Town

Of

Holderness

Zoning

Ordinance

Adopted 1985
Last Amended March 2009

HOLDERNESS ZONING ORDINANCE

As Amended March 2009

INDEX

PAGE	ARTICLE	HEADING
3	I	Purpose and Authority
3	II	Title
4	III	Districts and District Regulations
16	IV	General Provisions
30	V	Steep Slopes
34	VI	Special Provisions
38	VII	Non-Conforming Uses/Structure or Lots
40	VIII	Board of Adjustment
41	IX	Special Exceptions
43	X	Administration and Enforcement
45	XI	Emergency Actions
46	XII	Miscellaneous Provisions
47	XIII	Definitions
57		District Boundaries (Appendix A)
59		Steep Slope (Appendix B)

SUBJECT INDEX

PAGE	
43	Administration
34	Cluster Residential
7	Commercial District
22	Condominiums or Time Share Conversions
47	Definitions
45	Emergency Actions (Septic and Wells)
43	Enforcement
16	Fire Damaged and Hazardous Buildings
17	Flood Area
10	Flood Hazard District
11	Floodplain Ordinance
4	General Residential
21	Height
25	Home Occupation
6	Rural Residential
8	River Corridor
17	Signs

ZONING ORDINANCE

TOWN OF HOLDERNESS, NEW HAMPSHIRE

Adopted 1985
and
As Last Amended: March of 2009

ARTICLE I. PURPOSE AND AUTHORITY

Pursuant to the authority conferred as per State law and regulations, New Hampshire Revised Statues Annotated as amended, in conformity with the Town of Holderness Comprehensive Master Plan and for the purpose of promoting the health, safety, economic and social well being, convenience or general welfare of the buildings or structures and various rights-of-way, the promotion of efficiency, economy and good civic design in development, stabilization of the tax base, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, this Ordinance is enacted by the voters of the Town of Holderness, New Hampshire, in official Town Meeting. (3/07)

ARTICLE II. TITLE

This ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Holderness, New Hampshire."

ARTICLE III. ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS

A. Districts

The Town of Holderness is divided into the following districts as shown on the official Zoning Map (see Appendix A):

GR – General Residential
RR – Rural Residential
CD – Commercial District
RC – River Corridor Overlay
FH – Flood Hazard (3/97)
WW – Waukewan Watershed (3/07)

B. Zoning Map

The districts, as established, are shown on a map entitled "Town of Holderness Zoning Map" and become a part of this Ordinance. This map is on file with the Holderness Planning Board. (See Appendix A) Map for general reference only. Use Appendix A for specific boundaries.

C. District Boundaries

Unless otherwise indicated, zoning district boundaries, as shown on the "Town of Holderness Zoning Map", are the center lines of highways and streets, the middle of the channel of waterways or a shoreline of a water body, or the town boundary. Where boundaries are so indicated that they parallel the centerline of highways or streets, such boundaries shall be considered as parallel thereto and at the distance there from as shown on the Zoning Map. The distance shall be determined by use of the map. In any instance where there is doubt as to the location of a zoning district boundary, the Board of Adjustment shall determine the location of such boundary, consistent with the intent of this Ordinance and the Zoning Map.

1. As of 3/98 there is no longer a commercial zone West of Interstate Route 93 in the Flood Hazard area.

2. In the commercial zone abutting the Campton town line, on Route 175, the boundary on the river side of the road shall be from the road to the River Corridor Overlay. This means the commercial zone does not extend any closer than 200 feet on a level measurement from the river. On the opposite (East) side of the road the Commercial zone extends back to the rear lot line of the lot on Route 175 but in no case more than 1500 feet. All commercial traffic entering this zone must do so from Route 175. 3/98

D. Zoning District Regulations

1. General Residential (GR)

The purpose of this district is to provide for medium density development, which has good access to existing town and state roads, police, school busing and fire protection, and in keeping with the scenic, recreational and environmental values inherent in this district.

a. Permitted Uses

(1) Single and two-family dwellings
(2) Multi-family dwellings of up to eight (8) units in any one structure
(3) Cluster residential development
(4) General farming and agriculture
(5) Home Occupation

(6) Lodging, motels and rental cottages
(7) Churches, schools, municipal buildings or structures
(8) Accessory buildings or structures and uses
(9) Manufactured housing
(10) Essential Services
(11) Recreation Facility – Personal 3/95
(12) Recreation Facility – Public 3/95
(13) Cemeteries – 3/99

b. Special Exceptions
In addition, the following uses may be permitted by the Board of Adjustment provided that the land use impact on the environment and the particular site in question, and on the abutting landowners is not negative, and providing that all performance standards and other requirements under Article IV, Article VI and Article VII are met.
(1) Marinas
(2) Professional offices
(3) Small Businesses (less than 2500 sq. ft.) 3/98
(4) Day Care Center
(5) Banks, Restaurants
(6) Private Clubs
(7) Nursing Homes
(8) Civic Recreation Uses and Public Safety Facility
(9) Funeral Homes
(10) Recreational Campgrounds
(11) Recreational Facility – Commercial Low Impact 3/95
(12) Sand & Gravel Excavation 3/95
(13) Boat Tours/Guided Fishing Trips 3/98
(14) Multi Use Facilities/ Property 3/98

c. Lot Coverage:
The building or structure coverage on any lot, including parking and driveway area, excluding protected well radius and septic systems, shall not exceed 35 percent of usable lot area, with the open area devoted to landscaping or natural growth.

d. Frontage:
1. The minimum lot frontage on any street shall be 150 feet. Lots may, however, have less (or no) street frontage if (1) said lots are provided access to a public road or to a road within a subdivision approved by the Planning Board by a deeded private right-of-way at least fifty (50) feet in width for a driveway serving not more than two (2) lots: (2) said lots are located on curves, cul-de-sacs, or are affected by other such factors that sound planning justifies less frontage; (3) said lots are provided access to a public road or a road within a subdivision approved by the Planning Board by a deeded private easement of at least fifty (50) feet in width. The Planning Board may, however, require a minimum lot frontage of greater than 150 feet for multiple dwelling units depending upon the number of units and individual building or structure layout and configuration.
2. When one boundary of a lot is the shore of a water body or river, the minimum water frontage shall not be less than 200 feet. Shore frontage means the distance of the actual navigable shoreline footage and a straight line drawn between property lines both of which are measured at normal high water. However, in no case shall this value be less than 25 feet. 3/02

2. Rural Residential (RR)

The primary purpose of this district is to provide for a mixture of agricultural and low-density rural living, which will protect the environmentally sensitive areas of this district, such as wetlands, poor soil conditions, and steep slopes where limitations to septic systems exist. A detailed description of these areas may be found in the most recent Holderness Master Plan.

a. Permitted Use

(1) Single and two family dwellings
(2) Manufactured Housing
(3) Clustered Residential Development
(4) General Farming and Agriculture
(5) Home Occupation
(6) Accessory Building or Structure and Uses
(7) Essential Services
(8) Recreation Facility – Personal 3/95
(9) Recreation Facility – Public 3/95
(10) Cemeteries 3/99

b. Special Exceptions

In addition, the following uses may be permitted by the Board of Adjustment provided that the land use impact on the environment and the particular site in question and upon abutting landowners is not negative, and providing that all performance standards and other requirements under Article IV, Article VI and Article VII are met.

(1) Sand and Gravel Excavations
(2) Riding Stables
(3) Temporary Sawmills
(4) Animal Boarding and Grooming
(5) Private Clubs
(6) Greenhouses/Florists
(7) Nursing Homes
(8) Professional Offices
(9) Funeral Home
(10) Recreational Campgrounds
(11) Small Business (less than 2,500 sq. ft.) 3/98
(12) Recreation Facility – Commercial Low Impact 3/95
(13) Boat Tours/Guided Fishing Trips 3/98
(14) Multi Use Facilities/Property 3/98

c. Lot Coverage

The building or structure coverage on any lot including parking and driveway area, excluding protected well radius and septic systems, shall not exceed 15 percent of usable lot area, with the open space area devoted to landscaping or natural growth.

d. Frontage

1. The minimum lot frontage on any street shall be 300 feet. Lots may, however, have less (or no) street frontage if (1) said lots are provided access to a public road or to a road within a subdivision approved by the Planning Board by a deeded private right-of-way at least fifty (50) feet in width for a driveway serving not more than two (2) lots; (2) said lots are located

on curves, cul-de-sacs, or are affected by other such factors that sound planning justifies less frontage; (3) said lots are provided access to a public road or a road within a subdivision approved by the Planning Board by a deeded private easement of at least fifty (50) feet in width.

2. The Planning Board may, however, require a minimum lot frontage of greater than 300 feet for multiple dwelling units depending upon the number of units and individual building or structure layout and configuration.

3. When one boundary of a lot is the shore of a water body or river, the minimum frontage shall not be less than 200 feet. Shore frontage calculations shall be based upon reasonable straight line interpretations. However, in no case shall a straight line increment be less than 25 feet.

4. As per State law regulation, the erection of buildings and other structures on islands with no road access to the mainland, shall not be prohibited solely on the lack of frontage on a public or private road. (3-03). (3/07)

3. Commercial District (CD)

The purpose of this district is to reinforce and strengthen the Commercial area where mixed commercial development has already taken place, to provide an area for commercial establishments, tourist facilities and services, residences and public buildings or structures.

a. Permitted Uses

(1) Single and two-family dwellings
(2) Multi-family dwellings of up to eight (8) units in any one structure
(3) Commercial storage facilities
(4) Retail stores, sales, sales rooms and stands
(5) Restaurants
(6) Professional offices, studios, bands, laundries
(7) Vehicle service stations, sales and service
(8) Lodging, motels and rental cottages
(9) Churches, municipal buildings or structures, museums, research and teaching facilities
(10) Home Occupation
(11) Accessory buildings or structures and uses
(12) Manufactured housing
(13) Marinas
(14) Combined business/Dwelling
(15) Private Clubs
(16) Recreation Facility – Personal (3/95)
(17) Recreation Facility – Public (3/95)
(18) Recreation Facility – Commercial (3/95)
(19) Recreation Facility – Commercial Low Impact (3/95)
(20) General Farming and Agriculture (3/97)
(21) Essential Services (3/98)
(22) Cemeteries (3/99)

b. Special Exceptions

In addition, the following uses may be permitted by the Board of Adjustment provided that the land use impact on the environment and on the particular site in question, and on the abutting landowners is not negative, and providing that all performance standards and other requirements under Article IV, Article VI and Article VII are met.
(1) Light Industry
(2) Multi Use Facilities/Property (3/98)
(3) Sand & Gravel Excavation (3/95)

c. Lot Coverage
The building or structure coverage on any lot, including parking and driveway areas, excluding protected well radius and septic systems, shall not exceed 50 percent of usable lot area, with the open area devoted to landscaping or natural growth.

d. Frontage
1. The minimum lot frontage on any street shall be 100 feet. Lots may, however, have less (or no) street frontage if (1) said lots are provided access to a public road or to a road within a subdivision approved by the Planning Board by a deeded private right-of-way at least fifty (50) feet in width for a driveway serving not more than two (2) lots; (2) said lots are located on curves, cul-de-sacs, or are affected by other such factors that sound planning justifies less frontage; (3) said lots are provided access to a public road or a road within a subdivision approved by the Planning Board by a deeded private easement of at least fifty (50) feet in width. The Planning Board may, however, require a minimum lot frontage of greater than 100 feet for multiple use or multiple dwelling units, depending upon the building or structure layout and configuration and the number of dwelling units involved.
2. When one boundary of a lot is the shore of a water body or a river, the minimum water frontage shall not be less than 200 feet. Shore frontage means the distance of the actual navigable shoreline footage and a straight line drawn between property lines both of which are measured at normal high water. However, in no case shall this value be less than 25 feet. (3/02)

4. River Corridor (Pemigewasset River)
The purpose of this district is to provide protection for the environmentally sensitive corridor along the Pemigewasset River and also protection for lives and property from flood waters and debris. The restrictions contained herein take precedence over permitted uses in the portion of the districts over which it lies.

BOUNDARY
The boundary of this district shall be five hundred (500) feet from the river's ordinary high water line (reference line). (3/04)

a. Frontage
The minimum lot frontage on the Pemigewasset River shall be 200 feet for the first dwelling unit, with 20 additional feet needed for each additional dwelling unit.

b. Permitted Uses
(1) General Farming and Agriculture
(2) Wildlife Refuges
(3) Parks

(4) Uses permitted in the underlying districts which can comply with the more restrictive regulations.
(5) Cemeteries 3/99

c. Lot Size
Two acre minimum.

d. Setback
Within the River Corridor, said setback shall be 150 feet for any and all buildings or structures except for wells and septic systems. (horizontal distance as measured from the reference line)(3/02)

e. Septic Systems
In the case of the River Corridor, the setback of said waste disposal system shall be not less than 125 feet. (horizontal distance as measured from the reference line) (3/02)

PROHIBITED (3/04)
The following are prohibited:

a. The establishment or expansion of:
Salt storage yards
Junk yards
Solid or Hazardous Waste Facilities
b. Dumping or disposal of snow and ice collected from roadways or parking areas outside the district.
c. Use of any fertilizer, except limestone or wood ash, within 50 feet of the reference line on any property.
d. Construction on slopes which exceed fifteen (15) percent
e. Sand or gravel excavations as defined in RSA 155-E.
f. Bulk storage of chemicals, petroleum products, or hazardous materials.

