards unless specifically exempt under Article XV.J.

See Article XV.E for applicability to preexisting uses.

**G. PROHIBITED USES**

The following uses are prohibited in the Groundwater Protection District:

5. The development or operation of a hazardous waste disposal facility as defined under RSA 147-A;
6. The development or operation of a solid waste landfill;

7. The outdoor storage of road salt or other deicing chemicals in bulk;
8. The development or operation of a junkyard;
9. The development or operation of a snow dump;
10. The development or operation of a wastewater or septage lagoon;
11. The development or operation of a petroleum bulk plant or terminal;
12. The development or operation of gasoline stations;
13. The development or operation of sludge monofills;
14. Storage of animal manure unless covered or contained in accordance with the specifications of the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;
15. Facilities that generate, treat, store, or dispose of hazardous waste subject to Env-Hw 500-900 except for:
  - α. household hazardous waste centers and events regulated under Env-Hw 401.03(b)(1) and Env-Hw 501.01(b); and;
  - β. water remediation treatment works approved by NH DES for the treatment of contaminated ground or surface waters;
16. Non-sanitary treatment works which discharge to the ground and that are subject to Env-Wq 402, except the following:
  - α. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - β. treatment works approved by NH DES designed for the treatment of contaminated groundwater;
17. Storage of regulated substances in greater than household quantities (> 5 gallons), unless in a free-standing container within a building or above ground with covered secondary containment adequate to contain 110% of the largest container's total storage capacity;
18. Storage of fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
19. Excavation or Mining within four feet of Seasonal High Water Table (average) as determined by a certified hydrogeologist or recent technical study. Water table depth shall include information provided from test pits that extend to either the seasonal high water table, ledge, or to a minimum of six feet below the maximum proposed excavation depth, including location and soils data.

#### **H. CONDITIONAL USES**

The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted within 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 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Article XV.1,8(c), is approved by the Tilton Code Enforcement Officer;

2. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.
3. In granting a Conditional Use Permit:
  - a. The Planning Board must determine that the proposed use is not a prohibited use;
  - b. Conditional Uses shall also be in compliance with the Performance Standards in Article XV.I as well as all applicable local, state and federal requirements;
  - c. The Planning Board may, at its discretion, require a performance or other surety bond, in an amount and with conditions satisfactory to the Board, to ensure completion of construction of any facilities required for compliance with the Performance Standards.
4. The Planning Board may require that the applicant provide data or reports prepared by a licensed professional geologist or certified soils scientist to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires at the expense of the applicant to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria.

#### **I. PERFORMANCE STANDARDS**

The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under Article XV.J:

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, August 2005, and any subsequent revisions;
2. All regulated substances stored in containers with a capacity of 5 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 with a cover must be provided for outdoor storage of regulated substances if an aggregate of regulated substances exceeding 5 gallons are stored outdoors on any particular property;
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 or abandoned 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. In addition Conditional Uses shall:
- a. Develop and submit a stormwater management and pollution prevention plan and shall include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators. (US EPA 2009) The plan shall demonstrate that the use will:
    - i. Minimize the release of regulated substances into stormwater through a source control plan that identifies pollution prevention measures;
    - ii. Demonstrate that stormwater systems are designed to treat expected contaminants sufficiently in order to ensure that groundwater quality will not be degraded and result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;
    - iii. Stipulate that expansion or redevelopment activities may, at the discretion of the Planning Board, require an amended stormwater plan;
    - iv. 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).
  - b. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall also be consistent with the New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Sciences and Aquifer Protection Best Management Practices, Tri-Town Aquifer Project Protecting Shared Drinking Water Resources, Lakes Region Planning Commission, April 2007.
  - c. For any use of regulated substances, a spill control and countermeasure (SPCC) plan shall be submitted to the Code Enforcement Officer who 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. The SPCC plan shall include:
    - i. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;
    - ii. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment;
    - iii. A list of all regulated substances in use and locations of use and storage;
    - iv. 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;

