Town

Of

Holderness

Zoning

Ordinance

Adopted 1985
Last amended March 2019

As Amended March 2018

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ZONING ORDINANCE
TOWN OF HOLDERNESS, NEW HAMPSHIRE
Adopted 1985
and
As Last Amended: March, 2018

SECTION 100: 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 Master Plan and for the purpose of promoting the health, safety, economic and social well-being, convenience or general welfare of the citizens regarding 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)

SECTION 200: TITLE

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

SECTION 300: ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS

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

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

300.2: Zoning Map:
The districts are shown on a map entitled "Town of Holderness Zoning Map" and become a part of this Ordinance. This map is on file at the Town Hall.

300.3: District Boundaries:
Unless otherwise indicated, zoning district boundaries, as shown on the "Town of Holderness Zoning Map," are the centerlines 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.

300.3.1: As of 3/98, there is no longer a Commercial zone west of Interstate 93 in the Flood Hazard area.

300.3.2: In the Commercial zone abutting the Campton town line, on Route 175, a 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 lots 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)

300.4: Zoning District Regulations

300.4.1: 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 is in keeping with the scenic, recreational and environmental values inherent in this district.

300.4.1.1: Permitted Uses:

(1) Single-family or duplex dwellings
(2) Multi-family dwellings of up to 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) Manufactured housing
(9) Essential services
(10) Recreation facility – personal (3/95)
(11) Recreation facility – public (3/95)
(12) Cemeteries – (3/99)

300.4.1.2: 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 Section 400, Section 600, Section 700, and Section 900 and are met. (3/19)

(1) Marinas
(2) Professional offices
(3) Small businesses (less than 2,500 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 and gravel excavation (3/95)
(13) Boat tours/guided fishing trips (3/98)
(14) Multi use facilities/ property (3/98)
(15) Accessory Dwelling Unit (3/17)
(16) Accessory Farming and Agricultural Activities (3/19)

300.4.1.3: 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.

300.4.1.4: Road Frontage*:* The minimum lot frontage on any road shall be 150 feet. Lots may, however, have less (or no) road frontage if (1) said lots are located on curves or cul-de-sacs; (2) 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 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. Footage and lot size shall be shown by a licensed land surveyor. (3/19)

300.4.1.5: Shoreland Frontage: When a boundary of a lot is the shore of a Squam Lake, White Oak Pond or the Pemigewasset River, the minimum water frontage shall not be less than 200 feet. (3/19)

300.4.1.6: General Farming and Agriculture: A permitted use in all but the Commercial District.

(1) Accessory farming and agricultural activities are permitted by Special Exception or as a Special Event as appropriate, depending on the nature and frequency of the activity.
(2) Farm Roadside Stands are permitted by Special Exception. (3/19)

300.4.1.7: Lot Area: (3/19)

(1) Lot Size: The minimum lot area for any lot in districts GR, RR, CD, and FH shall be at least 1 acre or larger and 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, 3/19)
(2) Dwellings: One single-family dwelling unit may be erected on each lot, with a minimum land area of 1 acre. Two acres shall be required for a duplex with 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, 3/19)
(3) Land Calculation: Land under a street, public or private, may not be used in calculating lot area for any requirements in this Ordinance. (3/03, 3/19).

300.4.2: 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.

300.4.2.1: Permitted Uses

(1) Single-family or duplex dwellings
(2) Manufactured housing
(3) Clustered residential development
(4) General farming and agriculture
(5) Home occupation
(6) Essential services
(7) Recreation facility – personal (3/95)
(8) Recreation facility – public (3/95)
(9) Cemeteries (3/99)

300.4.2.2: Special Exceptions: In addition, the following uses may be permitted by the Board of Adjustment provided that the land use impact on the environment, the particular site in question, and abutting landowners is

not negative, and providing that all performance standards and other requirements under Section 400, Section 600, Section 700, and Section 900 are met. (3/19)

(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)
(15) Accessory Dwelling Unit (3/17)
(16) Accessory Farming and Agricultural Activities (3/19)

300.4.2.3: 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 area devoted to landscaping or natural growth. (3/19)

300.4.2.4: Road Frontage*:* The minimum lot frontage on any road shall be 300 feet. Lots may, however, have less (or no) street frontage if (1) said lots are located on curves or cul-de-sacs; (2) 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 50 feet in width. 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. Footage and lot size shall be shown by a licensed land surveyor. (3/19)

300.4.2.5: Shoreland Frontage*:* When a boundary of a lot is the shore of a Squam Lake, White Oak Pond or the Pemigewasset River, the minimum water frontage shall not be less than 200 feet. (3/19)

300.4.2.6: Islands – Road Frontage*:* 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)

300.4.2.7: General Farming and Agriculture: A permitted use in all but the Commercial District.

(1) Accessory farming and agricultural activities are permitted by Special Exception or as a Special Event as appropriate, depending on the nature and frequency of the activity.
(2) Farm Roadside Stands are permitted by Special Exception. (3/19)

300.4.2.8: Lot Area: (3/19)

(1) Lot Size: The minimum lot area for any lot in districts GR, RR, CD, and FH shall be at least 1 acre or larger and 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, 3/19)
(2) Dwellings: One single-family dwelling unit may be erected on each lot, with a minimum land area of 1 acre. Two acres shall be required for a duplex with 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, 3/19)

(3) Land Calculation: Land under a street, public or private, may not be used in calculating lot area for any requirements in this Ordinance. (3/03, 3/19).

300.4.3: 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.

300.4.3.1: Permitted Uses

(1) Single-family or duplex dwellings
(2) Multi-family dwellings of up to 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) Manufactured housing
(12) Marinas
(13) Combined commercial business/dwelling
(14) Private clubs
(15) Recreation facility – personal (3/95)
(16) Recreation facility – public (3/95)
(17) Recreation facility – commercial (3/95)
(18) Recreation facility – commercial low impact (3/95)
(19) General farming and agriculture (3/97)
(20) Essential services (3/98)
(21) Cemeteries (3/99)

300.4.3.2: Special Exceptions: In addition, the following uses may be permitted by the Board of Adjustment provided that the land use impact on the environment, the particular site in question, and the abutting landowners is not negative, and providing that all performance standards and other requirements under Section 400, Section 600, Section 700, and Section 900 are met. (3/19)

(1) Light industry
(2) Multi use facilities/property (3/98)
(3) Sand and gravel excavation (3/95)
(4) Accessory Dwelling Unit (3/17)

300.4.3.3: 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.

300.4.3.4: Road Frontage: 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 located on curves or cul-de-sacs; (2) 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 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. Footage and lot size shall be as shown by a licensed land surveyor. (319)

300.4.3.5: Shoreland Frontage*:* When a boundary of a lot is the shore of Squam Lake, White Oak Pond or the Pemigewasset River, the minimum water frontage shall not be less than 200 feet. (3/19)

300.4.3.6: Lot Area: (3/19)

(1) Lot Size: The minimum lot area for any lot in districts GR, RR, CD, and FH shall be at least 1 acre or larger and 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, 3/19)

(2) Dwellings: One single-family dwelling unit may be erected on each lot, with a minimum land area of 1 acre. Two acres shall be required for a duplex with 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. (3/04,3/19)

(3) Land Calculation: Land under a street, public or private, may not be used in calculating lot area for any requirements in this Ordinance. (3/03, 3/19).

300.4.4: River Corridor Overlay District (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.

300.4.4.1**: *Boundary*:** A boundary of this district shall be 500 feet from the river's ordinary high-water line (reference line). (3/19)

300.4.4.2**: *Frontage:*** When a boundary of a lot is the shore of Squam Lake, White Oak Pond or the Pemigewasset River, the minimum water frontage shall not be less than 200 feet. (3/19)

300.4.4.3**: *Permitted Uses:***

(1) General farming and agriculture
(2) Wildlife land
(3) Parks
(4) Uses permitted in the underlying districts which can comply with the more restrictive regulations
(5) Cemeteries (3/99)

300.4.4.4**: *Lot Size****:* Two acre minimum.

300.4.4.5: 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)

300.4.4.6**: *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)

300.4.4.7**: *Prohibited:*** (3/04) The following are prohibited:

(1) The establishment or expansion of salt storage yards; junkyards; solid or hazardous waste facilities.
(2) Dumping or disposal of snow and ice collected from roadways or parking areas outside the district.
(3) Use of any fertilizer, except limestone or wood ash, within 50 feet of the reference line on any property.

(4) Construction on slopes which exceed 15 percent.
(5) Sand or gravel excavations as defined in RSA 155-E.
(6) Bulk storage of chemicals, petroleum products, or hazardous materials.

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

300.4.4.9: Within the natural woodland buffer of the protected shoreland the following shall apply:
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.

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.

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.