BUFFERS (3/04)
Where existing, a natural woodland buffer shall be maintained within 150 feet reference line. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turgidity, stabilizing soils, preventing excess nutrients and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and under story, preserving fish and wildlife habitat and protecting the overall conditions of the protected shoreland.

Within the natural woodland buffer of the protected shoreland the following shall apply:
a. No more than a maximum of 50 percent of the basal area of trees, and 50 percent of the number of saplings shall be removed for any purpose within a 15 year period. A healthy, well distributed stand of trees, saplings, shrubs and ground covers and their living undamaged root systems shall be left in place. Replacement plantings with native or naturalized species may be permitted to maintain the 50 percent.

b. Dead, diseased, unsafe, noxious or fallen trees, saplings, shrubs or ground covers may be removed. Their removal shall not be used in computing the 50 percent limitations. Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved.

c. Stumps and their root systems which are located within the 50 feet of the public boundary line shall be left intact in the ground unless their removal is specifically permitted by Planning Board.

d. Plantings of vegetation that are beneficial to wildlife are encouraged to be undertaken.

5. Flood Hazard District (Special District) (FHD) (3/97)

This District is intended to assure that development within the designated flood hazard area shall occur in such a manner as to minimize the danger to life and property from flooding and to minimize the potential for future flooding. It is also to prevent damage to associated, contiguous or intersecting waterways and wetlands.

a. District Boundaries
The limits of the Flood Hazard District are hereby determined to be all lands west of Interstate 93.

b. Relations to Districts
Where the Flood Hazard District is superimposed over another zoning district, the more restrictive regulations shall apply.

c. Permitted Uses
The following open space uses shall be permitted within the Flood Hazard District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or flood ways of any tributary to main stream, drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, sod farming and wild crop harvesting, so long as the use of fertilizers and pesticides is curtailed.

2. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, hunting and fishing areas, biking, hiking and horseback riding trails, snowmobiling and cross-country skiing.

3. Accessory uses such as lawns, gardens, parking areas, and play areas.

d. Special Exceptions in the Flood Hazard District
In addition to the standard procedure in this ordinance special exceptions are allowed only if they comply with the provisions of this special district, other standards established in this ordinance, and any special conditions attached by the Board of Adjustment to the issuance of any Special Exception permit.

1. Special Exceptions which may be permitted are:
    a. Uses or structures accessory to permitted or special exception uses.
    b. Fairgrounds and similar transient amusement enterprises.
    c. Railroads, streets, bridges, utility lines, and pipelines.

2. Any fill or materials proposed to be deposited in the Flood Hazard District will be allowed only upon the issuance of a Special Exception and a permit from the appropriate State and or Federal Agencies. The fill or materials must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve the purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the fill or other materials.
    a. Such fill of other materials shall be protected against erosion by rip-rap, vegetative cover, or bulk heading.

3. Structures (temporary or permanent) accessory to Special Exception granted in this section shall be regulated as follows:

    a. No structure shall be designed for human habitation.
    b. All structures shall have low flood damage potential.
    c. Any structure herein permitted shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters and that will minimize flood damage.

        1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and
        2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

    d. Structures shall be firmly anchored to prevent floatation, collapse or lateral movement of the structure, or the structure may be on wheels and towable so as to be moved on a very short notice. If a structure with wheels is permitted the structure must be taken off the property from the first of November of each year and may not be placed back in the Flood Hazard District until the first of May.
    e. Construction materials and utility equipment that are resistant to flood damage shall be used.
    f. Service facilities such as electrical and heating equipment shall ordinarily be constructed above the regulatory flood protection elevation for this district.

6. <u>Floodplain Ordinance District</u>

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

The following regulation 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 County of Grafton, NH" dated February 20, 2008, together with the associated Flood Insurance Rate maps dated February 20, 2008 are declared to be part of the Town of Holderness Floodplain Ordinance and are hereby incorporated by reference. (3/07)

a. All proposed development in any special flood hazard areas shall require a permit. (3/07)

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

1. be designed (or modified) and adequately anchored to prevent floatation, 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

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

d. For all new or substantially improved structures located in Zones A or AE, the applicant shall furnish the following information to the compliance officer: (3/07)

1. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.

2. if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.

3. any certification of flood proofing.

The compliance officer shall maintain for public inspection, and shall furnish such information upon request.

e. The selectmen 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.

f. 1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the compliance officer, 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 compliance officer, including notice of all scheduled hearings before the Wetlands Bureau and the Holderness Conservation Commission. (3/07)

2. The applicant shall submit to the compliance officer certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained. (3/07)

3. Along watercourses with a designated Regulatory Floodway no encroachment, including fill new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge. (3/07)

4. Until a Regulatory Floodway is designated along watercourse, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. (3/07)

5. The compliance officer shall obtain, review and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirements:

"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." (3/07)

g. 1. In special flood hazard areas the compliance officer shall determine the 100 year flood elevation in the following order of precedence according to the data available: (3/07)

(a). In zone AE refer to the elevation data provide in the community's Flood Insurance Study and accompanying FIRM. (3/07)

(b). In unnumbered A zones the compliance officer shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

2. The compliance officer's 100 year flood elevation determination will be used as criteria for requiring in zones A and AE that: (3/07)

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

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

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

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

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

(c). all manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. (3/07)

d. for all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

(1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;

(2) the area is not a basement;

(3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwater.

h. All recreational vehicles placed on sites within Zones A and AE shall either:

1. be on the site for fewer than 180 consecutive days;
2. be fully licensed and ready for highway use; or
3. meet all standards of section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.

i. Variances and Appeals:

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

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

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

b. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

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

3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood

insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base ˜flood level. increases risks to life and property. Such notifications shall be maintained with a record of all variance actions.

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

7. Lot Area

1. Lot Size: The minimum lot area for any lot in districts GR, RR, CD, and FH shall be at least one (1) acre or larger and two (2) acres or larger in the RC district, depending on soil and slope conditions as determined in the Holderness Subdivision Regulations or as otherwise established in this Ordinance. 3/98

2. One single family dwelling unit may be erected on each lot, with a minimum land area of one (1) acre; two (2) acres for a two-family dwelling unit and an additional 20,000 square feet for each additional dwelling unit over two. There must be at least 10,000 square feet of green space not including roads, septic areas and parking areas for every dwelling unit over two. (3-04)

3. Land under a street, public or private, may not be used in calculating lot area for any requirements in this ordinance. (3-03).

ARTICLE IV. GENERAL PROVISIONS

The following provisions shall apply to each district and all uses within the Town of Holderness except as listed:

A. Obnoxious Use

Any use that may be obnoxious or injurious by reasons 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 abutters or the community, or lending to their disturbance or annoyance, is prohibited.

B. Removal of Natural Material

1. If clay, sod, loam, sand or gravel is removed within 100 feet of any public highway, stream, roadway or waterway, the area shall be regraded and redressed within 90 days of the removal of materials to assure that the premises will be left in a sightly condition and protected against erosion and washouts.

2. Earth excavation for commercial purposes shall be governed in accordance with the Town's Commercial Earth Excavation Regulations if one is in effect or by the provisions as per State law and regulations, whichever is more stringent. (3/07)

3. In the event development is proposed which will disturb soil within 100 feet of any public highway, stream, roadway or waterway an Erosion and Sediment Control Plan prepared by a New Hampshire licensed Professional Engineer shall be submitted which provides both temporary and permanent measures designed to minimize erosion and sedimentation and which indicates how a protective cover will be established and maintained on all exposed lands. (3/03). Vegetation is preferred as a protective cover. Non-vegetative cover such as mulch or gravel may be used.

4. All excavations require a maximum grade of 15 percent with a minimum of 3 inches of topsoil covering the excavated area.

5. No water collecting depressions shall be left.

C. Dump and Junk Yards

No person shall keep or maintain within the limits of the town any hazardous materials, dump, refuse, junk yard without a town permit, or any other matter upon his or its premises, or permit or allow the same to be so kept, used or maintained, so near to any highway, park, street or alley or other public place, or adjoining or abutting any land owned or occupied by another person, or so as to leach into a waterway so as to be offensive to the use and enjoyment of the public of said highway, park, street or alley or any other public place or waterway; or a menace to the public health; or so as to be offensive to the use, occupation and enjoyment of said adjoining or abutting premises by its owners or occupants or in such a manner that the contents of said hazardous materials, dump, refuse, junk yard or other offensively kept premises are allowed to discharge upon any highway, park, street or alley or other public place or waterway, or upon the land of any person.

D. Fire Damaged and Hazardous Building

Any building or structure suffering structural damage by fire, wind or other cause, or which has become dangerous or unsafe shall be repaired or completely removed within one year of such damage. Any removal shall include removal of all debris, and the filling of all excavations to ground level. Temporary barriers or fencing shall be erected immediately after such damage.

E. Flood Area

Any new building or structure development or substantial improvement of any structure within any flood hazard area as delineated on the Holderness Flood Insurance Rate Map by the Federal Insurance Administration shall be governed in accordance with the Town of Holderness Flood Damage Prevention Ordinance as well as other state and local regulations as may be amended from time to time. Flood Ordinance, as revised, shall be a part of this Zoning Ordinance and shall be maintained as as an attachment at the end of this ordinance. (See Appendix B).

F. Signs

No sign or advertising device shall be erected on any premise or be visible from the outside of any structure in the town of Holderness without a permit.

Exceptions: The following signs are exempt from this ordinance:

1. All signs erected by or posted by an agency of the government.
2. All signs on and indicating the existence of Private Property. These include but are not limited to the following: forbidding, regulation, guiding, trespassing, hunting, and other such activities on the property. Such allowed sign exceptions shall not exceed 6 sq. ft. in area each.
3. Signs not visible from a public way.

Applications:
An application for a sign permit shall include site location, sign size, method of illumination, if any, and types of materials to be used in construction. Permits shall be issued or denied by the Board of Selectmen. All construction subject to Site Plan Review shall submit their applications for sign permits to the Planning Board for review and comment concurrent with their Site Plan applications. No non-residential sign shall be relocated in any manner until the relocation has been reviewed and commented upon by the Planning Board.

General Provisions for Signs:

1. Flashing Signs: No sign shall be intermittently illuminated, nor be of a traveling light type, nor be animated or flashing, except such portions of a sign as consist solely of indicators of time or temperature or both.

2. Shielding: Illumination fixtures shall be arranged to direct the light away from streets and away from adjoining structures.

3. Illumination: In all districts, signs may be illuminated only between the hours of seven (7) a.m. and eleven (11) p.m., or during the hours that the premises are open to the public, except that residential nameplate, street, directional, and government signs may remain illuminated.

4. Maintenance: All surfaced and supporting structures of signs, whether erected prior to effective date of this ordinance or not, shall be maintained in a safe and sightly condition, to the satisfaction of the Selectmen or their authorized agent. Failure to correct a violation within thirty (30) days after notice thereof shall constitute a violation of this ordinance, subject to prescribed remedies whereupon the designated Town Official may remove, or cause to have removed, said sign.

5. Measurement: The size of the area of a sign shall be the surface area, and shall be considered to include all lettering or elements of a sign, accompanying designs and symbols, together with background, whether open or closed, on which they are displayed, but not including any supporting framework or bracing that is incidental to the sign and not designed to attract attention. Where the sign consists of letter, symbols, or devices affixed to the surface of a building, the area shall be measured by the smallest quadrangle which enclosed the extreme limits of all the letters, symbols or device. The area of one (1) side of the double faced sign shall be regarded as the total area of the sign.

6. Non-permanent types: Such as but not limited to banners and or pennants made of cloth, vinyl etc. that are to be either hung by wire or rope or not affixed to a building. Such non-permanent signs shall be classified as "Temporary" and as such shall be required to conform with applicable regulations under "Temporary Signs".

7. Location: No privately owned sign shall project over a public or private road, be placed within the limits of a public highway, right of way, or be located in such a position as to endanger street traffic by obscuring a clear view or by confusion with official street signs and signals. No sign shall be closer than fifteen (15) feet from the side and rear property lines. A sign may be at the front property line but the other provisions of this Article shall be followed. The required setback of a sign may be increased when, in the opinion of the Selectmen, the sign will interfere with the sight vision from driveways, intersections, or along streets.