- v. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

## **J. EXEMPTIONS**

The following uses are exempt from the specified provisions of this ordinance provided they comply with all other applicable local, state, and federal requirements:

1. Any private residence is exempt from all Performance Standards;
2. A mobile fuel tank specifically manufactured for the purpose of being transported from site to site for the sole purpose of fueling motor vehicles and/or equipment, provided fuel transfers are conducted over an impervious area and utilize portable spill containment equipment with trained personnel present during transfers. Said tank, transportation and fueling shall comply with all other applicable Regulations.
3. 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 3;
4. 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 3 through 6.
5. Storage and use of office supplies is exempt from Performance Standards 3 through 6;
6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 3 through 6 if incorporated within the site development project within six months of their deposit on the site;
7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;
8. 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 3 through 6;
9. Underground storage tank systems and above ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article XV.L of this ordinance.

## **K. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS**

Whenever a provision of this ordinance differs from the requirements imposed by the State of New Hampshire, or by some other town ordinance, the provision which imposes the greater restriction or higher standard shall govern.

## **L. MAINTENANCE AND INSPECTION**

1. 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 Belknap County. The description so prepared shall comply with the requirements of

RSA 478:4-a.

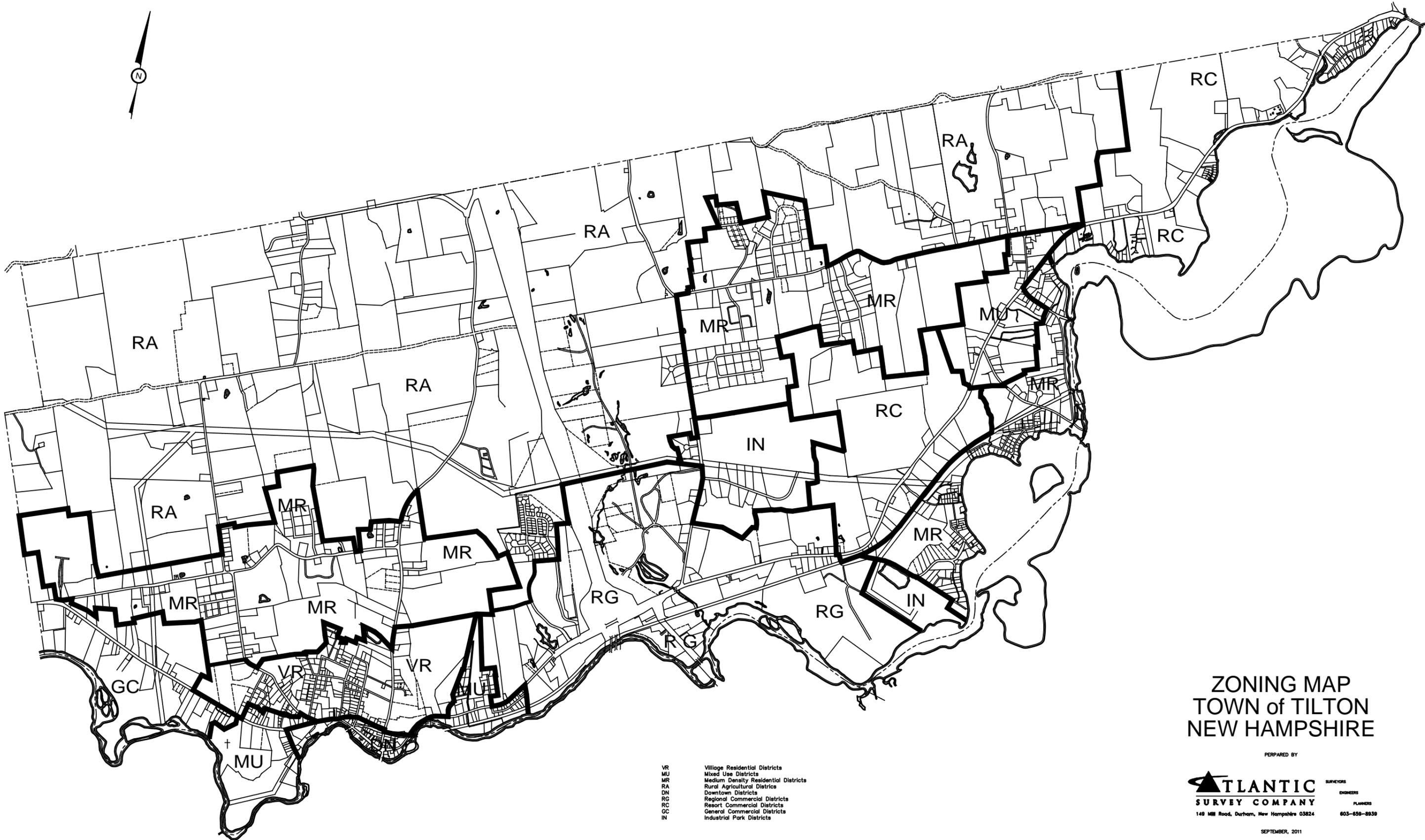
2. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Tilton Code Enforcement Officer at reasonable times with prior notice to the landowner.
3. All properties within the Groundwater Protection District known to the Tilton Code Enforcement Officer as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance Under Article XV.J, shall be subject to inspections under this Article.
4. 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.