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

300.4.4.10: General Farming and Agriculture: A permitted use in all but the Commercial District.
(1) Accessory farming and agricultural activities are permitted by Special Exception or as a Special Event as appropriate, depending on the nature and frequency of the activity.
(2) Farm Roadside Stands are permitted by Special Exception. (3/19)

300.4.4.11: Lot Area: (3/19)
(1) Lot Size: The minimum lot area for any lot in districts GR, RR, CD, and FH shall be at least 1 acre or larger and 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. (3/98,3/19)
(2) Dwellings: One single-family dwelling unit may be erected on each lot, with a minimum land area of 1 acre. Two acres shall be required for a duplex with 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, 3/19)
(3) Land Calculation: Land under a street, public or private, may not be used in calculating lot area for any requirements in this Ordinance. (3/03, 3/19).

300.4.5: Flood Hazard District (FHD):
This District is intended to ensure 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.

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

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

300.4.5.3: Permitted Uses: The following 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.

300.4.5.4: 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.

300.4.5.5: Special Exceptions which may be permitted are:

(1) Fairgrounds and similar transient amusement enterprises.
(2) Railroads, streets, bridges, utility lines, and pipelines.
(3) Accessory Farming and Agricultural Activities (3/19)

***300.4.5.6: Fill or materials*:** 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.

Such fill of other materials shall be protected against erosion by rip-rap, vegetative cover, or bulk heading.

300.4.5.7: Structures (temporary or permanent) accessory to Special Exceptions granted in this section shall be regulated as follows:

(1) No structure shall be designed for human habitation.
(2) All structures shall have low flood damage potential.
(3) 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.
(4) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
(5) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
(6) 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 the following year. (03/16)

(7) Construction materials and utility equipment that are resistant to flood damage shall be used.
(8) Service facilities such as electrical and heating equipment shall ordinarily be constructed above the regulatory flood protection elevation for this district.

300.4.6: Floodplain Development:

The regulations in this Section shall overlay and supplement other regulations in the Town of Holderness Zoning Ordinance for purposes of administration and appeals under State law, if any provision of this regulation conflicts with other provisions, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this Section 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, or as amended. Together with the associated Flood Insurance Rate maps dated February 20, 2008, they are declared to be part of the Town of Holderness Zoning Ordinance and are hereby incorporated by reference. (3/07)

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

300.4.6.2: Construction: 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 in 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; and,
(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.

300.4.6.3: Water Systems: Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area, the Applicant shall provide the 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.

***300.4.6.4: Compliance**:* For all new or substantially improved structures located in the Flood Hazard Insurance Map (FIRM) 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 North American vertical Datum - NAVD) of the lowest floor (including basement) and include whether such structures contain basements;
(2) If the structure has been flood-proofed, the as-built elevation (in relation to NAVD) to which the structure was flood proofed; and,
(3) Any certification of flood proofing.

The Compliance Officer shall maintain for public inspection and shall furnish such information upon request.

300.4.6.5: Granting Building Permit: 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.

300.4.6.6: Notification to DES Wetlands Bureau: 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)

300.4.6.7: Flood Carrying Capacity*:* 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)

300.4.6.8: Watercourses: Along watercourses with a designated Regulatory Floodway, no encroachment, including fill, new construction, substantial improvements, and other development is 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)

300.4.6.9: Regulatory Floodway: 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)

300.4.6.10: Review of Floodway Data: 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 FIRM 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)

300.4.6.11: 100 Year Flood Elevation: 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)

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

(2) 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).

300.4.6.12: 100-Year Flood Elevation Criteria: The Compliance Officer's 100-year flood elevation determination will be used as criteria for requiring in zones A and AE that: (3/07)

(1) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;

(2) 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;

(3) all manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 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)

(4) 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:
(i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
(ii) the area is not a basement;
(iii) 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.

300.4.6.13: Recreational Vehicles*:* 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.

300.4.6.14: 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:
(i) that the Variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
(ii) that if the requested Variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
(iii) 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 may result in increased premium rates for flood insurance 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. (03/16)

(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.

300.4.7: Lot Area:

(1) Lot Size: The minimum lot area for any lot in districts GR, RR, CD, and FH shall be at least 1 acre or larger and 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) Dwellings: One single-family dwelling unit may be erected on each lot, with a minimum land area of 1 acre. Two acres shall be required for a duplex with 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 Calculation: Land under a street, public or private, may not be used in calculating lot area for any requirements in this Ordinance. (3/03).

SECTION 400: GENERAL PROVISIONS

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

400.1: 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.

400.2: Removal of Natural Material:

400.2.1: 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 acceptable condition and protected against erosion and washouts.

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

400.2.3: 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.

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

400.2.5: No water collecting depressions shall be left.

400.3: Dump and Junkyards:

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. See also definitions under Section 1300.

400.4: Fire Damaged and Hazardous Building:

Any building or structure suffering structural damage by fire, wind or other cause, and which has become dangerous or unsafe, or constitutes a visual blight, 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 to secure the property so as not to constitute a hazard or visual blight. (3/19)

400.5: 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 floodplain regulations contained herein as well as other State and local regulations as may be amended from time to time.

400.6: 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. A sign shall mean an object, device, or structure, or part thereof, situated outdoors or displayed in a window, free-standing or attached, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means including words, letters, figures, design, symbols, advertising flags, colors, illuminations, or projected images, which is visible from any street, right-of-way, sidewalk, alley, park, or other public property. (3/10)

400.6.1: Exceptions: The following signs are exempt from this Ordinance:

(1) All signs erected 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 per sign.
(3) Signs not visible from a public way.
(4) Flag, National, State, provincial, or religious flags, except where used in such a manner or in such quantity as to draw attention to a commercial enterprise. No unrelated message may be used on any such flag. 3/10
(5) Flags with a short message, i.e., welcome, sale, open, shall be no larger than 3 feet by 5 feet. (3/10)

400.6.2: 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.

400.6.3: General Provisions for Signs

***400.6.3.1: Flashing Signs**:* Except as indicated below, no sign shall be intermittently illuminated, nor be of a traveling light type, nor be animated or flashing, including electronic message board signs, signs that rotate, or otherwise create movement and internally lit, such as, but not limited to, neon signs on the outside of buildings or visible through windows; the exceptions are such portions of a sign as consist solely of indicators of time or temperature or both and electronic gas station fuel price display signs with a maximum number height of 8.5". (3/14)

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

400.6.3.3: Illumination: In all districts, signs may be illuminated only between the hours of 7:00 a.m. and 11:00 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.

400.6.3.4: 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 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.

400.6.3.5: 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 1 side of the double faced sign shall be regarded as the total area of the sign.

400.6.3.6: Non-permanent types: These signs include, but are 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".

400.6.3.7: 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 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.

400.6.3.8: Height: No privately-owned sign shall be higher than 25 feet above grade.

400.6.4: Signs Requiring a Permit:

400.6.4.1: Advertising Sign: Each business shall be permitted at least 1 advertising sign if in compliance with current zoning regulations. Home occupations may have 1 sign not to exceed 9 sq. ft. in area per side freestanding or 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 1.5 sq. ft. in area.

400.6.4.2: Business Signs: Each business establishment may exhibit no more than 2 main outdoor advertising signs, each no larger than 32 sq. ft. in area per side or one sign no larger than 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 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 32 sq. ft. in area. The aggregate total of such signs shall be subtracted from the total 200 sq. ft. in area permitted each business. Off premises subsidiary signs shall be limited to no more than 2 such signs of no larger than 24 sq. ft. in area.

400.6.4.3: 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 sign advertising the complex may be on the road

with a maximum aggregate of 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 32 sq. ft. in total area.

***400.6.4.4: Announcements**:* Two announcement boards no greater than 24 sq. ft. in area each and no higher than 7 feet each may be permitted for a religious institution or non-profit organizations.

400.6.4.5: Subdivision: One permanent sign not to exceed 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 supports.

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

400.6.5: 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.

400.6.5.1: Political Signs: as per State law and regulations, RSA 644.17. (3/15)

400.6.5.2: 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 32 sq. ft. in area per side. (2) Do not exceed a total of 64 sq. ft. in aggregate area. (3) Duration of a maximum of 7 days (can be extended another 7 days, with the permission of the Board of Selectmen one time only.) (4) Shall not occur more than 3 times in a calendar year.

400.6.5.3: Special Promotion or Announcement: By government or institutional event in or for the Town.

400.6.5.4: Real Estate: One temporary non-illuminating sign advertising only the sale or lease of the premises thereon shall be permitted. Said sign shall not exceed 6 sq. ft in area for residential property, and shall not exceed 32 sq. ft. in area for commercial property. Said signs shall be removed within 48 hours of the sale of subject property. The penalty for not removing said signs within the above specified amount of time shall be $10.00 per sign per day.

400.6.5.5: Construction Signs: Two signs, not exceeding 16 sq. ft. in area each for non-residential, multi-family, or motel construction, and 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 of 1 calendar year.