8. Height: No privately owned sign shall be higher than twenty five (25) feet above grade.

Signs Requiring a Permit:

1. Advertising Sign: Each business shall be permitted at least one (1) advertising sign if in compliance with current Zoning regulations. Home occupations may have one (1) sign not to exceed nine (9) sq. ft. in area per side free standing or nine (9) sq. ft. in area in total if affixed to the building. A direction sign such as office, entrance, use other door, etc. shall be permitted to be affixed directly to the wall of the building but shall not exceed one and one-half (1 ½) sq. ft. in area.

2. Business Signs: Each business establishment may exhibit no more than two (2) main outdoor advertising signs, each no larger than thirty-two (32) sq. ft. in area per side or one sign no larger than fifty (50) sq. ft. in area per side. Such signs shall be located on the same contiguous premises as the business itself. Each business shall be permitted an aggregate total of a maximum of two-hundred (200) sq. ft. in area signs. One sign affixed directly to a non-residential building shall be permitted providing that such sign does not exceed a maximum of thirty-two (32) sq. ft. in area. The aggregate total of such signs shall be subtracted from the total two-hundred (200) sq. ft. in area permitted each business. Off premises subsidiary signs shall be limited to no more than two (2) such signs of no larger than twenty-four (24) sq. ft. in area.

3. Complex Signs: A sign advertising a complex of businesses is permitted under the following conditions: This complex shall be either a single property or two or more contiguous properties sharing a common driveway or road and a common area identity. One (1) sign advertising the complex may be on the road with a maximum aggregate of fifty (50) sq. ft. in area per side may be allowed in the case of multi-entrances. Each business within the complex may have a sign area not to exceed thirty-two (32) sq. ft. in area total.

4. Announcements: Two (2) announcement boards no greater than twenty-four (24) sq. ft. in area each and no higher than seven (7) feet each may be permitted for a religious institution or non-profit organizations.

5. Subdivision: One (1) permanent sign not to exceed twelve (12) sq. ft. in area, identifying by name a particular residential subdivision shall be permitted at each main entrance to said subdivision. Said sign area does not include any decorative planters or supporters.

6. Residential Cooperative Sign: One (1) sign listing the names of residents of a particular area of the town shall be permitted. Such cooperative signs listing three (3) or more names of residents must have permission of the Selectmen after consultation with the Planning Board.

Signs Not Requiring a Permit:
The following signs unless deemed not acceptable to the Board of Selectmen shall be allowed. Such signs require no formal permit however all such signs must be in good taste and non-offensive.

1. Political Signs: 1. As per State laws and regulations permitted thirty (30) days prior to a Primary, regular or special election and must be removed within twenty-four (24) hours after closing of the polls, such signs shall not exceed twelve (12) sq. ft. in area. 2. Are the responsibility of the person whose name appears on each political sign as required by RSA 70 shall be responsible for the placement and removal of same. A penalty of up to ten ($10.00) dollars per day per sign shall be charged by the Board of Selectmen for non-compliance.

2. Temporary Signs: Such as Flea Market, Garage Sale, Yard Sale, Moving Sale etc. by a person, business or organization shall be allowed providing that: such signs 1. Do not exceed thirty two (32) sq. ft. in are per side. 2. Do not exceed a total of sixty-four (64) sq. ft. in aggregate area. 3. Duration of a maximum of seven (7) days (can be extended another seven (7) days, with the permission of the Board of Selectmen one time only.) 4. Shall not occur more than three (3) times in a calendar year.

3. Special Promotion or Announcement: By Government or institutional event in or for the Town.

4. Real Estate: One (1) temporary non-illuminating sign advertising only the sale or lease of the premises thereon shall be permitted without a sign permit. Said sign shall not exceed six (6) sq. ft in area for residential property, and shall not exceed thirty-two (32) sq. ft. in area for Commercial property. Said signs shall be removed within forty-eight (48) hours of the sale of subject property. The penalty for not removing said signs within the above specified amount of time shall be ten ($10.00) dollars per sign per day.

5. Construction Signs: Two (2) signs, not exceeding sixteen (16) sq. ft. in area each for non-residential, multi-family, or motel construction, and twelve (12) sq. ft. in area each for other construction on or near the building site under construction identifying the owner, architect, contractor, and/or developer. Maximum duration on (1) calendar year.

6. Direction/Identification Sign: On private property such as entrance, exit, no parking, arrows, reserved handicap, etc., providing that each such sign does not exceed one and one-half (1 ½) sq. ft. in area aggregate total of twelve (12) sq. ft.

7. Items For Sale: Such as an automobile, boat, snowmobile, etc. owned by the resident of said private property not as a part of any business. Such signs shall be allowed providing that such occurrences do not become habitual.

Non Conforming Signs:

Any on-premise sign legally erected prior to the adoption of this ordinance may be continued and maintained. Any such sign shall not be enlarged or altered by change in shape, unless it is brought into conformity.

G. Off-Street Loading and Parking

Adequate off-street loading and parking shall be provided whenever any new use is established or any existing use is enlarged in accordance with the following specifications:

1. All non-residential and multifamily residential units of three or more, must follow the specifications set forth in the current Holderness Site Plan Review Regulations.
2. Residential units of two or less must have two spaces for each dwelling unit.

H. Front, Side and Rear Yard Setback

1. There shall be a minimum distance between any building or structure (except signs) and the edge of any public highway, street or roadway right-of-way of thirty-five (35) feet. No dwelling, building or structure (except signs), water supply (well), septic tank or leachfield shall be located within thirty-five (35) feet of any lot side or back lines on which it is located.

2. No septic tank shall be constructed or placed within seventy-five (75) feet of any domestic water supply, lake or pond high water line, stream or wetland. No leach field or any other septic disposal system shall be constructed or placed within one hundred twenty-five (125) feet of any domestic water supply, lake or pond high water line, stream or wetland.

3. No dwelling shall be erected within fifty (50) feet of the reference line. No structure, temporary or permanent, other than stairs to docks, shall be permitted within 35 feet of the reference line.3/02

4. The minimum front and side yard dimensions may be lessened for commercial building or structures only in the Commercial district by the Board of Adjustment as a special exception, but only after Planning Board and Town Health Officer review and recommendation.

5. The minimum distance between the traveled portion of a driveway and a lot line shall be ten (10) feet except when it is on the common lot line when serving two abutting lots.

6. For any new cluster, condominium, or similar development there will be a minimum of 35 feet between each structure, except garages and storage buildings not exceeding 15 feet may have a minimum distance from other structures of not less than 15 feet. This is for the purpose of life safety and fire protection. 3/96

I. Height

No building or structure, or part thereof, shall exceed thirty-five (35) feet in height above the average ground level at the building or structure foundation. This provision shall not apply to television and radio antennas, lightning rods, cupolas, steeples, chimneys, utility poles or parts of buildings or structures designed exclusively for agricultural or non-residential uses.

J. Sewage and Waste Disposal Systems

Construction, development, or improvement of any structure that could cause an increase in sewage and waste disposal shall meet all applicable State and local requirements. These requirements shall include (but not limited to) this Zoning Ordinance, Holderness Sewage and Waste Disposal Ordinance, and the NH Department of Environmental Services Regulations. The most stringent requirements shall apply in cases of conflict. (3/96)

K. Wetlands Inventory

Upon receipt of an application for a building permit for any new structure or for an exterior improvement to an existing structure which would involve site work (such as digging, grading, drainage, etc.) on a lot containing wetland or which would appear to have an effect on a wetland, the Selectmen shall forward a copy of the building permit application to the Conservation Commission. The Conservation Commission shall promptly review the application and within 15 days may request that the applicant provide an accurate map which clearly depicts the borders of the wetland, including soils delineation for determining wetlands boundaries and associated hydric soil types and the location of the proposed activity and impact area for which the building permit is sought. Within 30 days after receiving notice of the application or within 30 days of receiving an accurate map when one has been requested, the Conservation Commission shall submit its recommendation to the Selectmen. In this section, wetland means a wetland which is listed in the "Official Wetlands Inventory of the Town of Holderness." 3/99

L. Shoreline Structure

In preserving the integrity of the surface waters of the Town, all shoreline structures shall be constructed so as to insure safe navigation, to minimize reduction of water availability for public use, to promote higher water quality and safety conditions, to avoid changes in surface and subsurface conditions that would be deleterious to fish and wildlife habitat, and to avoid changes in water movements that might cause erosion or siltation. Structures shall be allowed only for the purpose of boating and not for the transfer of activities normally associated with land to structures over the water. Any pertinent rules and regulations not specifically mentioned within this Ordinance shall be the same as those adopted by the State of New Hampshire Wetlands Board.

1. Boathouses located in or over the water, including dredged inlets, may not be approved.
2. Dug in boat slips are not permitted.
3. Use of boathouses as dwellings shall not be permitted. Use of any boathouse shall be in conformity with applicable State laws and must comply with this ordinance with respect to setbacks from side and back lines.
4. Stairs, with or without railings, to approved docks may be permitted in all zones provided that they are no wider than four (4) feet, and they are constructed in such a manner as to allow air and moisture to reach the ground beneath them. The "top" stair may extend up to four (4) feet back from the start of the

stairs as a starting point. Poured concrete stairs are not allowed. Natural rock construction, using no concrete or binding agent, arranged in the soil as to make a stairway is permitted. 3/98

M. Conversions to Condominiums or Time Sharing Units 3/98

1. Whenever any existing developed property is proposed for conversion to condominium or time sharing ownership and before any building permit is issued for the alteration of such building, the owner or his agent shall apply for and secure approval of such proposed subdivision from the Planning Board. Prior to approval, the applicant shall submit:
   a. Documentation reflecting the office of the Attorney General approval of all condominium instruments as called for as per State law and regulations. (3/07)

   b. A complete set of site plans and floor plans, as well as a complete set of all condominium documents with the site plan showing the location of all utilities on the site, existing and proposed.

   c. Payment for all fees associated with the proposal (e.g., legal, engineering, special studies).

2. If the proposed conversion does not meet the current requirements of the subdivision regulations or Zoning Ordinance, and if either substantial physical change is proposed, or the proposal would have a significant affect on the Town, the public or the neighborhood (as determined by the Planning Board), approval may be granted only if all of the following conditions are met:

   a. On-site parking shall be provided with one space per bedroom with a minimum of two spaces per unit.

   b. All units and buildings shall conform with all building, electrical, plumbing, health, life safety and other applicable codes and ordinances in effect in the Town at the time of the application's review.

   c. Decks shall be included as an impervious surface when calculating lot coverage requirements.

   d. The septic system standards of the State of New Hampshire and the Town (which ever is more stringent) existing as of the date of the application must be met or exceeded by all systems used by the units associated with the conversion and a certificate to that effect shall be filed with the Planning Board based on a review of the Town records and an on-site inspection of systems and soil conditions by a soil scientist and/or professional engineer.

   e. A maximum density of two seasonal units per acre shall be permitted provided that community water and sewer are provided.

   f. A common area consisting of a minimum of thirty percent of the total land area involved must be provided. Driveways and parking areas may not be included as part of the common land area calculation.

   g. A maximum density of one year-round unit per acre may be permitted.

3. For any such approved conversion:

a. The responsibility for maintenance, operation, replacement and protection of the water supply and sewage disposal systems shall be clearly established as that of the subdivider or association of owners, or in default of such obligation by the subdivider or association, by the individual owners and a statement to this effect shall appear in the condominium or time sharing agreement. The deed to each condominium or time sharing unit shall contain these restrictions which shall run with the land. In the case of the subdivider such statement must specify the responsibility in the event of sale of the development, bankruptcy or other default by it. In the case of an association of landowners, a copy of the articles of association shall be submitted to the Board. Such statement of responsibility including articles of association, shall specify that in no event shall the Town have any obligation for maintenance, operation, replacement or protection of the water supply and sewage disposal systems.

b. Each condominium or time sharing agreement/declaration must contain the following provisions:

1. Each unit shall be declared to be either a seasonal or primary residential unit.

2. The conversion of seasonal units into primary residences shall be clearly prohibited, except where such conversion will comply with this ordinance and any other applicable code, ordinance or regulation and only when such conversion would be allowed for a similar property not involving condominium ownership.

3. The agreement must state the total number of each type of unit that shall be allowed.

4. The agreement must make it clear that other unit owners or the Town of Holderness may enforce the specific restrictions upon the number of units, use of the units, and the like.

5. The agreement shall make it clear that any winterization of a unit must meet current State and town standards.

6. The agreement must state that the Town has no obligation to provide community water and sewer facilities.

7. The agreement must provide that it may only be amended in conformance with the Holderness Zoning Ordinance.

8. The agreement must clearly state that no seasonal unit may be converted to year-round use, except where such conversion will comply with this ordinance and any other applicable code, ordinance or regulation and only when such conversion would be allowed for a similar property not involving condominium ownership.