**M. SAVING CLAUSE**

If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the ordinance.

**N. EFFECTIVE DATE**

March 13, 2013



VR Village Residential Districts  
MU Mixed Use Districts  
MR Medium Density Residential Districts  
RA Rural Agricultural Districts  
DN Downtown Districts  
RG Regional Commercial Districts  
RC Resort Commercial Districts  
GC General Commercial Districts  
IN Industrial Park Districts

# ZONING MAP TOWN of TILTON NEW HAMPSHIRE

PREPARED BY



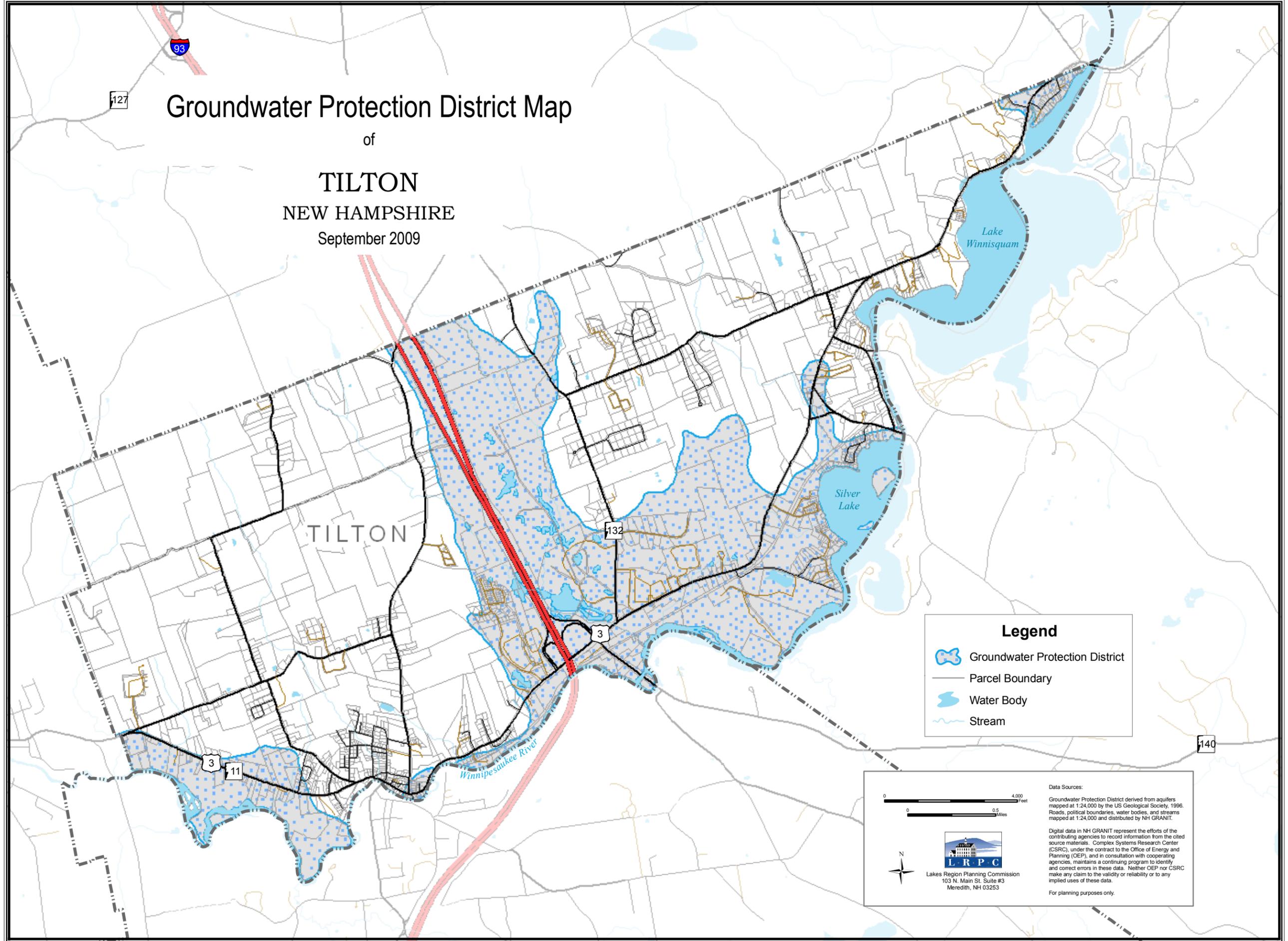
149 Mill Road, Durham, New Hampshire 03824