400.6.5.6: Direction/Identification Sign: On private property such as entrance, exit, no parking, arrows, reserved handicap, etc., providing that each such sign does not exceed 1.5 square feet in area for an aggregate total of 12 sq. ft.

400.6.5.7: 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.

400.6.5.8: 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.

400.7: 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:

400.7.1: All non-residential and multifamily residential units of 3 or more must follow the specifications set forth in the current Holderness Site Plan Review Regulations.

400.7.2: Residential buildings of 2 units or less must have 2 spaces for each dwelling unit.

400.8: Front, Side and Rear Yard Setback:

400.8.1: There shall be a minimum distance of 35 feet between any structure and the edge of the right-of-way of any public highway, street or roadway.

400.8.1.1: No structure or water supply (well) shall be located within 35 feet of any property side or rear lot line on which it is located.

400.8.1.2: No structure, including water supplies (wells), shall be located within 50 feet from the reference line of a lake or pond, ordinary high-water line of perennial streams, or edge of a wetland. This 50-foot segment will be maintained as a native vegetative or woodland buffer. Access pathways through these areas may not exceed 6 feet in width. Permitted signs, fences less than 6 feet in height, stairs to docks, and bridges for recreational use are exempt from these setback requirements. (3/02, 3/10, 3/12)

400.8.2: No septic tank shall be constructed or placed within 75 feet of any domestic water supply, lake or pond reference line or river or stream ordinary high-water line or wetland. No leach field or any other septic disposal system shall be constructed or placed within 125 feet of any domestic water supply, lake or pond reference line, river or stream ordinary high-water line or wetland. (3/10, 3/14)

400.8.2.1: Wetlands shall mean any lands that meet the term in the definitions section of this Ordinance.

400.8.3: 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.

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

400.8.5: 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)

400.9: Height:

No building or structure, or part thereof, shall exceed 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.

400.10: Sewage and Waste Disposal Systems:
Construction, development, or improvement of any structure that will cause an increase in sewage and waste disposal shall require proof of installation of a State approved septic system and comply with all applicable State and local health requirements. (3/96 & 3/12)

400.10.1: Gray Water Systems: Gray water systems are prohibited including those which use mini dry wells. (3/12)

400.11: 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)

400.12: Shoreline Structure:
In preserving the integrity of the surface waters of the Town, all shoreline structures shall be constructed so as to ensure 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 Bureau.

400.12.1: Boathouses located in or over the water, including dredged inlets, shall not be approved. (3/15)

400.12.2: Dug in boat slips are not permitted.

400.12.3: 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.

400.12.4: Stairs, with or without railings, to approved docks may be permitted in all zones provided that they are no wider than 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 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)

400.13: Conversions to Condominiums or Time Sharing Units; (3/98)

400.13.1: 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:

400.13.1.1: Documentation reflecting the office of the Attorney General approval of all condominium instruments as called for per State law and regulations. (3/07)

400.13.1.2: 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.

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

400.13.2: 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 effect 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:

400.13.2.1: On-site parking shall be provided with 1 space per bedroom with a minimum of 2 spaces per unit.

400.13.2.2: 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.

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

400.13.2.4: The septic system standards of the State of New Hampshire and the Town (whichever 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.

400.13.2.5: A maximum density of 2 seasonal units per acre shall be permitted provided that community water and sewer are provided.

***400.13.2.6*:** A maximum density of 1 year-round unit per acre may be permitted**.**

400.13.2.7: A common area consisting of a minimum of 30 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.

400.13.3: For any such approved conversion: The responsibility for maintenance, operation, replacement and protection of the water supply and sewage disposal systems shall be clearly established as that of the sub-divider or association of owners, or in default of such obligation by the sub-divider 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 sub-divider, 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.

400.13.4: Each condominium or time-sharing agreement/declaration must contain the following provisions:

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

400.13.4.2: 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.

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

400.13.4.4: 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.

400.13.4.5: The agreement shall make it clear that any winterization of a unit must meet current State and Town standards.

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

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

***400.13.4.8*:** 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.

400.14: Seasonal Conversion:

400.14.1: 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 Compliance 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 Section 400.

400.14.2: *However*, 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 Subsurface Systems Division stating that the existing septic system is acceptable, meets current State and local standards, or has approval for a new system.

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

400.15: Mooring Fields:
All private or public mooring fields in excess of 3 moorings will require the following:

400.15.1: Three parking places for every 2 moorings.

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

400.15.3: Chemical, mechanical, or flush toilet facilities (a minimum of 1 for males and 1 for females) must be placed at a location approved by the Planning Board. (3/02)

400.15.4: Adequate trash receptacles shall be provided.

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

400.16: Shoreland Protection: (3/08)
The protected shoreland is all land located within 250 feet of the reference line 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.

400.17: Recreation:
Recreational uses consistent with the enjoyment and preservation of open spaces and natural resources, and which do not materially harm or affect 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)

400.18: Home Occupation; (3/98)
Permitted in all districts if in conformance with the rest of this Ordinance as well as the following:

400.18.1: Activity must be operated by residents of the property. No more than 2 non-residents may be employed on this site.

400.18.2: The activity must be clearly incidental 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.

400.18.3: 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 signs as provided for elsewhere in this Ordinance and parking as allowed in this section

400.18.4: 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)

400.18.5: 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.

400.18.6: No traffic, other than that of employees, shall be caused by this activity between the hours of 8:00 p.m. and 7:00 a.m.

400.18.7: 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)

400.19: 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)

400.21: Special Events Permit: (3/01 & 3/13)

400.21.1: For the purpose of regulating special events, the Selectmen may issue a permit to hold the event in any area of Town and no further land use approval shall be necessary provided such an event occurs no more than one time per year and provided:

400.21.1.1: The Selectmen provide an opportunity to receive public input regarding the event.

400.21.1.2: The Selectmen shall consider the effect that this event may have on the abutters and residents in the area and affected neighboring communities and address issues including, but not limited to, parking, noise, lighting, and traffic on Town roads.

400.21.1.3: The event may not last more than 4 days.

400.21.1.4: The Selectmen shall request, and take into consideration, input from the Fire and Police Departments and the Health Officer.

400.21.1.5: 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.

400.21.1.6: 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).

400.21.1.7: 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).

400.21.1.8: The Selectmen may require a bond or any other form of security that they feel is warranted for the event.

400.21.1.9: The Selectmen may require a prepayment for anticipated town services.

400.21.1.10: The property owner(s) shall provide the Selectmen with written notification that they are allowing the use of their property for this event.

400.21.1.11: The Selectmen shall determine to whom the permit shall be issued.

400.21.1.12: The application shall be made by the property owner, or an authorized agent.

400.21.2: 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 and shall be considered temporary in nature with no expectation of becoming permanent. A second occurrence shall require Site Plan Review.

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

400.21.4: Private residential parties and events, such as, but not limited to, graduation and wedding parties are excluded from this Section provided that all of the following conditions are met:
(1) The party or event shall be for no more than 2 days;
(2) Off-street parking is available for all vehicles;
(3) The party or event will not start before 8:00 a.m. and end prior to 10:00 p.m.; and
(4) The Police and Fire Departments are notified of the date and time of the party or event.

400.22: Outdoor Wood-Fired Hydronic Heaters: (03/09, 03/16)

All new outdoor wood fired hydronic heaters (OWHH) will have to meet the standards of 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 100 feet from the nearest property line and have a permanent attached stack that is at least 2 feet higher than the peak of the roof of a residence or place of business not served by the OWHH if that residence or place of business is located within 300 feet of the OWHH.

400.23: Small Wind Energy Systems: (3/09, 3/16)

400.23.1: Purpose: It is the purpose of this Section 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.

400.23.2: 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.

400.23.3: Definitions

400.23.3.1: 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.

400.23.3.2: 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 25 kW and which is primarily intended for on-site consumption.

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

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

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

400.23.4: Permitted Use & Requirements

400.23.4.1: 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.

400.23.4.2: 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.

400.23.4.3: Small wind energy systems shall be an accessory use in all zoning classifications and subject to the requirements set forth below:

400.23.4.4: Tower Height: Tower height shall be no greater than 150 feet.

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

400.23.4.6: Setback and Location: No part of the small wind energy system, including guy wire anchors, may extend closer than 35 feet 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.

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

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

400.23.4.9: 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.

400.23.4.10: Aesthetics: All measures will be taken to ensure that 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.

400.23.4.11: 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.

400.23.4.12: 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.

400.23.4.13: 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.

400.23.4.14: Decommissioning: If the wind energy system is not used for a period of twelve consecutive months, 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 Selectmen. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Compliance Officer 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 owner's expense and any associated legal fees charged to the owner.

400.23.4.15: 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.

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

400.23.4.17: 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 shall be determined by the Selectmen and the structures will require a building permit.

400.23.4.18: 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.

400.23.4.19: 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.

400.23.4.20: 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.

400.24: Accessory Dwelling Unit (or ADU): (3/17)
Permitted by Special Exception in the General Residential, Rural Residential and Commercial District.