N. <u>Seasonal Conversion</u>

1. Before any structure currently used for seasonal use may be converted to a year-round or permanent use or is “winterized” for use in the winter months, the Holderness Health Officer must be requested to inspect the water supply and septic system and must certify that they are adequate for the intended purpose. He may require a plan of the system and/or an inspection and plan by a qualified septic system designer. If the existing septic system is found to be inadequate, he may require that a septic system approved by the Water Supply and Pollution Control Division of the New Hampshire Department of Environmental Services be installed. Such conversion or winterization may be done

only in accordance with a permit issued and approved by the Building Inspector or Zoning Officer and Health Officer. Winterization of a seasonal dwelling will require compliance with the New Hampshire Energy Code administered by the Public Utilities Commission. Conversion of a seasonal dwelling to a year-round or permanent use shall require approval of a special exception by the Zoning Board of Adjustment in all zoning districts in accordance with the provisions of Article IV.

However,

2. Selectmen may approve a seasonal conversion IF the structure is fully in compliance with the zoning ordinance in effect at the time of application and is in compliance with the NH energy code, and has a certificate of approval from the New Hampshire Water Supply and Pollution Control Department stating that the existing septic system is acceptable, meets current state and local standards, or has approval for a new system.

3. In either case the town must be provided with evidence that the septic system complies with State laws and regulations. (3/07)

O. Mooring Fields

All private or public mooring fields in excess of three (3) moorings will require the following:

1. Three (3) parking places for every two (2) moorings

2. The parking lot shall not be closer than one hundred (100) feet from the reference line.3/02

3. Chemical, mechanical, or flush toilet facilities (a minimum of one for males and one for females) must be placed at a location approved by the Planning Board.3/02

4. Adequate trash receptacles shall be provided.

5. A copy of the State mooring permit must be provided to the Town.

P. Shorelands Protection (3/08)

The protected shoreland is all land located within 250 feet of the reference line (shoreline) of public waters as delineated in RSA 483-B. No person shall commence construction, excavation, or filling activities within the protected shoreland without obtaining a permit from the New Hampshire Department of Environmental Services to ensure compliance with RSA 483-B provisions.

Q. Recreation

Recreational uses consistent with the enjoyment and preservation of open spaces and natural resources, and which do not materially harm or effect the residential or rural quality of the town shall be encouraged. Interrelated trail systems and access points shall be encouraged to enhance circulation and provide safe and efficient movement of recreational users. The trails should be developed with the following uses in mind; cross country skiing, snowmobiling, horseback riding, picnicking, non-motorized biking, hiking and backpacking, and snowshoeing. Existing trails or those developed within the provisions of this General Provision shall not be deemed structures within the confines of this ordinance. 3/94.

R. Home Occupation 3/98

a. Permitted in all districts if in conformance with the rest of this ordinance as well as the following;
   1. Activity must be operated by residents of the property. Nor more than two nonresidents may be employed on this site.

   2. The activity must be clearly incidental to and subordinate to the primary use of the premises as a residence and must not change the appearance, character, or condition of the premises or surrounding neighborhood.

   3. There must be no exterior display, no exterior storage of materials or equipment and no other variation from the residential nature of the premises other than;
      a. signs as provided for elsewhere in this ordinance and,
      b. parking as allowed in this section

   4. No on street parking as a result of this activity shall be allowed. If this activity causes a need for additional parking Site Plan Review will be required. 3/98

   5. No increase in sewage disposal on this site will be permitted except for normal personal use of employees and occasional use by clients/customers. Any activity that increases the sewage disposal beyond this amount shall require a Special Exception or Variance.

   6. No traffic, other than that of employees, shall be caused by this activity between the hours of 8 p.m. and 7 a.m.

      c. The Selectmen may require Site Plan Review, Special Exception, or Variance if in their opinion the activity does not meet those conditions that permit a Home Occupation. (3/97)

S. Essential Services

Site Plan Review is not required for installations such as poles, wires, anchors, guys, conduits, distribution transformers, underground equipment, etc. Site Plan Review is required for substations, switching stations and other such large facilities. The Planning Board has the option to waive any requirements contained in this ordinance regarding Utility Structures which are less than 200 square feet in area as per State laws and regulations. (3/07)

T. Telecommunications Facility

A telecommunications facility shall not be deemed to be a permitted use in any district unless the Planning Board approves it following Site Plan Review. The Planning Board shall adopt regulations that protect the public interest and require that such facilities be appropriately sited to further the purposes of this ordinance, including without limitation, the protection, preservation and enhancement of scenic and aesthetic values. Telecommunications facilities are not "essential services" for the purpose of this ordinance. 3/99

1. All towers permitted under Site Plan Review shall be; 3/01
   a. At the minimum height necessary
   b. Constructed so as to fit in as much as possible with the surrounding features in the area (look like trees, steeples, barn cupolas, etc).

U. SPECIAL EVENTS PERMIT 3/01

1. For the purpose of regulating special events that may occur occasionally the Selectmen may issue permit to hold the event in any area of town provided;
    a. That the Selectmen provide an opportunity to receive public input regarding the event,
    b. The Selectmen shall consider the effect that this event may have on the abutters and those residents in the area,
    c. The event may not last more than ten days,
    d. The Selectmen shall request, and take into consideration, input from the Fire & Police Departments, the Health Officer, and the Planning Board,
    e. The Selectmen may place any conditions that they deem necessary in the permit (conditions are not limited to: requiring other permits, hours or days of operation, parking, access, fencing, shelter, availability of water, toilet facilities, noise, [police fire and highway departments] services)
    f. The size of the event must be stipulated in the permit (the size shall include the area to be occupied as well as the numbers of people allowed)
    g. The Selectmen shall establish a fee for the permit (this fee is for administrative purposes only and shall cover such things as notification, secretarial, and administrative costs),
    h. The Selectmen may require a bond or any other form of security that they feel is warranted for the event,
    i. The Selectmen may require a prepayment for anticipated town services,
    j. The property owner(s) shall provide the Selectmen with written notification that they are allowing the use of their property for this event,
    k. The Selectmen shall determine whom the permit shall be issued to.
    l. The application shall be made by the property owner, or an authorized agent.

2. A Special Events Permit is in lieu of any other permit or approval normally required by this Town, including Site Plan Review. It may be granted for uses and or activities not permitted in the Zoning Ordinance.

3. The Selectmen shall provide an application form for a Special Events permit.

V. <u>Outdoor Wood-Fired Hydronic Heaters (March 2009)</u>

All new outdoor wood fired hydronic heaters (OWHH) will have to be applicable to a Phase I or Phase II unit effective April 1, 2009 and must meet all unit requirements and setbacks to RSA 125-R, except for the following change to RSA 125-R:3 II: Setback and Stack Height Requirements which will require that all OWHH shall be installed at least one hundred (100) feet from the nearest property line and have a permanent attached stack that is a least two (2) feet higher than the peak of the roof of a residence or place of business not served by the OWHH if that residence or place of business is located with three hundred (300) feet of the OWHH.

W. <u>Small Wind Energy Systems</u> (March 2009)

1. Purpose

It is the purpose of this ordinance to regulate the safe, effective and efficient use of small wind energy systems to reduce the on-site consumption of utility supplied electricity. It is recognized that Holderness, New Hampshire residents value the natural beauty of our area. A balance is sought between this value and the fact that wind power is an important and inevitable part of our future.

2. Findings

Holderness, New Hampshire finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Therefore, we find that it is necessary to create proper guidelines and permits for small wind energy systems to enable a clean, renewable energy resource to be utilized in a cost-effective and timely manner and to minimize impact on the surrounding abutters and neighbors.

3. Definitions

Power grid: The transmission system, managed by ISO (Independent Service Operator) New England, created to balance the supply and demand of electricity for consumers in New England.

Small Wind Energy System: A residential wind energy conversion system consisting of a wind turbine, a tower, and supporting structures (e.g. guy wires, if needed), and associated control or conversion electronics, which has a rated capacity of not more than 25Kw and which is primarily intended for on site consumption.

Tower: The monopole, guyed monopole or lattice structure that supports a wind generator.

Tower Height: The distance from the base to the system hub.

Total Height: The vertical distance from the ground level to the tip of the rotating blades at their highest point.

4. Permitted Use & Requirements

a. Site Plan Review & Building Permit: No small wind energy system shall be erected, constructed, or installed without Planning Board site plan review and receiving a building permit. A building permit shall be required for any physical modification to an existing small wind energy system.

b. Abutter and Regional Notification: In accordance with RSA 674:66, the compliance officer shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the compliance officer prior to the issuance of the building permit. The compliance officer shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the compliance officer shall follow the procedures set forth in RSA 36:57, IV.

c. Small wind energy systems shall be a permitted use in all zoning classifications and subject to the requirements set forth below:

d. Tower Height: Tower height shall be no greater than 150 ft.

e. Blade Location: The wind energy system blade shall not extend over sidewalks, parking lots or driveways.

f. Set-back and Location: No part of the small wind energy system, including guy wire anchors, may extend closer than 35' from any property line including the road frontage. Setback of the small wind energy system (excluding guy wire supports) must measure at least 1.1 times the total height of the small wind energy system from the property line and utility lines other than those serving the wind system.

g. Rated Capacity: A small wind energy system shall not have a rated generation capacity greater than 25kW.

h. Multiple Systems: Multiple wind energy systems are not permitted on a property.

i. Noise: Noise from small wind energy systems shall not exceed 60 decibels using the A scale dBA as measured at the property boundary. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

j. Aesthetics: All measures will be taken so as the system shall have as little adverse visual impact on the surrounding area and neighbors in particular, as possible. The color must be non-reflective and neutral. The less visible and the more the structure blends with the surroundings the better. All temporary or permanent signs are prohibited on the small wind energy system except for manufacturer's standard logo on the turbine or appropriate warning signs on the base of the tower not to be positioned more than 10 feet from the ground. The small wind energy system shall not be artificially lit unless required by the Federal Aviation Administration.

k. Adverse visual impact may occur when a project is out of context with its surroundings. When assessing the visual impacts of a wind energy system, both the visual characteristics of the area in which the system will be sited, as well as the visual characteristics of the areas from which the system will be seen, will be considered. Where potential undue adverse visual impact of a system is of concern, a view shed analysis, using a Geographic Information System (GIS) technology or something similar may be required at the expense of the applicant.

l. Utility Notification: If the owner's intent is to connect the small wind energy system to the power grid, proof of public utility acceptance shall be required prior to installation.

m. Access: The tower shall be designed and installed so as not to provide ready access to the public. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

n. Decommissioning: If the wind energy system is not in use for a period of 1 year, it must be disassembled by the property owner unless a specific and time-bound extension is provided by the selectmen. Decommissioning a wind energy system shall include the removal of all above-grade structures. The wind energy system shall be maintained in good condition and good repair at all times. Any structure that is or becomes in disrepair such that it does not meet its intended usage in the opinion of the selectmen, must be repaired within 45 days. If the wind energy system is not removed after one year of not being in use, a Notice of Abandonment will be issued by the Selectman. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

If the owner fails to comply, the selectmen shall have the tower removed at the owners' expense and any associated legal fees charged to the owner.

o. Automatic Over-speed Controls: All small wind energy systems shall be equipped with manual (electronic or mechanical) and automatic over-speed controls to limit the blade rotation speed to within the design limits of the system.

p. State & Federal Requirements: Evidence shall be provided that the system meets all Federal Aviation Administration and New Hampshire Aviation regulations.

q. Monitoring Equipment: To determine the efficacy of installing a small wind energy system, a limit of three meteorological towers, including guy wires and monitoring equipment, may be erected per lot at any given time. These structures will conform to all setback and height regulations for a small wind energy system and may remain in place for a period not to exceed 18 months with minimal permitting processes and fees. Fees and permitting to be determined by the Selectmen and will require a building permit.

r. Modification: Existing small wind energy systems will require a building permit for any changes which result in an increase in size, height, width or sound output. Any change in location of the small wind energy system will be deemed to be a new installation. In-kind replacements shall not be construed to be a modification.

s. Site Preparation: To prevent erosion and to maintain the aesthetics surrounding a proposed tower location, minimal clearing of trees and other natural vegetation is encouraged.

t. Steep Slopes Locations: For small wind energy systems located on any geologic prominence whose side(s) are incorporated in the Steep Slopes Protection Area, the highest point of a rotating blade may not extend above the highest point of ground on the geologic prominence on which the system is sited unless the applicant can demonstrate that minimal adverse impact is created.