SURVEYORS  
ENGINEERS  
PLANNERS  
603-659-8939

SEPTEMBER, 2011

# Groundwater Protection District Map

of  
**TILTON**  
NEW HAMPSHIRE  
September 2009



**Legend**

- Groundwater Protection District
- Parcel Boundary
- Water Body
- Stream



**Data Sources:**  
Groundwater Protection District derived from aquifers mapped at 1:24,000 by the US Geological Society, 1998. Roads, political boundaries, water bodies, and streams mapped at 1:24,000 and distributed by NH GRANIT.  
Digital data in NH GRANIT represent the efforts of the contributing agencies to record information from the cited source materials. Complex Systems Research Center (CSRC), under the contract to the Office of Energy and Planning (OEP), and in consultation with cooperating agencies, maintains a continuing program to identify and correct errors in these data. Neither OEP nor CSRC make any claim to the validity or reliability or to any implied uses of these data.  
For planning purposes only.

CHART OF PERMITTED USES												
MARCH 13, 2012												
Legend:												
P = Permitted												
S = Special Exception												
N = Not Permitted												
USE	VR	MU	MR	RA	DN	RG	RC	GC	IN			
<b>I. PRINCIPAL USES</b>												
<b>A. RESIDENTIAL</b>												
1. Single Family	P	P	P	P	N	N	P	N	N			
2. Apartments, Condominiums, Multi-Family	P	P	N	N	P	N	N	N	N			
3. Rooming House	P	P	N	N	P	N	P	N	N			
4. Manufactured Housing - Parks & Subdivisions	N	N	N	P	N	N	N	N	N			
5. Cluster Development	N	N	P	P	N	N	P	N	N			
6. Conversion of an Existing Residential Structure to multiple dwelling units.	P	S	N	N	P	N	N	N	N			
<b>B. PUBLIC AND INSTITUTIONAL</b>												
1. Churches	P	P	S	N	P	N	P	P	N			
2. Schools												
a. Elementary	P	P	P	N	N	N	S	N	N	MU	MIXED USE	
b. Secondary	P	P	P	N	N	N	S	N	N	VR	VILLAGE RESIDENTIAL	
c. Trade or Vocational	S	P	N	N	S	N	S	P	P	MR	MEDIUM DENSITY RESIDENTIAL	
d. College, University	N	P	N	N	N	N	S	P	N	RA	RURAL AGRICULTURE	
3. Hospitals/Sanitarium	N	P	N	N	N	N	S	P	N	DN	DOWNTOWN	
4. Nursing Homes	S	P	S	N	P	N	S	P	N	RG	REGIONAL COMMERCIAL	
5. Child Day Care Facility	S	S	S	P	N	S	P	P	S	RC	RESORT COMMERCIAL	
6. Adult Care Facility	S	P	S	P	P	N	P	P	S	GC	GENERAL COMMERCIAL	
7. Libraries and Museums	P	P	N	S	P	N	P	P	N	IN	INDUSTRIAL	
8. Social, Fraternal Clubs and Lodges	N	P	N	N	P	N	P	P	S			
9. Municipal and Public Works Facilities	S	S	S	S	P	P	P	P	P			
10. Cemeteries	N	P	P	P	N	N	N	N	N			