400.24.1: Maximum size of ADU 800 square feet.

400.24.2: At least one parking space must be provided for ADU.

400.24.3: Only one (1) ADU allowed per dwelling.

400.24.4: Adequate provisions for sewage disposal and water supply must be shown in accordance with state law to be in compliance with RSA 485-A:38.

400.24.5: Per RSA 674:72 an interior door must be provided between the principal dwelling unit and the ADU.

400.24.6: The ADU must have an independent means of ingress and egress, or shall have ingress and egress through a common space such as a shared hallway to an exterior door.

SECTION 500: STEEP SLOPES (3/08)

500.1: Purpose and Intent:

As recognized in its Master Plan, 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 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 Section is intended to guide the use of steeply sloping land within the Town. The purposes of this Section are: (1) 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; (2) to preserve the natural topography, drainage patterns, vegetative cover, scenic views and wildlife habitat; (3) to protect unique natural areas; and (4) to provide reasonable access to properties for fire, public safety, or other emergency crews.

500.2: Delineation:

This Section 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 Section shall not apply. Conversely, if an area is found to have steep slopes and is not identified on the map, the provisions of this Section shall apply. The final determination of a Steep Slopes Protection 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.

500.3: Application Requirements:

500.3.1: 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 (Section 400.2, Removal of Natural Material).

500.3.2: 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.

500.4: Performance Standards:

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

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

500.4.2: **Post-Development Runoff:**

500.4.2.1: 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.

500.4.2.2: 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.

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

500.4.4: **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.

500.4.5: **Driveway:** No section of any driveway may exceed a 12 percent slope for residential development or 8 percent slope for nonresidential site plans.

500.4.6: **Unsuitable Land:** No structure shall be allowed on a slope greater than 25 percent prior to site disturbance.

500.5: Design Guidelines:
All proposed structures shall meet the following design guidelines:

500.5.1: Minimum Lot Size: The minimum allowable lot size for any lot shall be determined according to Section 300.4.7, Lot Area. However, for property with steep slopes, that area with a slope greater than 25 percent is considered to be unsuitable for development and therefore is excluded from the calculation of lot size.

500.5.2: 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.

500.5.3: 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.

500.5.4: 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 B.

500.6: 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:

500.6.1: 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.

500.6.2: 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.

500.6.3: 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.

500.7: Costs:

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.

500.8: Additional Recommendations: (Recommended, but not required)

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

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

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

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

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

500.9: Performance Security:

Performance Security shall mean (1) an irrevocable letter of credit with an automatic call provision issued by a State of New Hampshire bank or national bank with banking offices located within the State of New Hampshire (LOC) or (2) cash in United States currency held in escrow by the Town (cash bond).

500.9.1: A Steep Slopes Performance Security may be required in an amount sufficient to ensure there is no cost to the Town for stabilization measures to prevent water or soil damage, including inspection or consultation fees, in the event of abandonment or deferment of the project. In addition, a deed restriction may be attached to the property requiring proper yearly maintenance of changes to the Steep Slopes Protection Area. Work shall be completed within 2 years of approval of the plan and the Performance Security shall not be discharged before one year following completion of the plan.

500.9.2: Review of the application by an independent State of New Hampshire licensed professional engineer, at the Applicant's expense, may be required to develop a cost estimate for the Performance Security to assist the Planning Board in setting the amount of the Performance Security and to ensure that the application adequately addresses all issues related to the Town's interests as defined herein.

500.9.3: The Planning Board, with advice from Town Counsel, shall work with the engineer to reach approval of the engineer's cost estimate before the Applicant obtains the Performance Security. The Performance Security shall not be released until the Town is satisfied that the project plan has been accomplished and is satisfied that all conditions of the approval and any other pertinent zoning ordinance, subdivision regulation, site plan regulation, or building requirements have been met.

SECTION 525: GROUNDWATER PROTECTION (3/10, 3/16)

525.2: Purpose:

The purpose of this Section is to preserve, maintain, and protect from contamination existing and potential groundwater supply areas. The purpose is to be accomplished by regulating land uses which could contribute pollutants to aquifers identified as being needed for present and/or future public water supply.

525.3: Definitions:

525.3.1: Aquifer: A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

525.3.2: Gasoline station: That portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.

525.3.3: Groundwater: Subsurface water that occurs beneath the water table in soils and geologic formations.

525.3.4: Impervious: Not readily permitting the infiltration of water.

525.3.5: Impervious surface: A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, gravel or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

525.3.6: Junkyard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

525.3.7: Overlay district: A district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.

525.3.8: Outdoor storage: Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

525.3.9: Petroleum bulk plant or terminal: That portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.

525.3.10: Public water system: A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

525.3.11: Regulated substance: Any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, and potassium permanganate:

***525.3.11.1*:** Oil as defined in RSA 146-A:2, III

525.3.11.2: Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6

525.3.11.3: Any substance listed in 40 CFR 302, 7-1-05 edition. These chemicals are either used for the treatment of drinking water and are regulated by DES rules (Env-Wq 401) or by other State departments as listed under or RSA 485:C (Groundwater Protection Act).

525.3.12: Sanitary protective radius: The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or Env-Dw 302 (for community water systems); Env-Dw 372.14 and Env-Dw 373.12 (design standards for small community and non-community public water systems, respectively).

525.3.13: Seasonal high-water table: Elevation of the highest annual average groundwater table location.

525.3.14: Secondary containment: A structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest container holding regulated substances. Secondary containment areas must be covered if regulated substances are stored outside.

525.3.15: Snow dump: For the purposes of this Ordinance, a location where snow which is cleared from roadways and/or motor vehicle parking areas is placed for disposal.

525.3.16: Stratified-drift aquifer: A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

525.3.17: Surface water: Streams, lakes, ponds and tidal waters, including marshes, water-courses and other bodies of water, natural or artificial.

525.3.18: Wellhead protection area: The surface and subsurface area surrounding a water well or wellfield supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

525.4: Groundwater Protection Overlay District:

The Groundwater Protection Overlay District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the stratified-drift aquifers as found within the Geohydrology, Yield, and Water Quality of Stratified-Drift Aquifers in the Pemigewasset River Basin, Central New Hampshire (USGS 1996) and the most current Wellhead Protection Areas approved by NH Department of Environmental Services as shown on the map entitled "Groundwater Protection District Map of Holderness, NH, September 2009," adopted by reference into the Zoning Ordinance.

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

525.5: Applicability:
This Section applies to all uses in the Groundwater Protection Overlay District, except for those uses exempt under Section 525.10 (Exemptions). Preexisting uses not specifically exempt shall comply with Section 525.9, Performance Standards, 525.9.1 – 525.9.1.7. In addition, preexisting Conditional Uses shall comply with Performance Standard 525.9.1.8.3.

525.6: Permitted Uses:
All uses permitted by right or allowed by Special Exception in the underlying district that are also located within the Groundwater Protection Overlay District remain permitted by right or still require a Special Exception, as applicable, unless they are Prohibited Uses. Uses identified as Conditional Uses in this Section also require a Conditional Use Permit. In the instance that both a Special Exception and a Conditional Use Permit are required, the Special Exception shall be approved prior to the Conditional Use Permit. All uses must comply with the Performance Standards unless specifically exempt under Section 525.10. See Section 525.5 for applicability to preexisting uses.

525.7: Prohibited Uses:
The following uses are prohibited in the Groundwater Protection Overlay District:

525.7.1: The development or operation of a hazardous waste disposal facility as defined under RSA 147-A;

525.7.2: The development or operation of a solid waste landfill;

525.7.3: The outdoor storage of road salt or other deicing chemicals in bulk;

525.7.4: The development or operation of a junkyard;

525.7.5: The development or operation of a snow dump;

525.7.6: The development or operation of a wastewater or septage lagoon;

525.7.7: The development or operation of a petroleum bulk plant or terminal;

525.7.8: The development or operation of gasoline stations;

525.7.9: The development or operation of sludge monofills;

525.7.10: Storage of animal manure unless covered or contained in accordance with the specifications of the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;

525.7.11: Facilities that generate, treat, store, or dispose of hazardous waste subject to Env-Hw 500-900 except for:

525.7.11.1: Household hazardous waste centers and events regulated under Env-Hw 401.03(b)(1) and Env-Hw 501.01(b); and;

525.7.11.2: Water remediation treatment works approved by NH DES for the treatment of contaminated ground or surface waters;

525.7.12: Non-sanitary treatment works which discharge to the ground and that are subject to Env-Wq 402, except the following:

525.7.12.1: The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;

***525.7.12.2*:** Treatment works approved by NH DES designed for the treatment of contaminated groundwater;

525.7.13: Storage of regulated substances in greater than household quantities (> 5 gallons), unless in a free-standing container within a building or above ground with covered secondary containment adequate to contain 110 percent of the largest container's total storage capacity;

525.7.14: Storage of fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

525.7.15: Excavation or mining within 4 feet of seasonal high-water table (average) as determined by a certified hydrogeologist or recent technical study. Water table depth shall include information provided from test pits that extend to either the seasonal high-water table, ledge, or to a minimum of six feet below the maximum proposed excavation depth, including location and soils data.