ARTICLE V. STEEP SLOPES (3/08)

1. Purpose and Intent

As recognized in its Master Plan (2006), the Town of Holderness' lakes, mountains, hillsides, woodlands, streams, wetlands and scenic views are important elements of the quality of life for residents, other property owners, and visitors. The nature of the soils on steep slopes in the Town of Holderness is such that the land is exceptionally vulnerable to erosion and associated problems. Therefore, in order to protect the public health, safety and welfare of individual landowners, owners of abutting property and the Town of Holderness, this article is intended to guide the use of steeply sloping land within the town. The purposes of this article include: (a) to reduce damage to streams, lakes and groundwater from the consequences of excessive or improper construction, erosion, storm water runoff, or effluent from improperly sited or designed sewage disposal systems, (b) to preserve the natural topography, drainage patterns, vegetative cover, scenic views and wildlife habitat, (c) to protect unique natural areas, and (d) to provide reasonable access to properties for fire, public safety, or other emergency crews.

2. Delineation

This article shall apply to all areas that include a slope equal to or greater than 15 percent (Steep Slopes Protection Area), as shown on the town's steep slopes map. The steep slope Application Requirements, Performance Standards and Design Guidelines apply only to the area of site disturbance. If an area is incorrectly identified on the map as having steep slopes, the provisions of this article shall not apply. Conversely, if an area is found to have steep slopes and is not identified on the map, the provisions of this article shall apply. The final determination of a steep slopes area shall be made by the Board of Selectman or its agent, who may have prepared a site-specific survey at the applicant's expense to make the determination.

3. Application Requirments

A. Sediment and Erosion Control Plan

A Sediment and Erosion Control Plan will be prepared by a New Hampshire licensed professional engineer that shows specific methods that will be used to control soil erosion and sedimentation, soil loss, and excessive storm water runoff, both during and after construction (Article IV.B.3, Removal of Natural Material - Steep Slopes).

B. Site Grading Plan

A Site Grading Plan for the construction site and all access routes will be prepared by a New Hampshire licensed professional engineer or surveyor. Uses that will cause more than 15,000 square feet of site disturbance must show the area subject to site disturbance in two-foot contours. The area to be disturbed should be clearly delineated relative to the proposed structures and property lines.

4. Performance Standards

All uses permitted in the underlying district will be a conditional use in the Steep Slopes Protection Area and must meet the following conditions for approval:

A. During Construction

The Sediment and Erosion Control plan must meet the Best Management Practices for Storm water Management and Erosion and Sediment Control as cited in the New Hampshire Department of Environmental Services "Storm water Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire" and subsequent revisions.

B. Post Development Runoff

For a proposed contiguous site disturbance area equal to or less than 50,000 square feet, the Sediment and Erosion Control Plan must demonstrate that the post-development volume and peak flow rate, based on the 2-, 10- and 25-year, 24 hour storm event, shall not exceed the pre-development volume and peak flow rate for all flows off the property. The plan design should incorporate infiltration wherever possible.

For a proposed contiguous site disturbance area greater than 50,000 square feet, the Sediment and Erosion Control Plan must meet or exceed all minimum New Hampshire Department of Environmental Services requirements for "Alteration of Terrain" and subsequent revisions.

C. Excavations

Any grading cut and fill shall not exceed a 2:1 ratio. All excavations require a maximum grade of 15% with a minimum of 6 inches of topsoil covering the excavation area.

D. Vegetative and Topographical Features

Existing natural and topographic features, including the vegetative cover, should be preserved to the greatest extent possible. In the event that extensive amounts of vegetation are removed, the site shall be replanted with indigenous vegetation and shall replicate the original vegetation as much as possible.

E. Driveway

No section of any driveway may exceed a 12 percent slope for residential development or 8 percent slope for nonresidential site plans

F. Unsuitable Land

No structure shall be allowed on a slope greater than 25 percent prior to site disturbance

5. <u>Design Guidelines</u>

All proposed structures shall meet the following design guidelines:

A. Minimum Lot Size

The minimum allowable lot size for any lot shall be determined according to Article III.D.6, Lot Area. However, for property with steep slopes, that area with a slope greater than 25% is considered to be unsuitable for development and therefore is excluded from the calculation of lot size.

B. Lot Coverage

For district GR, allowable lot coverage is limited to 35 percent of Useable Lot Area . For district RR, allowable lot coverage is limited to 15 percent of useable lot area. For district CD, allowable lot coverage is limited to 50 percent of useable lot area.

C. Building Envelope

The building envelope (i.e. opening for building construction) permitted is a rectangle with an up-slope boundary 40 feet or less from the building, side boundaries 40 feet or less from each side of the building, and a down-slope boundary 25 feet or less from the building. Accessory structures shall be built within the building envelope. Building envelope boundaries shall be at least 35 feet from property lines.

D. Clearing for a View

In order to develop a view, trees may be removed beyond the building envelope for a width not to exceed 25 feet and extending outward there from at an angle of 45 degrees or less on both sides. The single 25-foot opening may be at any point along the down-slope boundary of the building envelope. The opening may extend outward to a distance where the tops of the trees are at or above the level of the down slope building foundation. No natural vegetative ground cover or stumps shall be removed except as necessary for a foot path to down-slope property, and for cutting that vegetation that has grown over 3 feet in height for the purpose of providing or maintaining a view. See appendix C

6. Administration of Building or Structural Permits

In addition to meeting the conditions set forth in this section, Building or Structural Permits shall be granted in accordance with the following pertinent procedures:

A. A Building or Structural Permit shall be granted by the Board of Selectmen or its agent upon a finding that the proposed use is consistent with the intent of the ordinance. The Board of Selectman or its agent shall provide notice of the application to the Conservation Commission and may require review by any board, commission, or other professional expertise deemed necessary.

B. The applicant must demonstrate that no alternatives are available for the productive use of areas outside of the Steep Slopes Protection Area, that no practicable alternatives exist to the proposal under consideration, and that all measures have been taken to minimize the impact that construction activities will have upon the area.

C. Upon fulfillment of the requirements of the Building or Structural Permit, and after a final site inspection, the Board of Selectmen or its agent shall issue a Certificate of Compliance. Usage of the site, other than for construction, is not approved until after site inspection and a Certificate of Compliance is issued.

7. <u>Costs</u>

All costs incurred by the town pertaining to the consideration of an application, including consultant's fees, on-site inspections, environmental impact studies, notification of interested persons, and other costs shall be borne by the applicant and paid prior to the Town's final action.

8. Additional Recommendations (Recommended but not required)

A. Only low level, indirect lighting should be used. Spotlights and floodlights should be avoided.

B. No portion of any structure should extend above the elevation of the ridgeline.

C. Structures should use natural landforms and existing vegetation to screen them from view from public roads and waterways to the extent practicable.

D. Cuts and fills should be minimized, and where practical, driveways should be screened from public view.

E. Building sites and roadways should be located to preserve trees and natural ground cover.

ARTICLE VI. SPECIAL PROVISIONS

A. Cluster Residential Development

The objective of a Cluster Residential Development is to encourage flexibility in residential development design by permitting mixed housing types, which may be grouped on lots of reduced dimensions to allow for a more economic provision of street and utility network, and to encourage the preservation and recreational uses of open space in harmony with the natural terrain, scenic qualities, and outstanding land features. The remaining land in the tract which is not built upon is reserved as permanently protected open space.

Proposals for cluster development must go to the Planning Board for subdivision approval and must comply with applicable provisions of the Holderness Subdivision Regulations. The following standards must be met by Cluster Residential Development:

1. Where cluster or multiple dwelling units are permitted, the minimum lot size of each dwelling unit within the cluster shall be determined by the Planning Board based upon the character of the land involved, the type of housing proposed and the need for adequate on-site sewage disposal, as determined by the Holderness Subdivision Regulations and the State Water Supply and Pollution Control Commission standards. Where a community sewage disposal system, located on common land, is permitted, legal responsibility for ownership and maintenance must be established as part of the approval process.

2. The total number of dwelling units to the total acreage shall remain at the same overall density as required in each zoning district. The land area not used for individual lots, or construction of buildings or structures and roads shall be permanently maintained as open space or common land for the purposes of recreation, conservation, park or public easement or agriculture. The open space or common land or any portion of it shall be held, managed and maintained by the developer until it is owned in one or more of the following ways:

    a. By a Homeowner's Association, set up by the developer and made a part of the deed or agreement for each lot or dwelling unit.

    b. Be a Conservation Trust or private non-profit organization, such as the Society for the Protection of New Hampshire Forests or the Audubon Society, which will ensure that the common land will be held in perpetuity as open space.

    c. By the developer, as appropriate, for areas such as golf courses, outdoor recreational area and enclosed recreational facilities.

3. All agreements, deed restrictions, organizational provisions for a Homeowner's Association and any other method of management of the common land shall be established prior to approval.

4. Each dwelling unit shall have reasonable access to the common open land, but need not front directly on such land.

5. The Plan shall provide for the convenience and safety of vehicular and pedestrian movement on the site and for adequate location of driveways in relation to street traffic. Maximum building or structure

height, parking standards, and minimum distance from lot lines shall be required as specified under general provisions of this Ordinance.

B. Manufactured Housing

Manufactured Housing is permitted on individual lots. It shall be placed on a permanent masonry foundation, and the area between the bottom of the manufactured housing unit and the ground shall be completely enclosed.

Only one manufactured housing unit shall be located on the same lot.

C. Recreational Camping Park Standards

The following regulations shall apply to all recreational camping parks:

1. A recreational camping park shall have an area of not less than five (5) acres.

2. Each tent, recreation vehicle or trailer space shall be at least 2,500 square feet in area and at least thirty (30) feet in width and shall have a suitable parking area of at least ten (10) feet in width and twenty (20) feet in depth.

3. A strip of land at least twenty-five (25) feet in width shall be maintained as a landscaped area abutting all recreational camping park property and one hundred (100) feet from any public street or highway.

4. Every recreational camping park shall have a dumping station for sewage disposal, meeting all applicable State and local laws and regulations. The water supply source must meet all local and State regulations.

5. Each recreational camping park shall provide one or more service building or structures containing flush-type toilets. Separate toilet areas shall be provided for males and females in accordance with all applicable State and local laws.

6. All interior roads within a recreational camping park shall have a hard well drained surface. Two-way roads must be at least thirty (30) feet in width with surface at least twenty (20) feet in width. One-way roads must be at least eighteen (18) feet in width with surface at least twelve (12) feet in width.

7. Lot coverage on any site shall be a maximum in square footage as follows: 3/99
   a. RV, camper, or tent, including deck porch, screened in areas, other structures, (attached or not) 400 square feet
   b. Parking minimum 200 square feet, maximum 400 square feet.
   c. Portable picnic tables and approved fire pits shall not be included in the lot coverage calculations

D. Waterfront Right-of-Way

The purpose of this provision is to provide guidelines for the development of back land with access to Big and Little Squam Lakes and White Oak Pond, so as to prevent overcrowding and for the protection of the shoreline and quality of water.

Right to gain access to a water body through or by means of any land in the Town of Holderness shall not be created or attached to any real estate, except in accordance with the standards set forth below and subject to the Planning Board approval. Any owner granting rights of use and access shall comply with the following standards:

1. Waterfront Area:

   The minimum area of any waterfront lot shall not be less than one (1) acre. The minimum depth shall be one half (1/2) the frontage.

2. Water Frontage:

   Said lot shall have not less than 200 linear feet of shore frontage for up to ten (10) residential dwelling units, individual campsites or individual lodging units granted rights of use or access, with an additional twenty (20) linear feet of shore frontage for each additional residential dwelling unit, individual recreational campsite or individual lodging unit.

3. Parking:

   An area of three hundred (300) square feet for parking shall be provided for each dwelling unit, recreational campsite or individual lodging unit granted use of access. The parking area shall not be closer than one hundred (100) feet from the reference line. Parking shall only occur in the designated parking area.

4. Toilets:

   One (1) chemical, mechanical or flush toilet facility each for males and females shall be provided for two (2) up to twenty-five (25) residential dwelling units, individual campsites or individual lodging units planned.

E. <u>Waterfront Area and Building or Structure Units Which are Contiguous</u>

1. Waterfront Area:

   The minimum area shall be 11,000 square feet for two (2), up to ten (10) residential dwelling units, individual campsites, or individual lodging units, with an additional one thousand (1000) square feet per residential unit, individual recreational campsite or individual lodging unit.

   Waterfront area shall not be utilized to satisfy the minimum lot size requirements for building or structure.

2. Water Frontage:

   Said lot shall have not less than 200 linear feet of shore frontage for up to ten (10) residential dwelling units, individual campsites, or individual lodging units granted rights of use or access, with an additional twenty (20) linear feet of shore frontage for each additional residential dwelling unit, individual recreational campsite or individual lodging unit.

F. Marina

This section shall regulate the standards for marinas to insure harmonious and compatible development with regard to adjacent properties and to promote higher water quality and safety conditions. Conditions under Article V General Provisions are to be met except for minimum frontage requirements.