11. Essential Public Utilities & Appurtenances	S	S	S	S	P	P	P	P	P			
12. Communication Towers/Antennas	N	N	N	S	N	N	N	N	S			
<b>C. RECREATION &amp; ENTERTAINMENT</b>												
1. Municipally Owned Recreational Facilities	S	S	S	P	P	P	P	P	N			
2. Privately Owned Outdoor Recreational Facility	S	S	S	P	N	S	P	S	N			
3. Indoor Commercial Recreational/Amusement Facilities	N	S	N	N	S	S	P	S	N			
4. Movie Theater or Concert Hall	N	N	N	N	P	P	P	P	N			
<b>APPENDIX B</b>												
										PAGE 1		

CHART OF PERMITTED USES											
MARCH 13, 2012											
<b>Legend:</b>											
<b>P = Permitted</b>											
<b>S = Special Exception</b>											
<b>N = Not Permitted</b>											
USE	VR	MU	MR	RA	DN	RG	RC	GC	IN		
<b>C. RECREATION &amp; ENTERTANINMENT con't</b>											
5. Campgrounds or Youth Camps	N	N	S	S	N	N	P	N	N		
6. Recreational Vehicle Parks	N	N	N	S	N	N	P	N	N		
7. Sales and Rental of Boats & Watercraft including servicing and repairs.	N	S	N	N	N	N	S	N	N		
8. Marina	N	S	N	N	N	N	S	N	N		
<b>D. OFFICES</b>											
										MU	MIXED USE
1. General Professional Business, Financial, or Government Offices.	N	P	N	N	P	P	P	P	P	MR	MEDIUM DENSITY RESIDENTIAL
2. Medical, Dental, or Health Service Office or Clinic	N	P	N	N	P	P	P	P	S	DN	DOWNTOWN
3. Banks	N	P	N	N	P	P	P	P	S	RG	REGIONAL COMMERCIAL
<b>E. COMMERCIAL</b>											
										RC	RESORT COMMERCIAL
1. Retail Sales, Rental or Distribution of Goods and Merchandise.										GC	GENERAL COMMERCIAL
a. Fully Enclosed Within a Building and Occupying Less than 3,000 sf of Floor Area	N	P	N	N	P	S	P	P	S	IN	INDUSTRIAL
b. Fully Enclosed Within a Building Greater than 3,000 sf Floor Area	N	S	N	N	P	P	S	P	S		
c. Outdoor Display	N	P	N	N	P	P	P	P	S		
d. Outdoor Storage of Merchandise	N	P	N	N	N	P	P	P	S		
e. Storage Trailer/Container	N	S	N	S	N	S	S	S	S		
2. Personal and Business Services											
a. Fully Enclosed Within a Building and Occupying Less than 3,000 sf of Floor area	N	P	N	N	P	P	P	P	S		
b. Fully Enclosed Within a Building with Floor Area 3,000 sf or Greater	N	N	N	N	P	P	N	P	S		
3. Sexually Oriented Business	N	N	N	N	N	N	N	N	S		
4. Hotels, Motels, Inns	N	N	N	N	P	P	P	N	S		
5. Veterinary Facilities	N	S	N	S	N	N	N	P	S		
6. Commercial Kennels	N	N	N	S	N	N	S	P	S		
7. Mortuary and Funeral Homes	N	P	N	N	P	N	N	P	S		
8. Flea Markets	N	P*	N	N	N	P	P	P	N		* Along Rte 3/11 only
<b>APPENDIX B</b>											
<b>PAGE 2</b>											