525.8: Conditional Uses:

525.8.1: The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted within the underlying district, if the permitted use is involved in one or more of the following:

***525.8.1.1*:** Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Section 525.9.2.3, is approved by the Holderness Compliance Officer;

525.8.1.2: Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.

525.8.2: In granting a Conditional Use Permit:

525.8.2.1: The Planning Board must determine that the proposed use is not a prohibited use;

525.8.2.2: Conditional Uses shall also be in compliance with the Performance Standards in Section 525.9 as well as all applicable local, State and Federal requirements;

525.8.2.3: The Planning Board may, at its discretion, require a performance or other surety bond, in an amount and with conditions satisfactory to the Board, to ensure completion of construction of any facilities required for compliance with the Performance Standards.

525.8.3: The Planning Board may require that the Applicant provide data or reports prepared by a licensed professional geologist or certified soils scientist to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires at the expense of the Applicant to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria.

525.9: Performance Standards:

525.9.1: The following Performance Standards apply to all uses in the Groundwater Protection District unless exempt under 525.10:

***525.9.1.1*:** Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;

525.9.1.2: All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;

525.9.1.3: Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner.

525.9.1.4: Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;

525.9.1.5: Secondary containment with a cover must be provided for outdoor storage of regulated substances if an aggregate of regulated substances exceeding 5 gallons is stored outdoors on any particular property;

525.9.1.6: Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;

525.9.2: In addition, Conditional Uses shall:

525.9.2.1: Develop and submit a stormwater management and pollution prevention plan and shall include information consistent with Developing Your Storm Water Pollution Prevention Plan: A Guide for Industrial Operators. (US EPA 2009) The plan shall demonstrate that the use will:

525.9.2.1.1: Minimize the release of regulated substances into stormwater through a source control plan that identifies pollution prevention measures;

525.9.2.1.2: Demonstrate that storm water systems are designed to treat expected contaminants sufficiently in order to ensure that groundwater quality will not be degraded and result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;

525.9.2.1.3: Stipulate that expansion or redevelopment activities may, at the discretion of the Planning Board, require an amended storm water plan;

525.9.2.1.4: Not infiltrate storm water through areas containing contaminated soils without completing a Phase I Assessment in conformance with ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).

525.9.2.2: For any use that will render impervious more than 15 percent or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall also be consistent with the New Hampshire Stormwater Manual Volumes 1-3, December 2008, NHDES.

525.9.2.3: For any use of regulated substances, a spill control and countermeasure (SPCC) plan shall be submitted to the Compliance Officer who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. The SPCC plan shall include:

525.9.2.3.1: A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;

525.9.2.3.2: Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate Federal, State, and local agencies who must be contacted in case of a release to the environment;

525.9.2.3.3: A list of all regulated substances in use and locations of use and storage;

525.9.2.3.4: A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure;

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

525.10: Exemptions:

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

525.10.1: A mobile fuel tank specifically manufactured for the purpose of being transported from site to site for the sole purpose of fueling motor vehicles and/or equipment, provided fuel transfers are conducted over an impervious area and utilize portable spill containment equipment with trained personnel present during transfers. Said tank, transportation and fueling shall comply with all other applicable regulations.

525.10.2: Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard 525.9.1.3;

525.10.3: Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 525.9.1.3 – 525.9.1.6;

525.10.4: Storage and use of office supplies is exempt from Performance Standards 525.9.1.3 – 525.9.1.6;

525.10.5: Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 525.9.1.3 – 525.9.1.6 if incorporated within the site development project within six months of their deposit on the site;

525.10.6: The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this Ordinance;

525.10.7: Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 525.9.1.3 – 525.9.1.6;

525.10.8: Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable State rules are exempt from inspections under Section 525.12 of this Ordinance.

525.11: Maintenance and Inspection:

525.11.1: For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards, shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Grafton County. The description so prepared shall comply with the requirements of RSA 478:4-a.

525.11.2: Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Holderness Compliance Officer at reasonable times with prior notice to the landowner.

525.11.3: All properties within the Groundwater Protection Overlay District known to the Holderness Compliance Officer as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance under Section 525.10, shall be subject to inspections under this Section.

525.11.4: The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for by State law.

SECTION 550: OUTDOOR LIGHTING (3/10)

550.1: Purpose:

The intent of this Ordinance is to help preserve the rural character of Holderness by preserving the visibility of night-time skies through minimizing the upward transmission of light. This Ordinance recognizes that proper lighting is necessary for safety, but that inappropriate or outdated lighting can waste energy and create unwanted glare for neighbors, motorists, pedestrians and wildlife.

550.2: Definitions:

550.2.1: Area Lighting: A luminaire which emits 1800 lumens or more or a spotlight which emits 900 lumens or more employed to illuminate surface areas greater than 100 square feet on a routine basis for more than one hour per night.

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

550.2.3: Fixture: The assembly that houses the lamp(s) which may include a housing, mounting bracket, pole socket, lamp holder, ballast, reflector and lens.

550.2.4: Floodlight or Spotlight: A fixture that incorporates a reflector or refractor to concentrate light output in a particular direction.

550.2.5: Full Cutoff or Fully Shielded: A light fixture in which the lamp is shielded in such a way as to direct all (100 percent) of its light output below a horizontal plane established at the lowest point of the lamp.

550.2.6: Glare: Light emitted from a luminaire with intensity sufficient to reduce the viewer's ability to see.

550.2.7: IESNA: Illuminating Engineering Society of North America

550.2.8: Lamp: The component of a luminaire which produces light.

550.2.9: Light Trespass: The transmission of light beyond the boundaries of the property on which the emitting luminaire is located.

550.2.10: Lumen: A measurement of light output. For purposes of this Ordinance, the values used shall be the initial lumen output rating of the lamp.

550.2.11: Luminaire: The complete lighting assembly consisting of a fixture and its lamp(s).

550.2.12: Luminaire Height: The vertical distance from the ground directly beneath the centerline of the luminaire to the lowest part of the lamp.

550.2.13: Outdoor Lighting: The illumination of an outdoor area or object by any man-made, light-producing device.

550.2.14: Part-Night Rate: A rate for unmetered lighting which considers the fact that the luminaire is turned off for a portion of the night.

550.2.15: Temporary Outdoor Lighting: Outdoor lighting which is used for a period of one week or less with at least 180 days passing before being used again at that specific location.

550.2.16: Uplighting: The practice of directing light above the horizontal plane for purposes such as, but not limited to, highlighting architectural details, illuminating signs and casting light on flags.

550.3: Outdoor Lighting Design:

550.3.1: Any luminaire emitting more than 1800 lumens (1700 lumens = typical light output of a 100W incandescent bulb) shall be fully shielded.

550.3.2: Any luminaire rated at 1800 lumens or greater and any flood or spot light rated at 900 lumens or greater shall be mounted at a height equal to or less than 3 +(D/3) where D is the distance (in feet) to the nearest property boundary (D/3 means distance divided by 3). In no case shall the height of the luminaire exceed 20 feet.

550.3.3: If direct light from a luminaire can be seen from residential buildings on adjacent or nearby properties or if said luminaire(s) create glare perceptible to motorists, boaters or pedestrians on public ways, the luminaire shall be redirected or shielded to eliminate the offending light trespass.

550.3.4: Any luminaire used for illumination of public areas shall use a low- or high-pressure sodium or a metal halide lamp. Mercury vapor lamps shall not be used due to their energy inefficiency and environmental disposal concerns.

550.3.5: Moving, fluttering, blinking or flashing lighting shall not be permitted except as temporary seasonal holiday decorations during the period of November 15 through January 15. All such lighting shall be turned off at 11:00 p.m. and remain so until 7:00 a.m. and not be the cause of objectionable conditions to neighbors or safety concerns with passing motorists.

550.3.6: Luminaires mounted on a gas station canopy must be fully shielded and shall be recessed mounted in the ceiling only and directed at the ground beneath.

550.3.7: Uplighting is prohibited at any level of light output.

550.3.8: Lighting in public areas (including commercial installations) shall not exceed illumination recommendations as listed in the most current edition of the IESNA Lighting Handbook.

550.3.9: All area lighting shall be timed to turn off by 11:00 p.m. and remain so until 7:00 a.m. unless it can be demonstrated to the Board of Selectmen or their designated representative that doing so creates an undue risk to health, safety or security. Installation involving non-metered usage is exempted from this requirement until the Public Utility Commission implements part-night rates.

550.4: Exemptions:

550.4.1: The Planning Board, at its discretion, may waive certain lighting regulations as they pertain to sports lighting if it can be demonstrated that said lighting presents no safety or nuisance issues for operators of vehicles, neighbors and pedestrians.