1. Docks may be permitted on the basis of one slip per twenty-five (25) feet of shoreline.

2. Parking shall be provided on the basis of three spaces for every two (2) wet slips; additionally one space for every dry docking storage rack shall be provided unless the storage space is exclusively used for winter or sales storage. Additional trailer parking areas shall be determined on a case by case basis.

3. No boat storage building or structure shall exceed 35 feet in height.

4. A lot shall not exceed fifty (50) percent impervious cover; nor shall more than seventy-five (75) percent of the shore frontage be developed with respect to dockage, boathouses, ramps or other structures. The twenty-five (25) percent undeveloped area shall be a minimum of fifty (50) feet in width extending back from the mean high water mark.

ARTICLE VII. NONCONFORMING USES, STRUCTURES OR LOTS (3/97)

A. Uses

1. All properties whose active use is nonconforming when this ordinance is passed and adopted may continue in the same use. A nonconforming use may be changed only to a use which is permitted in the district in which the property is located or one which is permitted by Special Exception if the Special Exception is granted by the Zoning Board of Adjustment.

2. If a nonconforming use is discontinued or abandoned for one year, it shall thereafter conform to the regulations for the district and the nonconforming use may not thereafter be resumed without approval of the Board of Adjustment.

3. Nonconforming uses may not be expanded. 3/02

B. Structures

1. Nonconforming buildings or structures may be repaired, improved, or expanded, provided:
   a. No alteration shall increase the nonconformity according to the requirements of this Ordinance, including use regulations, and all other dimension and area requirements.
   b. Expansion of existing structures either on a nonconforming lot or in the case where there are two or more dwellings on a lot may be approved by the Board of Selectmen on a case by case basis providing other requirements in this section are met and the spirit of this Ordinance is maintained. This authority may not be passed on to an assignee. (3/04)
   c. The property owner must have all required state approvals and shall satisfy the Selectmen and Health Officer that provisions for sewage disposal and water supply are acceptable.
   d. Any structures adding cubic footage that are located on nonconforming lots must also provide the Selectmen and Health Officer with a septic site assessment done by an approved person and provide evidence that the septic system complies with RSA485-A:38. (3/02)
   e. No expansion of any kind shall occur in any setback. (3/02)
   f. Adding a pitched roof will not be considered an expansion provided it does not increase any living or storage space.

2. Nonconforming buildings or structures which are demolished, destroyed by fire or natural disaster may be rebuilt or replaced in accordance with (the above provision) Article VIII, Section B, 1. The rebuilding or replacing must be completed within two years from the time the building or structure was destroyed. Selectmen may grant an extension to this time for reasonable cause.

C. Lots

An existing non-conforming lot which does not meet minimum lot size requirements may be used for a permitted use in the district which it is located if all other conditions of the ordinance are met and if the lot will allow for adequate and safe water supply and sewage disposal as determined by the Selectmen or by the Planning Board if Site Plan Review is required for the proposed use. 3/99

D. Waiver of Dimensional Compliance for Replacement of Pre-Existing Septic Systems 3/99
Upon application duly made in accordance with article VIII, the Board of Adjustment may approve a Special Exception to allow replacement of a pre-existing septic system by a new system which may require minor waivers of dimensional standards, such as setbacks, otherwise applicable to such a system. In order

for the special exception to be approved, the applicant shall demonstrate to the Board of Adjustment the following:

1. The existing system must never had permitted, substandard, failing or failed septic system, or one that may be reasonably expected to fail in the foreseeable future.

2. The proposed replacement system must be an improvement over the existing system and must be approved by the State in its proposed location.

3. The proposed system cannot reasonably be replaced in strict compliance with dimensional standards required by this ordinance.

4. The waiver from dimensional requirements shall not constitute a significant or substantial deviation from the purposes of this ordinance.

5. A qualified, licensed professional must present credible evidence that no adverse results are expected from the waiver of the dimensional requirements.

6. All other applicable criteria of Article IX shall be satisfied. 3/99

The special exception allowed by this section shall not be deemed to affect the procedures to allow emergency replacement of failed systems permitted by Article XI, Section A, 1. 3/99

ARTICLE VIII. BOARD OF ADJUSTMENT

A. Creation, Appointment and Jurisdiction

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 (5) members whose powers shall conform to the provisions State laws and regulations . 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.

The Board of Adjustment may also include not more than five (5) alternate members appointed by the Board of Selectmen.

B. 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 State law and regulations, within the time limit set by the Board of Adjustment according to said statute. The person making the appeal shall pay the cost of mailing the notices of a hearing prior to the hearing.

C. Variances

1. The Board of Adjustment may, on an appeal, grant a variance from the provisions of this Ordinance only where the Board finds that all of the following conditions apply:
   a. There are special circumstances or conditions applying to the lot or structure for which the variance is sought (such as, the exceptional narrowness, shallowness or shape of the lot or structure in question, or exceptional topographical conditions), which are peculiar to such lot or structure, and the 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 of such lot or structure a hardship not shared by the owners of other lots or structures in the same district. (Financial hardship does not constitute “hardship” in this case.) The applicant shall not have created the hardship.

   b. The specific variance, if granted, represents the minimum variance that will afford reasonable relief to the owner and is necessary for a reasonable use of the lot or structure.

   c. The granting of the variance will be in harmony with the general purposes 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.

   d. The use proposed is a permitted use, as described under Article III.

   e. The ZBA shall have the same authorities as granted to the Planning Board under State law and regulations to collect fees from an application to cover expenses occurred in the performance of their duties. (3/04)

ARTICLE IX. SPECIAL EXCEPTIONS

Uses of land and buildings or structures as special exceptions as listed under each district may be allowed only by approval of the Board of Adjustment, provided that the land use impact on the environment and particular site in question, and on abutting landowners is not negative, and if each of the standards and requirements contained in this ordinance are complied with.

A. Procedure for Special Exception

A special exception will require an application and a site plan duly made to the Board of Adjustment. A site plan for the proposed development of a site seeking a special exception shall provide the following information where applicable:

1. The lot dimensions and any bounding streets and their right-of-way and pavement widths.
2. Location and dimensions of existing or required service areas, buffer zones, landscaped areas, recreational areas, signs, rights-of-way, easements, streams and drainage.
3. All existing buildings or other structures with their dimensions.
4. All proposed buildings, structures or additions with their dimension indicating "proposed" on the plan.
5. Indicate all setback (front, rear, and side) dimensions and building or structure heights.
6. Computed lot and building or structure areas and percentage of lot occupancy.
7. Elevations or contours, if required or if relevant.
8. Location and number of parking spaces and lanes with their dimensions.
9. Any required loading and unloading and trash storage areas.
10. Dimensions and directions of traffic lanes and exits and entrances.

All abutters of any proposed land use not permitted as a matter of right indicated under district permitted uses shall be notified by the Board of Adjustment by certified mail not less than five (5) days before the date of any public hearing regarding said site. The names and addresses of the abutters shall be supplied by the applicant on a plat plan to be submitted to the Board of Adjustment.

The applicant shall pay the total cost of posting and advertising any hearings, the cost of certified mailings and any necessary site inspection fees.

B. Conditions for Special Exception

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, grant a permit for a special exception as listed in the various districts. Before granting a permit, the Board shall determine that all the provisions set forth in Articles IV and VI and all other conditions enumerated in the Ordinance are met, and shall hold an abutters' hearing to hear any valid objections based on demonstrable fact. The Board, in acting on an application for a special exception, shall take into consideration, but not be limited to, the following conditions:

1. The specific site is an appropriate location for the use or structure.
2. The use will be compatible with neighboring land uses.
3. That property values in the district will not be reduced by such a use.
4. There will be no nuisance or serious hazard to vehicles or pedestrians.
5. Adequate and appropriate facilities be provided for the proper operation of the proposed use.

6. The proposed use shall comply with the minimum land space requirements set forth for each district, and as set forth in the General and Special provisions of the Ordinance.
7. The capacity of existing roads and highways to carry additional traffic.

C. Special Standards

The Board of Adjustment may impose additional special standards in granting a special exception where deemed necessary to protect the best interests of the surrounding property, the neighborhood or the town as a whole. These standards may include:

1. Increasing the required lot size or yard dimensions in order to protect the adjacent properties.
2. Limiting the lot coverage or height of buildings or structures because of obstruction to view and reduction of sunlight and air to adjacent properties.
3. Controlling the location and number of vehicular access points to the property.
4. Limiting the number, location and size of signs on-site.
5. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
6. Providing for specific layout of facilities on the property such as location of the building or structure, parking spaces or area and access to the building or structure so as to minimize effect on adjoining property.
7. Require that in case of conversions of existing structure into two or more dwelling units or lodging units or into a more intensified use, the lot or land area is sufficient in size to support an adequate subsurface sewage disposal system. Soils type and slope shall be identified on a plan. An inspection of the existing sewage disposal system and a detailed diagram showing type, extent and location of the system, certified by a professional sanitary engineer, indicating that the system is adequate for its intended proposed use shall be furnished.

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

A. Administration

The Board of Selectmen or its agent is hereby given the power and authority to enforce the provisions of this Ordinance and control issuance of any permits required under the regulations set forth. 3/02

B. Issuing Permits

1. The Board of Selectmen or their agent shall issue or deny any and all building, structure, use, demolition or excavation permits required. No permit shall be issued for the erection of any structure and the use of land unless the proposal complies with the provisions of this Ordinance.

2. Any property owner, or authorized agent intending to erect, construct, alter, demolish, or reconstruct any building or structure, shall first make applications for a building permit on forms obtained from the Selectmen's office (3/02)

3. Two copies of (Site Assessment) forms as required by the NH Department of Environmental Services shall be filed with the Town Clerk. One shall be given to the Planning Board, the other shall be given to the Compliance Officer who shall review it with the Selectmen. This form is required by the State prior to executing a purchase and sale agreement on any property within 200 feet of a public water body greater than ten (10) acres. (3/96) (RSA 485-A:39)

4. A plan for all permitted uses shall be submitted to the Board of Selectmen or their agent. If the plan complies with the provisions of this Ordinance, the Board of Selectman or their agent shall, within fifteen (15) days of the receipt of the plan, issue a building or structural permit. Exception – if a recommendation from the Conservation Commission is required (Sect. K General Provisions) the Selectman are granted until 15 days after they receive the recommendation to issue or deny the permit. The building or structural permit will state if a "Certificate of Compliance" is required prior to occupation or use. (3/08)

5. A fee, based on a fee schedule established by the Selectmen shall accompany a building or structure permit application. The building or structure permit will be posted in a prominent place on the lot. The selectmen shall cause a list of approved or denied permits to be posted in two (2) public places within five (5) days of date of issue.

6. Permits issued by the Selectmen for construction, demolition, or excavation shall be good for a maximum of four (4) years. The Selectmen may issue a permit for a lesser amount of time. Permits issued for "use" or in conjunction with Special Exceptions or Variances granted by the Zoning Board of Adjustment are good until one (1) year after the "use" or activity associated with the Variance or Special Exception ceases. 3/98

7. Upon completion of the requirements of the building or structural permit, and after a final *review and/or site* inspection, a Certificate of Compliance shall be issued by the Board of Selectmen or its agent. Usage of the building or structure, other than for construction, is not approved until after a post construction *review and/or* site inspection and a Certificate of Compliance is issued. In deciding whether to issue a certificate of compliance, the Board of Selectmen or their agent may request certificates or statements from various practitioners involved in the construction of the building or structure to confirm that the work complies with all relevant zoning requirements (3/08).

C. Enforcement

1. Upon receiving any credible information that this Ordinance is being violated, and upon an affirmative vote that a violation more probably is being committed, the Selectmen are authorized hereby to enforce the provisions of this ordinance by application for appropriate relief in the Superior Court, or by taking any other legal action.

2. Any violation of any provision of this Ordinance by any person, whether the owner of a property or whether acting under authority of such owner, shall incur the penalties provided per State law and regulations. (3/07) (RSA 676:17)

ARTICLE XI EMERGENCY ACTIONS

A. Items in this section are to expedite corrective actions for existing situations that have failed. They are never to be used for new, nonexistent systems or as a means to circumvent the intent of this ordinance.