ARTICLE VI											
CHART OF PERMITTED USES											
MARCH 13, 2012											
<b>Legend:</b>											
<b>P = Permitted</b>											
<b>S = Special Exception</b>											
<b>- = Not Permitted</b>											
USE	VR	MU	MR	RA	DN	RG	RC	GC	IN		
<b>F. RESTAURANTS</b>											
1. Within a Fully Enclosed Structure with No Drive-in Service, No Carry Out Service, or No Delivery Service	N	S	N	N	P	P	P	P	N		
2. Within a Fully Enclosed Structure with Carry-out and Delivery but No Drive-in Service	N	S	N	N	P	P	P	P	N		
3. With No Limitations on Type of Service	N	P*	N	N	S	P	P	P	N	*Along Rte 3/11 only	
<b>G. AUTOMOTIVE AND TRANSPORTATION</b>											
1. Motor Vehicles Sales and Rental	N	N	N	N	N	P	N	P	N		
2. Sales and Installation of Vehicle Parts and Accessories	N	N	N	N	N	P	N	P	N		
3. Motor Vehicle Repairs and Maintenance	N	N	N	N	S	P	N	P	N		
4. Gasoline Sales	N	N	N	N	P	P	N	P	N	MU	MIXED USE
5. Car Wash	N	N	N	N	N	P	N	P	N	VR	VILLAGE RESIDENTIAL
6. Commercial Parking Lot or Garage	N	N	N	N	P	P	P	P	P	MR	MEDIUM DENSITY RESIDENTIAL
7. Motor or Rail Freight Terminal	N	N	N	N	N	N	N	N	P	RA	RURAL AGRICULTURE
8. Bus or Train Station	N	N	N	N	P	P	P	N	N	DN	DOWNTOWN
9. Recreational Vehicles & Camping Trailers Including Servicing and Repairs	N	N	N	N	N	S	S	S	N	RG	REGIONAL COMMERCIAL
10. Aviation Field	N	N	S	S	N	S	S	S	S	RC	RESORT COMMERCIAL
										GC	GENERAL COMMERCIAL
										IN	INDUSTRIAL
<b>H. INDUSTRIAL</b>											
1. Manufacturing, Processing, Repairing, Assembling of Goods and Merchandise (Research & Development)											
a. Industry Heavy	N	N	N	N	N	N	N	N	P		
b. Industry Light	N	N	N	N	N	S	N	S	P		
2. Warehousing and Storage of Non-Flammable, Non-Explosive Goods											
a. Industry Heavy	N	N	N	N	N	N	N	N	P		
b. Industry Light	N	N	N	N	N	N	N	S	P		
APPENDIX B										PAGE 3	