550.4.2: All hazard-warning or traffic control luminaires required by Federal, State and local agencies are exempted from this Ordinance.

550.4.3: Non-conforming temporary lighting may be permitted in special circumstance by order of the Board of Selectmen or their designated representative.

550.4.4: Pre-existing installations lawfully in place prior to the enactment of this Ordinance shall be allowed. However, any change to an existing luminaire or its position (other than replacing a lamp or defective electrical component) shall be viewed as a new installation and be subject to this Ordinance.

SECTION 575: TELECOMMUNICATIONS FACILITIES (3/13, 3/16)

575.1: Purpose:

It is the express purpose of this Section to permit carriers to locate telecommunications facilities within the Town of Holderness consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town. This Section enables review of the location and siting of telecommunications facilities by the Town of Holderness so as to reduce the adverse impacts such facilities may create on, including, but not limited to, migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values. It is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted telecommunications facilities are permitted, but only when the use of existing structures and buildings are found to be impractical. Co-location is encouraged for all telecommunications facility applications and the review of a telecommunication facility shall be on the basis of the site being built using all positions on the tower.

575.2: Applicability:

No person shall, within the Town of Holderness, build, erect, or install a telecommunications facility, or a structure intended for use in conjunction with such a facility, without a building permit and Site Plan approval, if required, by the Planning Board. All provisions of the Site Plan Review Regulations shall apply, except where the application is exempted by State and Federal law.

575.3: Definitions:

Antenna: Any exterior apparatus designed for telephonic, radio, television, communications service, pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any frequency and bandwidth.

Antenna array: A collection of antennae attached to a mount to send and receive radio signals.

Average Tree Canopy Height: An average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.

Carrier: A Company that provides personal wireless services, also sometimes referred to as a provider.

Co-location: The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

Equipment Shelter: An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for telecommunication facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Facility: See Telecommunication Facility.

Fall Zone: The area on the ground from the base of a ground mounted telecommunication facility that forms a circle with a diameter equal to twice the height of the facility, including any antennae or other appurtenance. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Guyed Tower: A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

Lattice Tower: A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and freestanding.

Mast: A thin pole that resembles a streetlight standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

Monopole: A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennae and arrays along the shaft.

Mount: The structure or surface upon which antennae are mounted, including the following four types of mounts: (1) Roof mounted – mounted on the roof a building; (2) Side-mounted – Mounted on the side of a building; (3) Ground-mounted – mounted on the ground; and (4) Structure-mounted – Mounted on a structure other than a building.

Radio Frequency Radiation: The emissions from telecommunication facilities.

Security Barrier: A wall, fence, or berm that restricts an area from unauthorized entry or intrusion.

Separation: The distance between one carrier's array of antennae and another carrier's array.

Telecommunication Facility: Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Telecommunication facilities generally include a mount, antenna, equipment shelter, and other related equipment.

575.4: Location:
Telecommunication facilities may be permitted in all districts as primary or accessory uses.

575.4.1: Existing Structures Policy: Telecommunications facilities may be located on existing structures, including, but not limited to, buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.

575.4.2: Existing Structures Burden of Proof: The Applicant shall have the burden of proving that there are no existing structures which are suitable to locate its telecommunication facility and/or to transmit or receive radio signals. To meet that burden, the Applicant shall take all the following actions to the extent possible:

575.4.2.1: The Applicant shall submit to the Planning Board a list of all contacts made with owners of all existing potential sites regarding the availability of potential space for a telecommunication facility.

575.4.2.2: The Applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection.

575.4.2.3: Certification by a licensed professional engineer shall be submitted for all existing facilities deemed by the Applicant as incapable of physically supporting co-location without radio frequency interference.

575.4.2.4: Ground mounted telecommunications facilities shall be designed so as to be reasonably camouflaged

to the greatest extent possible in the judgment of the Planning Board. Review shall include, but is not limited to, use of compatible building materials and colors, screening, landscaping, and placement within trees. It is understood that facilities taller than the existing surrounding tree canopy may not be totally camouflaged.

575.4.2.5: The Planning Board may require a review or independent study by a consultant chosen by the Board at the expense of the Applicant to determine compliance with this Section of the Ordinance as needed.

575.5: Permitted Uses:

Telecommunications facilities are considered either primary or accessory uses. Having an existing permitted use on the site shall not preclude the addition of a facility as a secondary use as long as all other provisions of this Section are met. A different existing use or an existing structure on the same lot shall not preclude the installation of a facility on such lot. For purposes of determining whether the installation complies with district regulations, including, but not limited to, setback and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.

575.5.1: This Section shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas as per State law and regulations.

575.5.2: Existing Tower Facilities: Carriers may locate on a telecommunication facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Section of the Ordinance subject to compliance with the Zoning Ordinance and Site Plan Regulations. This provision shall only apply as long as the height of the mount shall not be increased, a security barrier already exists, and the area of the security barrier is not increased.

575.5.3: **Reconstruction of Existing Tower Facilities:** An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Section of the Ordinance may be reconstructed with a maximum 20-foot increase in height so as to maximize co-location. The standards of this Section must be met and the 20-foot increase in height does not increase the existing facility to exceed 150 feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community.

575.5.4: **Existing Structures:** A carrier may locate a telecommunication facility on an existing structure, building, utility tower or pole, or water tower subject to the provisions of this Section and Site Plan Regulations.

575.5.5: Ground Mounted Facility: A telecommunication facility involving construction of a ground mount shall require Site Plan Review and compliance with this Section.

575.5.6: Any alteration of the original permitted use and device configuration of the facility shall require a new approval, unless exempted.

575.6: Application Requirements:

The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Regulations pursuant to State law and regulations. In addition, the Applicant shall provide the following information:

575.6.1: All Applications

575.6.1.1: Proof of legal authority of the Applicant to use the proposed site, including but not limited to, proof of ownership of the land or structure, copies of any easements, or a lease or other contractual right to use the site; and

***575.6.1.2*:** Plans of the site, including but not limited to, landscaping, with all dimensions and other requirements of this Section labeled and shown to be met by the plan; and

575.6.1.3: A written description of the facility and any support structures, and its coverage range, with a description of the technical reasons for its design; and

575.6.1.4: An inventory of the location, design, and height of any other telecommunication facilities, either within, or within 2 miles of the Town of Holderness, with a statement of what role the proposed facility plays in the Applicant's plan for service coverage.

575.6.2: New or Reconstructed Facility or Ground Mount

***575.6.2.1*:** A description of the support structure, proof of structural integrity, and the technical reasons for its design; and

***575.6.2.2*:** A visual study demonstrating compliance with the visibility and camouflage requirements of this Section; and

575.6.2.3: A licensed engineer's certification that the facility has been designed with the maximum capacity for co-location in light of its dimensions.

575.6.3: In addition to the Site Plan Regulation noticing requirements, any application for a new Telecommunications Facility shall include the name and mailing address of any municipality or portion thereof, which lies within a 20-mile radius of the proposed facility. Notice to such municipality shall be provided in the same manner as specified for abutters and shall allow representatives of the municipality and their residents to comment at any public hearing related to the application. Regional notification and comments from other municipalities and their residents shall not be construed to imply legal standing to challenge any decision.

575.7: Construction and Dimensional Requirements:

All facilities shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this Section shall bring the facility into compliance within 6 months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for removal of the facility or antenna at the owner's expense, in accordance with Section 575.10 of the Ordinance.

To ensure the structural integrity of towers and antennae, all facilities shall be inspected every three years by a licensed engineer approved by the Town with the cost to be paid by the owner. The engineer will submit a report to the Town and the owner. The owner shall be notified of any non-compliance which shall be brought into compliance within 30 days of notification. Failure to bring the facility into compliance shall constitute abandonment and grounds for removal of the facility according to Section 575.10.

575.7.1: Height: The height of a tower shall be the minimum height necessary for service, but shall not exceed 150 feet.

575.7.2: Setbacks and Separation: In addition to compliance with the minimum zoning district setback requirements for all structures, towers shall be set back a distance equal to 150 percent of the height of the tower from all property lines. The fall zone may cross property lines subject to submission of a fall zone easement from the abutting property owner(s). The area of the easement shall be shown on all applicable plans and the terms of the easement shall be provided with the Site Plan application submission.

575.7.3: Security Fencing: Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device.

575.7.4: The height of a facility shall not increase the height of a structure by more than 15 feet.

575.8: Performance and Design Standards:

575.8.1: Visibility: All telecommunication facilities shall be designed and installed in such a manner that, in the judgment of the Planning Board, there shall be no unreasonable adverse visual impact on the area where the facility is located and any adverse visual impact shall be adequately mitigated. The Board shall utilize the following standards:

575.8.1.1: Change in community scale, as exhibited in relative height, mass, or proportion of the facility within its proposed surroundings; new visible elements proposed on a contrasting background; different colors and textures proposed against a contrasting background, and use of materials that are foreign to the existing built environment.