1. Expedited Septic System Repair or Replacement

   Existing septic systems, that have failed, that can not meet present zoning requirements may be repaired or replaced upon receiving the written approval of the Chairman of the Board of Selectmen, the Chairman of the Planning Board, and the Chairman of the Zoning Board of Adjustment or their designee(s). The Health Officer shall provide a recommended course of action to each of the Chairmen within three working days of receiving the application for t he system. The Chairmen shall submit their reply to the board of Selectmen within five days of receiving the Health Officer's recommendations. Upon receipt of the written approval the Selectmen, or their designee, shall expedite the issuance of a building permit. If the location of the replacement system cannot practicably meet the requirements of this ordinance the permit may be issued without a variance. Should any of the Chairmen not approve of the repair or replacement, the applicant will have to proceed with the normal course of action as outlined in the zoning ordinance. This "emergency action" does not negate the need for the applicant to adhere to all applicable State of New Hampshire requirements. (3/94)

2. Replacement Well
   The Selectmen, or their designee, after consultation with the Health Officer, may immediately issue a building permit to repair or replace a water source. If the location of a replacement well cannot practicably meet the requirements of this ordinance the permit may be issued without a variance. The Selectmen or their designee shall attempt to have the new well site come as close as possible to the ordinance requirements. (3/2000)

ARTICLE XII. MISCELLANEOUS PROVISIONS

A. Saving Clause

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

B. Effective Date

This Ordinance shall take effect immediately upon its adoption.

C. Amendments

This Ordinance may be amended by majority vote of any Town Meeting, in accordance with State law and regulations.

D. Validity

Whenever the provisions of this Ordinance or rulings made under the authority hereof differ from those of other ordinances or regulations of the town, that provision or ruling which imposes greater restriction or higher standard shall govern. (RSA 676:14)

ARTICLE XIII. DEFINITIONS

For the purpose of this Ordinance, the following terms have the following meaning:

Abutter – Means any person whose property adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use hearing board, in the case of an abutting property being under condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined by State law and regulations. (3/07)

Accessory Structure – A structure incidental to and on the same lot as the primary structure. When used in connection with agricultural uses "accessory structure" shall include all structures customarily used for agricultural purposes. (3/97)

Agriculture – Use of land for farming, dairying, pasturing, floriculture, horticulture, forestry, and/or poultry husbandry. 3/94

Boathouse – Any wharf, dock or pier designed for the docking and mooring of waterborne craft over which a permanent structure has been erected for the sheltering of a boat or other waterborne craft from sun and weather.

Boat Slip – This is a volume of water 20 feet long 6 feet wide and 2 feet deep as measured at normal high water, and located adjacent to a structure which watercraft may be secured. 3/02

Boat Tours/Guided Fishing Trips – Boats and services for hire operated by licensed operators or guides. All parking must be off street. Sanitary facilities must be provided in the area of the dock. One facility for operational capacity up to 25 people. Two facilities shall be provided for operational capacities over 25. 3/98

Building – Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals or property.

Church - A place for worship and related religious functions, not for habitation. 3/94

Civic Uses – Uses by agencies and departments of town, county, state and federal governments. 3/94

Cluster Development – A pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

Commercial Services – A business which provides services off-site, such as logging dozing, landscaping, excavation, and trucking. Equipment may be stored and repaired on the premises with no material stored on the site. 3/94

Commercial Storage Facility – A building of multiple cubicles with a common roof, with lockable doors, independent of each other for rent to consumers for storage. 3/94

Community Wastewater System – A non-municipal wastewater collection, treatment and disposal system for serving at least fifteen (15) service connections or a daily average of at least twenty-five (25) individuals.

Community Water Supply – A non-municipal water supply system for serving at least fifteen (15) service connections or a daily average of at least twenty-five (25) individuals.

Consumer Services – A business which provides or sells a service rather than a product, which is an accessory use to the resident, such as, electricians, plumbers, carpenters, masons, or maintenance services. No outside material storage is allowed and no more than one business related vehicle will be allowed on the premises. 3/94

Day Care Center – A facility where more than six (6) children receive maintenance and care and are supervised by other than the guardian or relatives for less than 24 hours per day. 3/94

Dwelling, Single-Family – A detached residential building or structure other than a mobile home, designed for and occupied by one family only.

Dwelling, Two Family – A residential building or structure designed for or occupied by two families.

Dwelling, Multi-Family – A residential building or structure designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided or permitted.

Dwelling Unit – One room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sanitary and adequate room for (3/04) sleeping facilities. It shall include sectional homes, rental cottages (3/04), and modular units provided these units meet the standards of the local building or structure code, but shall not include camper or recreational vehicles, motel, hotel, lodging house or similar structure.

Easement – A grant or reservation of land for use by others, which may include the public, for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement. The usage of the word "easement" for land platting purposes in these regulations means that such easement area is included within the dimensions and areas of the lots or parcels through which the easement may run, and is not to be separated there from as in the case of a right-of-way.

Erosion - The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities. (3/08)

Essential Services – The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of facilities reasonable necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies and for the public health, public safety, or general welfare. Telecommunications facilities are not essential services for the purpose of this ordinance. 3/98

Expansion –

1. For structures any increase in height, width, length, cubic footage, above or below ground. This includes, but is not limited to, porches, decks, roof overhangs, patios, and basements/cellars.
2. Expansion of uses shall be any increase in the impact that the use may cause to the inhabitants of the Town or the Town itself not limited to but including traffic (both human and vehicle), waste disposal (both solid and septege), water withdrawal, and municipal services. The Planning Board shall be the determiner of whether there is or is not an increase in the impact of the use. 3/02

Family – An individual, or two or more individuals related by blood, marriage, or adoption living together, or not more than two (3/04) individuals not related by blood, marriage or adoption living together as a single housekeeping unit.

Flood Hazard – 1. Those areas subject to periodic flooding. 2. Other terms used in the flood hazard district may be found in the Flood Plain Ordinance. (3/97)

Greenhouse – A structure constructed for the production of flowers and or vegetables with an area set aside for packaging and wrapping of said commodities. 3/94

Group Development – The residence of a group of four (4) or more persons, not related by blood, marriage, adoption or guardianship and living together as a single unit.

Hazardous Materials – This term includes, but is not limited to, inorganic mineral acids of sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, and arsenic and their common salts; lead, nickel, and mercury and their inorganic salts or metallo-organic derivatives; coal, tar acids such as phenol and cresols and their salts, and all radioactive material.

Home Occupation – A business, profession or trade not allowable at that location as a principal use, conducted inside a dwelling or building accessory thereto as an accessory use and conforming to the criteria set forth under General Provisions. (3/98)

Junkyards – (RSA 236:112 Section I) Junkyard 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 part or intended to be a part of any motor vehicle, the sum of which parts or material shall be equal in bulk to 2 or more motor vehicles. Junkyards shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up parts thereof.

Kennel, Animal Boarding and Grooming – An establishment which more than six (6) dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained or sold.

Lake Shore District – Any area within five hundred (500) feet of the average high water level of lake or pond; an area to be determined by projecting a line perpendicular to the average high water level of a lake or pond.

Light Industry – The assembly manufacture, processing, packaging, or other operations to goods or materials such as in machine shops. 3/94

Lot – A lot is a parcel of land occupied or to be occupied by only one main building or structure and the accessory buildings or structures or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required.

Lot Frontage – Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by the ordinance shall be provided at each such line.

Manufactured Housing/Mobile Home – A detached, transportable structure built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, including plumbing, heating and electrical systems contained therein. Sectional homes, modular homes and prefabricated homes are not considered as manufactured housing/mobile homes.

Marina – A commercial waterfront facility whose principle purpose is the provision of publicly available services for the securing, fueling, renting, launching, storage, servicing or repairing of watercraft. A facility for short-term docking that is ancillary or incidental to other commercial land uses shall be considered a commercial use and not a marina. 3/98

Motel – Lodging – A building which contains accommodations with or without kitchens, primarily used by seasonal guests for temporary living quarters for recreational uses; not a primary residence, seasonal use only.

Multi Use Facilities/Property – A structure or structures on one lot that has both residential and non-residential uses. The set backs and lot coverage shall be as described in cluster residential. The tenants need not be the owner, and need not be the same. Being a business site this will require Site Plan Review as well as a Special Exception. 3/98

Municipal Wastewater System – A wastewater collection, treatment and disposal system that serves at least two (2) homes and that is owned and operated by a municipal or regional government.

Municipal Water Supply – A water supply system for serving at least fifteen (15) service connections or a daily average of at least twenty-five (25) individuals and operated by a municipal or regional government.

Natural Ground Cover - Any herbaceous plant or any woody seedling or shrub generally less than three feet in height. Natural ground cover shall also include naturally occurring leaf or needle litter, stumps, decaying woody debris, stones and boulders. (3/08)

Non-Conforming Structure Use or Lot – A structure, use or lot that does not conform to the regulations of the zoning district in which it is carried or located.

Normal High Water – for the Squam Lakes is the full lake elevation of 562.5 feet. 3/02

Nursing Home – A building, or part thereof, used on a twenty four (24) hour basis for the housing and nursing care of four (4) or more, non-related persons, who, because of mental and/or physical capacity might be unable to provide for their own needs and safety without the assistance of another person. 3/94

Parking Space – A single parking space is ten (10) feet in width X twenty (20) feet in length and having additional adequate area for maneuvering.

Private Clubs – An establishment utilized by an organization for functions pertaining to their order. 3/94

Professional Offices – A facility whose personal provide a service such as, lawyer, physician, hair dresser, banks, educational services, funeral homes. 3/94, 3/01

Recreational Camping Park or Recreational Campground – Shall mean a plot of ground upon which two or more temporary living quarters, such as: travel trailers, tent campers, tents, pickup campers, or similar types of vehicles or structure used for these purposes are located, established or maintained, and operated as temporary living quarters for children or adults for recreation (including education or vacation purposes) either free or by

payment of a fee. Occupancy of a recreational site shall not fulfill residency requirements for the Town of Holderness, NH

Recreation Facility – Commercial – A recreation facility operated as a business and open to the public for a fee. Site Plan Review is required. 3/94

Recreation Facility – Commercial Low Impact – A recreation facility operated as a business and open to the public for a fee. The low impact uses shall be meeting facilities, arts, crafts, theater activities, (3/04) non-motorized biking, non-motorized boating, cross country skiing, snowmobiling, horseback riding, horse drawn wagon or sled operation, picnicking, swimming (both lake and pool), snowshoeing, hiking and backpacking. 3/95

Recreation Facility – Personal – A recreation facility as an accessory use on the same lot as the principal permitted use, and designed to be used primarily by the occupants of the permitted use and their guests (examples; tennis court, swimming pool, etc.). 3/94

Recreation Facility – Public – A recreation facility operated by a non-profit or governmental agency and open to the general public. Non-profit organizations require Site Plan Review. 3/94

Recreational Vehicle/Travel Trailer – A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self propelled or towable by a light duty vehicle, (4) not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use, (5) not a primary residence. 3/94

Reference Line - For the Squam Lakes the reference line is an established flowage right extending to an elevation of 563 feet and for rivers shall be the ordinary high water mark established by the fluctuations of water and indicated by physical characteristics.

Rental Cottages – One or more buildings which contain accommodations, with or without kitchen facilities, primarily used by seasonal guests for temporary living quarters for recreational uses; not a primary residence, seasonal use. 3/94

Riding Stable – A facility that incorporates buildings and associated paddocks to house domesticated animals (such as horses, mules donkeys, and lamas) and trails for recreational purposes for public use. 3/94

Right-of-Way – Shall mean a strip of land for or intended to be used for a street, either public or private. Any right-of-way shall be a minimum of 50 feet.

River Corridor – That area of land contiguous to the Pemigewasset River, 500 feet from the mean high water level or, in the case of the flood plain, 1000 feet from said mean high water level.

Sand and Gravel Excavation – An area where the excavation of earth material is extracted for sale, in the form of loam, sand, gravel, fill, pea stone, etc. As per State laws and regulations. (3/07)

Seasonal Use – Means the use of a structure or property for not more than six (6) months of continuous use in any calendar year without intending to establish a domicile or permanent residence.

Sedimentation - The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity and into a lake or natural watercourse or wetland. (3/08)

Setback – The distance between a legal boundary (right-of-way, lot line, reference line, or property line) and any part of a building or structure. All distances shall be measured as horizontal distance as if on a flat plain. 3/02

Site Disturbance - Any activity that removes the vegetative cover from the land surface. (3/08)

Slope - The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees; rise over run (3/08)

Soils – Any and all references to soils regarding this ordinance shall be as provided for in the Holderness Subdivision Regulations. 3/99

Shore Frontage – The width of a lot measured along its common boundary with a river, lake, or pond. The width means the distance of the actual navigable shoreline footage and a straight line drawn between the property lines both of which are measured at a normal high water for lakes and ponds and ordinary high water for rivers. In no case shall this value be less than twenty five (25) feet in length. 3/02

Special Event – An event that is temporary in nature, may or may not be permitted in the Zoning Ordinance and may require Site Plan Review. 3/01

Special Exception – A use of a building or structure or lot which may be permitted under this Ordinance only upon application to the Board of Adjustment and subject to the approval of the Board when such use would not be detrimental to the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare and only in cases where the words "Special Exception" in this Ordinance pertain.

Steep Slope - Land area where slope is equal to or greater than 15% (3/08)

Street – Means and includes highways, as per State laws and regulations (3/07)

Structure – Anything constructed or erected, including signs, the use of which requires location on the ground or attachment to something having location on the ground. It shall not include a minor installation, such as a fence less than six (6) feet high, mailbox or flagpole.