<b>ARTICLE VI</b>											
<b>CHART OF PERMITTED USES</b>											
<b>MARCH 9, 2004</b>											
<b>Legend:</b>											
<b>P = Permitted</b>											
<b>S = Special Exception</b>											
<b>N = Not Permitted</b>											
USE	VR	MU	MR	RA	DN	RG	RC	GC	IN		
<b>H. INDUSTRIAL (continued)</b>											
3. Bulk Storage of Fuel, Chemicals, or Flammable Materials.	N	N	N	N	N	N	N	N	S	P	
4. Sale of Construction Equipment and/or Materials with Outdoor Display and Storage.											
a. Industry Heavy	N	N	N	N	N	N	N	S	P		
b. Industry Light	N	N	N	N	N	N	N	S	P		
5. Materials Recycling Center, Salvage Yard and Junk Yard	N	N	N	N	N	N	N	N	S	P	MU    MIXED USE
6. Removal, Excavation, and Processing of Earth Materials.	N	N	N	N	N	N	N	N	S	P	VR    VILLAGE RESIDENTIAL
7. Accessory Salesroom	N	N	N	N	N	N	N	S	P	P	MR    MEDIUM DENSITY RESIDENTIAL
<b>I. AGRICULTURAL</b>											
1. Farming and Agricultural Operations											RA    RURAL AGRICULTURE
a. Agricultural (Commercial)	P	N	P	P	N	N	P	P	N	RC	REGIONAL COMMERCIAL
b. Horticultural (Greenhouse/Nursery)	P	P	P	P	P	P	P	P	P	GC	RESORT COMMERCIAL
c. Livestock (Commercial)	N	N	S	P	N	N	S	S	S	IN	GENERAL COMMERCIAL
2. Silvicultural Operation (forestry)	P	P	P	P	N	P	P	P	P		INDUSTRIAL
3. Stables and Equestrian Facilities	S	S	S	P	N	S	S	S	S		
4. Commercial Greenhouses/Warehouse For Wholesale and Retail Sales	N	N	S	P	N	S	P	P	N		
<b>ACCESSORY USES</b>											
<b>A. RESIDENTIAL</b>											
1. Home Business	P	P	P	P	N	N	P	P	N		
2. Home Occupation	P	P	P	P	P	P	P	P	N		
APPENDIX B										PAGE 4	

CHART OF PERMITTED USES											
MARCH 8, 2011											
<b>Legend:</b>											
<b>P = Permitted</b>											
<b>S = Special Exception</b>											
<b>N = Not permitted</b>											
USE	VR	MU	MR	RA	DN	RG	RC	GC	IN		
<b>A. RESIDENTIAL (continued)</b>											
3. Day Care											
a. With up to 6 children	S	S	S	S	N	S	S	S	S		
b. Over 6 children	N	S	N	N	N	N	S	N	S		
4. Use of a Portion of a Dwelling or Accessory Building in Conjunction with an Off-Premise Occupation	S	S	S	S	S	S	S	S	S		
5. Outdoor Storage of One Commercial Vehicle	P	P	P	P	N	N	N	N	N		
6. Outdoor Storage of a Boat, Recreational Vehicle, or Camping Trailer	P	P	P	P	S	P	P	P	P	MU	MIXED USE
7. Garage, Carport, or Parking Space for use by Residents of the Premises	P	P	P	P	P	P	P	P	P	VR	VILLAGE RESIDENTIAL
8. Accessory Structures and Facilities Including Tool Sheds, Greenhouses, Swimming Pools, and Tennis Courts	P	P	P	P	P	P	P	P	P	MR	MEDIUM DENSITY RESIDENTIAL
9. Non-Commercial Raising or Keeping of Livestock	N	S	S	P	N	S	S	S	S	RA	RURAL AGRICULTURE
10. Bed and Breakfast Accommodations	S	S	S	S	S	N	S	S	N	DN	DOWNTOWN
										RG	REGIONAL COMMERCIAL
										RC	RESORT COMMERCIAL
<b>B. NON-RESIDENTIAL</b>											
1. Parking Space or Garage for Employees, Visitors, and Customers	S	P	S	S	P	P	P	P	P	GC	GENERAL COMMERCIAL
2. Cafeterias for Employees	N	P	N	N	P	P	P	P	P	IN	INDUSTRIAL
3. Child Care for Employees	N	P	N	N	P	P	P	P	P		
4. Recreational and Fitness Facilities for Employees	N	P	N	N	P	P	P	P	P		
5. Dwelling Unit for Resident Caretaker or Security Personnel	N	S	S	S	N	N	S	S	P		
6. Farm or Roadside Stand	N	S	P	P	N	S	S	S	N		
<b>C. RESIDENTIAL AND NON-RESIDENTIAL</b>											
1. Signs	P	P	P	P	P	P	P	P	P		
<b>APPENDIX B</b>											
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**ARTICLE VII**