575.8.1.2: Visual mitigation shall be determined on amount and type of landscaping and / or natural vegetation; preservation of view corridors, vistas, and view sheds; and continuation of existing colors, textures, and materials.

575.8.2: Camouflage

***575.8.2.1*:** When a facility extends above the height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

575.8.2.2: Facilities which are side mounted shall blend with the existing building's architecture and the panels shall be painted or shielded with material consistent with the design features and materials of the building.

575.8.2.3: All ground mounted facilities shall be surrounded by a fully-grown buffer of dense tree growth that extends continuously for a minimum distance of 150 feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons and / or property.

575.8.3*:* The portion of the facility extending above the height of the vegetation immediately surrounding it shall be of a color which blends with the background or surroundings.

575.8.4: Equipment shelters shall be designed consistent with one of the following design standards:

575.8.4.1: The shelter shall be located in underground vaults; or

575.8.4.2: The shelter is architecturally consistent, with respect to materials and appearance, to buildings in the area of the facility; or

575.8.4.3: The shelter shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and / or a wooden fence if other types of camouflage are not feasible; the style of fencing and / or landscape buffer shall be determined by the Planning Board for compatibility with the neighborhood; or

575.8.4.4**:** A shelter mounted on a roof top shall be concealed or camouflaged so that the shelter is either not visible at grade or appears to be part of the original structure.

575.8.5: Lighting: The mounts of facilities shall be lighted only if required by the Federal Aviation Administration (FAA). All other lighting shall be in compliance with Section 550 of this Ordinance.

575.8.6: Signage: Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with Section 400.6 of this Ordinance.

575.8.7: Scenic Landscapes and Vistas: Consideration shall be given to placement of ground-mounted facilities within open areas that are clearly visible from public roads, recreational areas, or abutting properties such that there is minimum impact to scenic landscapes and vistas.

575.8.8: Driveways: Existing entrances and driveways to serve a telecommunication facility shall be utilized unless the Applicant can demonstrate that a new entrance and driveway will result in less visibility, traffic, and environmental impact. New driveways to serve a facility shall not exceed 12 feet in width, shall be a crushed stone surface, and shall conform to Site Plan Regulations.

575.8.9: Antenna Types: An antenna array placed upon an existing or proposed ground-mount, utility pole, or transmission line mount, shall have a diameter of no more than 4 feet, exclusive of the diameter of the mount. The Planning Board may permit a larger diameter antenna array after a finding that the visual impacts of a larger antenna array are negligible.

575.8.10: Ground and Roof Mounts: all ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof-mounted monopoles are expressly prohibited unless constructed as part of a reconstruction project permitted under Section 575.5.3.

575.8.11: Hazardous Waste: No hazardous waste shall be discharged on the site of any telecommunication facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110 percent of the volume of the hazardous materials stored or used on the site.

575.8.12: Noise: Telecommunication facilities constructed with lattice work will be designed to mute and /or suppress noise.

575.9: Monitoring and Maintenance:

575.9.1: Maintenance: The owner of the facility shall maintain the facility in good condition. Such maintenance shall include, but shall not be limited to, painting; maintenance of the structural integrity of the mount and security barrier; and maintenance of the buffer areas, fencing, landscaping, and driveway.

575.9.2: Subleases or Transfers of Ownership: Any new lease, sublease, or transfer of ownership of any facility permitted under this Ordinance shall be reported to the Town of Holderness, and adequate provision made for the continuation of security under Section 575.11. Violation of this section shall be grounds for revocation of the Site Plan approval.

575.10: Abandonment or Discontinuation of Use:

575.10.1: Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town of Holderness. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner / operator of the tower. If the abandoned tower is not removed within 90 days, the Town may execute the security and have the tower removed. If there are 2 or more users of a single tower, this provision shall not become effective until all users cease using the tower.

575.10.2: At such time that a carrier plans to abandon or discontinue operation of a telecommunication facility, such carrier shall notify the Town of Holderness by certified US mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be provided no less than 30 days prior to abandonment or discontinuation of operations.

575.10.3: Removal includes, but is not limited to, removal of antennas, mount, equipment shelters, and security barriers from the subject property; proper disposal of waste materials from the site in accordance with local and state solid waste disposal regulations, and restoration of the location and area of the facility to its natural condition.

575.11: Performance Security:

Performance Security shall mean (1) an irrevocable letter of credit with an automatic call provision issued by a bank with banking office in the State of New Hampshire (LOC) or (2) cash in United States currency held in escrow by the Town (cash bond).

575.11.1: A Telecommunications Facility Performance Security shall be required for the removal and disposal of abandoned telecommunications facilities where the facility owner is unwilling or unable to remove the facility in accordance with Section 575.10. The amount of the Performance Security shall be based upon the removal cost plus 10 percent provided by the Applicant and certified by an independent structural engineer licensed in New Hampshire. Every 5 years from the date of plan approval, the owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by an independent professional structural engineer licensed in New Hampshire. If the cost has increased more than 10 percent, the owner of the facility shall be required to increase the amount of the Performance Security pro rata.

575.11.2: Review of the application by an independent State of NH licensed professional engineer, at the Applicant's expense, may be required to develop a cost estimate for the Performance Security to assist the Planning Board in setting the amount of the Performance Security and to ensure that the application adequately

addresses all issues related to the Town's interests as defined in the Zoning Ordinance and regulations.

575.11.3: The Planning Board, with advice from Town Counsel, shall work with the engineer to reach approval of the engineer's cost estimate before the Applicant obtains the Performance Security. The Performance Security shall not be released until the Town is satisfied that the project plan has been accomplished and is satisfied that all conditions of the approval and any other pertinent zoning ordinance, subdivision regulation, site plan regulation, or building requirements have been met.

SECTION 600: SPECIAL PROVISIONS

600.1: 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:

600.1.1: 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 Subsurface Systems Bureau 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.

600.1.2: 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:

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

600.1.2.2: By 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.

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

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

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

600.1.5: 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.

600.2: 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 1 manufactured housing unit shall be located on the same lot.

600.3: Recreational Camping Park Standards:

The following regulations shall apply to all recreational camping parks:

600.3.1: A recreational camping park shall have an area of not less than 5 acres.

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

600.3.3: A strip of land at least 25 feet in width and 100 feet from any public street or highway shall be maintained as a landscaped area abutting all recreational camping park property.

600.3.4: 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.

600.3.5: 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.

600.3.6: All interior roads within a recreational camping park shall have a hard well drained surface. Two-way roads must be at least 30 feet in width with surface at least 20 feet in width. One-way roads must be at least 18 feet in width with surface at least 12 feet in width.

600.3.7: Lot coverage on any site shall be a maximum in square footage as follows: (3/99)

***600.3.7.1*:** RV, camper, or tent, including deck, porch, screened in areas, other structures, (attached or not): 400 square feet.

***600.3.7.2*:** Parking: minimum 200 square feet; maximum 400 square feet.

600.3.7.3: Portable picnic tables and approved fire pits shall not be included in the lot coverage calculations.

600.4: 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:

600.4.1: Waterfront Area: The minimum area of any waterfront lot shall not be less than 1 acre. The minimum depth shall be one-half the frontage.

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

600.4.3: Parking: An area of 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 100 feet to the reference line. Parking shall only occur in the designated parking area.

600.4.4: Toilets: One chemical, mechanical or flush toilet facility each for males and females shall be provided for 2 to 25 dwelling units, individual campsites or individual lodging units planned.

600.5: Waterfront Area and Building or Structure Units Which are Contiguous:

600.5.1: Waterfront Area: The minimum area shall be 11,000 square feet for 2 up to 10 residential dwelling units, individual campsites, or individual lodging units, with an additional 1,000 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.

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

600.6: 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 Section 500 General Provisions are to be met except for minimum frontage requirements.

600.6.1: Docks may be permitted on the basis of one slip per 25 feet of shoreline.

600.6.2: Parking shall be provided on the basis of 3 spaces for every 2 wet slips; additionally, 1 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.

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

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

SECTION 700: NONCONFORMING USES, STRUCTURES OR LOTS (3/97)

700.1: Uses:

700.1.1: All properties whose active use was nonconforming as of passage of this Ordinance or prior to subsequent adoption of amendments may continue in the same use.

700.1.2: A nonconforming use that is discontinued for one year with an intent to abandon that use shall thereafter conform to the regulations for the district and the nonconforming use may not thereafter be resumed without Variance approval of the Board of Adjustment. (3/11)

700.1.3: Nonconforming uses may not be expanded in a manner which is substantially different from the use to which it was put before expansion. All expansions shall meet the regulations of the district in which the activity occurs. (3/11)

700.2: Structures:

Any structure existing at the time of the original passage of this Ordinance, March 1985, or which has been legally constructed since, but is now non-conforming to the requirements of this Ordinance shall have the right to continue indefinitely. (3/18)

700.2.1: Nonconforming buildings or structures may be repaired, improved, or expanded, provided:

700.2.1.1: No alteration shall increase the nonconformity according to the requirements of this Ordinance, including use regulations, and all other dimensional and area requirements.