Subdivision

1. Means the division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.
2. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title.
3. The grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such s poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unmanned structures which are less than 200 square feet, shall not be construed as a subdivision under this title, and shall not be deemed to create any new division of land for any other purpose.

Substantial Improvement –

Substantial Improvement shall mean any change to structures that will increase the value of those structures. The following are exempt from this provision and shall not require a permit; Repair in kind of existing portions of the structure, Any painting of structure, roof repair or replacement as long as all dimensions remain original. 3/02

Telecommunications Facilities – Any structure, antenna, tower, or other device which provides mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications, and personal communications service, and common carrier wireless exchange access services. 3/99

Temporary – Anything that is for less than a period of one year, unless otherwise stipulated by a Board or agency of the Town 3/01

Temporary Sawmill – A structure with equipment for the production of logs into lumber, that is set in the ground or on wheels and in a location for not more than one year. 3/94

Useable Lot Area - The net area of a tract, parcel or lot excluding wetlands and areas with slopes greater than 25%. Useable Lot Area equals Total Lot Area less "Unsuitable Land" .(3/08)

Variance – A relaxation of the terms of this Ordinance, where such relaxation will not be contrary to the public interest and where owing to conditions peculiar to the property, a literal enforcement of this Ordinance would result in unnecessary and undue hardship.

Vegetative Cover - Grasses, shrubs, trees, and other vegetation, which hold and stabilize soils. (3/08)

Vehicle Service Station – Any area of land, including structures thereon, that is used or designated to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and/or does mechanical repairs. 3/94

Wetlands - means an area that is inundated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.(3/08)

Wharves, Piers, Wet Docks, and Floats – Structures intended for the mooring of waterborne craft and/or the docking of same for the discharge and loading of passengers, freight, and other goods.

Floodplain Ordinance District Definitions

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 Holderness.

100 Year Flood - see Base Flood

Area of Special Flood Hazard - is the land in the flood plain within the Town of Holderness subject to a 1 percent or greater chance of flooding in any given year. The area is designated as Zones A or AE on the Flood Insurance Rate Map. (3/07)

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

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

Breakaway Wall - means a wall that is not part of the structural Support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

Development - means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operator or storage of equipment or materials. (3/07)

FEMA - means the Federal Emergency Management Agency.

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

Flood Elevation Study - means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood related erosion hazards.

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

Flood Insurance Study - see Flood Elevation Study.

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

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

Floodway - see Regulatory Floodway.

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

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

Historic Structure - means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) 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 quality as a registered historic district.

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: 1) By an approved state program as determined by the Secretary of the Interior; or
2) Directly by the Secretary of the Interior in states without approved programs.

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

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision. (3/07)

Manufactured Home Park or Subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (3/07)

Mean Sea Level - means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community Flood Insurance Rate Map are referenced.
New Construction – means, for the purposes of determining the insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. (3/07)

Recreational Vehicle - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self propelled or permanently towable by a light duty truck, and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway - Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (3/07)

Special Flood Hazard Area - See "Area of Special Flood Hazard" (3/07)

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

Substantial damage - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (3/07)

Substantial Improvement – means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

a. the appraised value prior to the start of the initial repair or improvement, or
b. in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that 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", provide that the alteration will not preclude the structure's continued designation as a "historic structure". (3/07)

Violation – means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), or (e)(5) is presumed to be in violation until such time as that documentation is provided. (3/07)

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.

APPENDIX A

Road names are from the Town of Holderness Map prepared by the Lakes Region Planning Commission, December 1988, as amended.

COMMERCIAL DISTRICT (CD)

A. Village Area (around bridge)
   1. North on Route 113 to the Science Center Brook
   2. South on Perkins Lane (Lake Shore Lane) 300 feet.
   3. West on Route 3 to:
      a. The western boundary of the fire station and an imaginary extension of this boundary drawn straight to the lake. This shall include all the property between Route 3 and the lake.
      b. The western boundary of Lot 008, Tax Map 101 (across from the fire station). The back of this boundary shall be 500 feet from Route 3 and roughly parallel to it.
   4. East on Route 3 to:
      a. The eastern boundary of Lot 025, Tax Map 102 (the property known as Little Switzerland.) This includes all property between Route 3 and the lake or channel.
      b. The eastern boundary of Lot 033, Tax Map 102(the Manor) This includes all property between Route 3 and Shepard Hill Road.
   5. East on Shepard Hill Road to:
      a. The easterly boundary of Lot 033, Tax Map 102
      b. The easterly boundary of Lot 044, Tax Map 102 (Old Village Inn)

B. Route 175 North Elks Club to Campton Town Line:
   1. Route 175 North from and including Lot 001, Tax Map 221 (the Elks Club) to the Campton town line. Those shall include all land 500 feet on either side of Route 175.
   2. In the commercial zone abutting the Campton town line, on Route 175, the boundary on the river side of the road shall be from the road to the River Corridor Overlay. This means the commercial zone does not extend any closer than 200 feet on a level measurement from the river. On the opposite (East) side of the road the Commercial zone extends back to the rear lot line of the lot on Route 175 but in no case more than 1500 feet. All commercial traffic entering this zone must do so from Route 175. 3/98

GENERAL RESIDENTIAL (GR)

A. Route 3 and Shepard Hill east from the commercial district (CD) to the Center Harbor town line.
   1. All property on the North side of Route 3, Shepard Hill Road, and College Road to the lake.
   2. The south side of Route 3 from White Oak Pond outlet to the Dump Road to the shore of the pond.
   3. From the Dump Road to the Center Harbor town line to a line 500 feet from and parallel to Route 3 on the south side.
   4. Five hundred feet on either side of East Holderness Road from Route 3 to approximately the Beij property. Lot 004, Tax Map 251 Line (3000 feet)
   5. The southwest side of Shepard Hill Road to a line 500 feet back parallel to the road.
   6. Coxboro Road to Lane Road due east to White Oak Pond on one side and a line 500 feet back and parallel to the road on the other.

B. Route 113 to the Rockywold Road
   1. A line five hundred feet back and parallel to the left hand side of the road when going from the center of town to Rockywold.
   2. All property to the lake side of Route 113.

3. A line 500 feet back and parallel to the left hand side of the Rockywold Road when going from Route 113 to Rockywold.
4. All property to the lake side of the Rockywold road.

C. Route 3 west from the Commercial District (CD) to the Ashland town line.
1. All property to the lake side of Route 3.
2. The northwest side of Route 3 to a line five hundred feet back parallel to the road.

D. Route 175 from Route 3 to the southerly boundary of Lot 001 Tax Map 212 (the Elks Club)
1. Five hundred feet on either side of Route 175
2. All property between the Howe Road and Route 175
3. Five hundred feet on the west side of the Howe Road.
4. All property from the Ashland town line to the southerly boundary of Lot 001, Tax Map 212 (the Elks Club) between Route 175 and Interstate 93, and between Route 175 and the Pemigewasset River.

E. Mt. Prospect Road from Route 175 to the Hutchins Hill Road (just before the golf course)
1. Five hundred feet on either side of Mt. Prospect Road.
2. Five hundred feet around the outside of the area known as Heritage Hill development.

F. Hardhack Road to Beede Road:
Five hundred feet either side of the road.

G. Perch Pond Road to the Mountain Road.
Five hundred feet either side of the road.

RURAL RESIDENTIAL (RR)
All other land in town, including islands, not specifically designated as General Residential (GR) or Commercial District (CD), or Flood Hazard (FH), shall be designated as Rural Residential (RR)

RIVER CORRIDOR (RC)
That area of land contiguous to the Pemigewasset River, 500 feet from the mean high water level or, in the case of the flood plain, 1000 from said high water level.

APPENDIX B

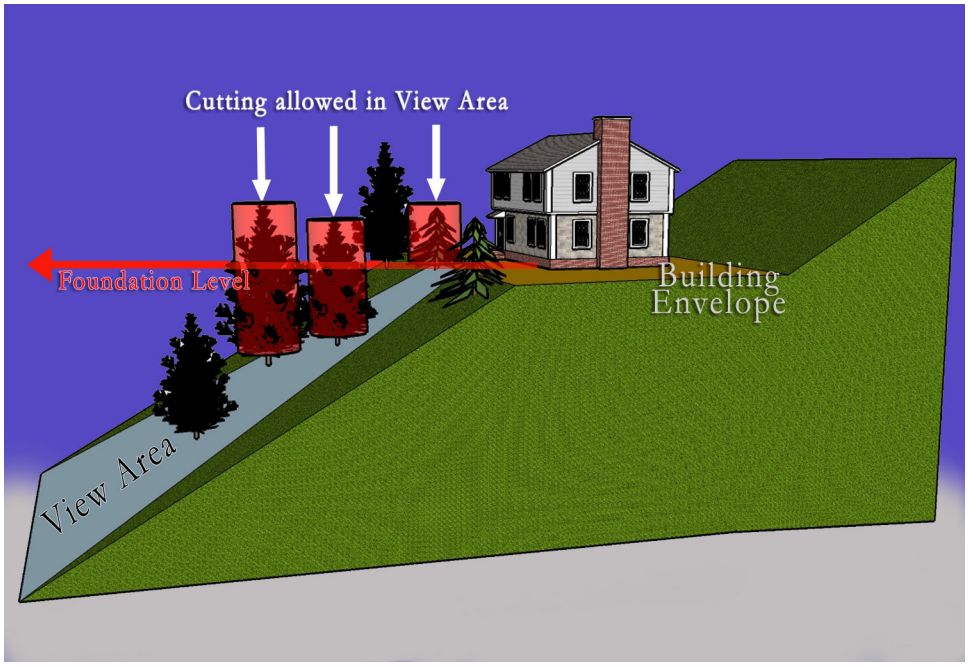
FLOOD HAZARD ZONE (FH)
All lands West of interstate Route 93.

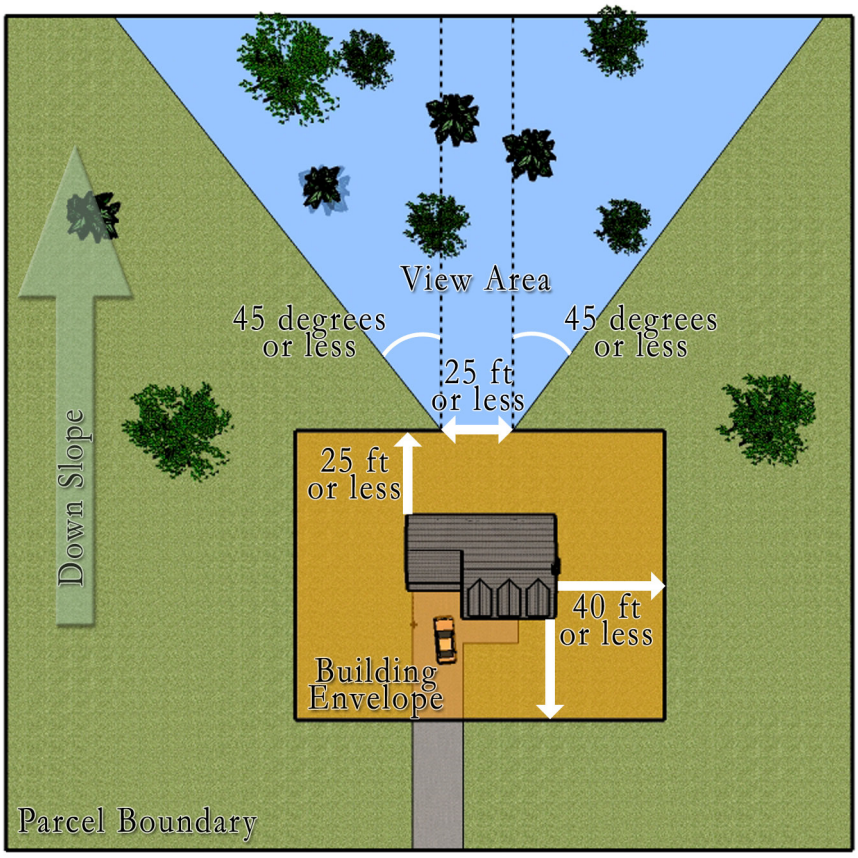
WAUKEWAN WATERSHED (WW)
All lands that cause water to flow into the Waukewan Watershed District.

FLOODPLAIN ORDINANCE DISTRICT (FP)
All lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008.

Note: Town of Holderness Flood Insurance Rate Maps were revised in 2007.

APPENDIX B


Cutting allowed in View Area
Foundation Level
Building Envelope
View Area


View Area
45 degrees or less
45 degrees or less
25 ft or less
25 ft or less
40 ft or less
Building Envelope
Down Slope
Parcel Boundary