**TABLE OF DIMENSIONAL VALUES**

**Revision 02/24/2006**

ZONING DISTRICT	MINIMUM LOT SIZE (See Notes 1, 5 & 6)			MINIMUM FRONTAGE (feet) (See Note #3)	MINIMUM LOT SETBACKS (ft) (SEE NOTE 2 & 8 )			MAXIMUM LOT COVERAGE (See Note #4)	MAXIMUM STRUCTURE (HEIGHT) (See Note #9)	MAXIMUM RESIDENTIAL DENSITY
	W/SEWER	W/O SEWER (See Note #1)	BACKLAND (See Note #7)		FRONT	REAR	SIDE			Dwelling Units Per Lot
MU	20,000 sq ft	1 Acre	2 Acres	100/200	20	20	20	50%	35 ft	2
VR	15,000 sq ft	30,000 sf	60,000 sf	100	20	20	20	60%	35 ft	2 see note 10
MR	1 Acre	2 Acres	2 Acres	100/200	20	20	20	50%	35 ft	1
RA	3 Acres	3 Acres	6 Acres	250	40	40	40	40%	60 ft	1
DN	n/a	30,000 sf	60,000 sf	0	n/a	n/a	n/a	100%	50 ft	4
RG	1 Acre	1 Acre	2 Acres	0	30	20	50	75%	50 ft	NO RESIDENTIAL PERMITTED
RC	1 Acre	1 Acre	2 Acres	150	30	20	20	60%	40 ft	1
GC	20,000 sq ft	1 Acre	2 Acres	100/200	30	20	20	75%	40 ft	NO RESIDENTIAL PERMITTED
IN	1 Acre	2 Acres	4 Acres	0	30	20	20	75%	50 ft	NO RESIDENTIAL PERMITTED

MU MIXED USE

MU II MIXED USE II

VR VILLAGE RESIDENTIAL

MR MEDIUM RESIDENTIAL

RA RURAL AGRICULTURAL

DN DOWNTOWN

RG REGIONAL COMM

RC RESORT COMMERCIAL

GC GENERAL COMMERCIAL

IN INDUSTRIAL

- (1) Or as required by NHWSPCC, whichever is the larger.
- (2) Accessory buildings may not occupy more than ten percent (10%) of the area required for the side or rear setbacks, and are not permitted in front setbacks.
- (3) 100 ft of frontage with municipal sewer,; 200 ft of frontage without municipal sewer.
- (4) Lot coverage includes building footprint, pavements, and parking areas.
- (5) No part of a wetland may be considered as part of the minimum size requirement of any lot.
- (6) NH State Shoreland Protection Act shall govern waterfront properties.
- (7) A backland lot used for a residential purpose shall have a minimum of 50 foot of road frontage or have an easement of similar width such that each backland has private access to a class V (five) or better road. No two easements shall be closer together than the minimum frontage required for a standard lot as per the above Table of Dimensional Values. In a subdivision, the width of an easement or access shall not be a part of the minimum frontage required for any individual lot. No more than two (2) backland lots can be accessed through any one (1) easement.
- (8) No storage of manure or odor/dust producing substance shall be permitted within 100 feet of an abutting lot line.
- (9) EXCEPTION: Telecommunications Towers.
- (10) Zoning Article #5 tied 203 to 203 and passed 206 to 203 at re-count held March 23, 2006.

**APPENDIX C**