700.2.1.2: Specifically for an existing setback nonconformity, any reconstruction must be completed within the existing footprint and no expansion of any kind shall occur within that part of the structure that is in the setback. (3/18)

700.2.1.3: For the purpose of snow load management adding a pitched roof or increasing the slope of an existing roof will not be considered an expansion provided it does not increase any living or storage space. (3/18)

700.2.2: A nonconforming structure which has been destroyed or partly destroyed may be rebuilt with the following limitations: The rebuilt structure shall not exceed the dimensional size of the original structure. If the reconstruction of a destroyed or demolished nonconforming structure is not completed within 2 years of the building's destruction or demolition, any new building located on the property shall be built conforming to standards identified elsewhere in this Ordinance. (3/11)

700.2.1.4: A nonconforming structure which has been destroyed or partially destroyed, or has been purposely demolished, may be reconstructed as long as the pre-existing nonconformity is not increased. Provisions of Section 700.2.1.1, 700.2.1.2 and 700.2.1.3 apply. Reconstruction must be completed within two years of the destruction or demolition date. If the reconstruction is not completed (fully enclosed) within two years of the

destruction or demolition date any new structure must be built conforming to the standards in this ordinance. (3/18)

700.3: Lots:

Any lot of record existing as of the time of passage of this Ordinance, March 1985, or which has been legally constructed since, but is now non-conforming to the Ordinance and not conforming to present minimum lot size, minimum frontage requirements, or minimum dimensional requirements, shall have the right to continue in its present use indefinitely, as well as being used for any other conforming use for the district in which it is located. Undeveloped nonconforming lots may be developed with any use permissible in the zoning district without compliance with minimum lot size, frontage or dimensional requirements, so long as the following conditions are met:

(1) sufficient off-street parking for any such proposed use is provided within the property boundaries;
(2) lots whose sole frontage is upon a Class VI or private road not shown on a plan approved by the Planning Board must first successfully complete the permit process as set forth in RSA 674:41; and
(3) all other provisions of the Zoning Ordinance are met such as, but not limited to, setbacks, lot coverage, septic requirements, etc.

No nonconforming lot may be permitted to be further subdivided or otherwise made less conforming in nature. (3/12)

700.3.1: Owners who are proposing to increase living area square footage which is located on nonconforming lots must also provide the Selectmen and Health Officer with a septic site assessment done by a permitted subsurface sewer or waste disposal system designer and provide evidence that the septic system complies with RSA 485-A:38. (3/02 & 3/14)

700.4: Waiver of Dimensional Compliance for Replacement of Pre-Existing Septic Systems: (3/99)

Upon application duly made in accordance with Section 800, 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:

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

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

700.4.3: The proposed system cannot reasonably be replaced in strict compliance with dimensional standards required by this Ordinance.

700.4.4: The waiver from dimensional requirements shall not constitute a significant or substantial deviation from the purposes of this Ordinance.

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

700.4.6: All other applicable criteria of Section 900 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 Section 1100. (3/99)

SECTION 800: BOARD OF ADJUSTMENT

800.1: Creation, Appointment and Jurisdiction:

Within 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 5 members whose powers shall conform to the provisions of all 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.

800.1.2: The Board of Adjustment may also include not more than 5 alternate members appointed by the Board of Selectmen.

800.2: 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.

800.3: Variances:

The Board of Adjustment shall have the power to authorize on appeal, a Variance from the provisions of this Ordinance pursuant to RSA 674:33 and 674:33-a, and as they may be amended.

SECTION 900: 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.

900.1: 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:

900.1.1: The lot dimensions and any bounding streets and their rights-of-way and pavement widths.

900.1.2: Location and dimensions of existing or required service areas, buffer zones, landscaped areas, recreational areas, signs, rights-of-way, easements, streams and drainage.

900.1.3: All existing buildings or other structures with their dimensions.

900.1.4: All proposed buildings, structures or additions with their dimension indicating "proposed" on the plan.

900.1.5: Indicate all setback (front, rear, and side) dimensions and building or structure heights.

900.1.6: Computed lot and building or structure areas and percentage of lot occupancy.

900.1.7: Elevations or contours, if required or if relevant.

900.1.8: Location and number of parking spaces and lanes with their dimensions.

900.1.9: Any required loading, unloading, and trash storage areas.

900.1.10: Dimensions and directions of traffic lanes, exits, and entrances.

900.1.11: 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 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.

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

900.2: 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 Sections 400 and 600 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:

900.2.1: The specific site is an appropriate location for the use or structure.

900.2.2: The use will be compatible with neighboring land uses.

900.2.3: Property values in the district will not be reduced by such a use.

900.2.4: There will be no nuisance or serious hazard to vehicles or pedestrians.

900.2.5: Adequate and appropriate facilities are provided for the proper operation of the proposed use.

900.2.6: The proposed use shall comply with the minimum land space dimensional requirements set forth for each district, and as set forth in the General and Special provisions of the Ordinance.

900.2.7: The capacity of existing roads and highways to carry additional traffic.

900.3: 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:

900.3.1: Increasing the required lot size or yard dimensions in order to protect the adjacent properties.

900.3.2: Limiting the lot coverage or height of buildings or structures because of obstruction to view and reduction of sunlight and air to adjacent properties.

900.3.3: Controlling the location and number of vehicular access points to the property.

900.3.4: Limiting the number, location and size of signs on-site.

900.3.5: 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.

900.3.6: Providing a 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 effects on adjoining property.

900.3.7: Requiring that, in the case of conversions of existing structure into 2 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.

SECTION 1000: ADMINISTRATION AND ENFORCEMENT

1000.1: 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)

1000.2: Issuing Permits:

1000.2.1: The Board of Selectmen or its agent shall issue or deny any and all permits such as, but not limited to, building, structure, driveway, sign, use, demolition, or excavation permits, as 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.

1000.2.2: 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)

1000.2.3: As required by the NH Department of Environmental Services and in accordance with RSA 485 A:39, prior to the execution of a purchase and sale agreement for any developed waterfront property contiguous to or within 200 feet of the reference line of a fresh water body, coastal waters, or a river and which uses a septic disposal system, 2 copies of a Site Assessment form shall be filed with the Town Clerk. One shall be given to the Planning Board, and the other shall be given to the Compliance Officer who shall review it with the Selectmen. (3/96) (RSA 485-A:39)

1000.2.4: A plan for all permitted uses shall be submitted to the Board of Selectmen or its agent. If the plan complies with the provisions of this Ordinance, the Board of Selectman or its agent shall, within 15 days of the receipt of the plan, issue a building or structure permit. Exception – if a commendation 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)

1000.2.5: 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 2 public places within 5 days of date of issue.

1000.2.6: Permits issued by the Selectmen for construction or demolition shall be good for a maximum of 2 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 valid until 1 year after the "use" or activity associated with the Variance or Special Exception ceases. (3/98 and 3/10)

1000.2.7: Upon completion of the requirements of the building or structure 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 is conducted, and a Certificate of Compliance is issued. In deciding whether to issue a Certificate of Compliance, the Board of Selectmen or its 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).

1000.3: Enforcement:

1000.3.1: 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.

1000.3.2: 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)

1000.4: Site Plan Regulations:

In accordance with State law, the Town of Holderness Planning Board has adopted regulations governing the review and approval or disapproval of site plans for the development, change, or expansion of use of tracts for non-residential uses or for multi-family dwelling units, which are defined as structures containing more than 2 dwelling units, whether or not such development includes a subdivision or re-subdivision of the site. (3/10)

1000.5: Subdivision Regulations:

In accordance with the provisions of RSA 674:36 as amended, the Town of Holderness Planning Board has adopted regulations governing the review and approval or disapproval of plans for the subdivision of property. The purpose of such approval, includes, but is not limited to, the prevention of scattered and premature subdivisions; the encouragement of harmonious development; the coordination of sizing of streets so they are adequate and safe; the provision for open areas for parks and recreation; the provision of adequate building areas; the prescription of the minimum area of lots; the provision of on-site sanitary facilities; and generally the creation of conditions favorable to health, safety, convenience, and prosperity. (3/10)

SECTION 1100: EMERGENCY ACTIONS

1100.1:
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.

1100.1.1: Expedited Septic System Repair or Replacement: After inspection and confirmation of failure by the Health Officer, existing septic systems that have failed and which the Compliance Officer certifies cannot be located elsewhere on the property meeting present zoning requirements may be repaired or replaced in their existing location without approval of the Zoning Board of Adjustment. All failed septic systems that are being relocated on the property and cannot meet present zoning requirements are required to receive approval from the Zoning Board of Adjustment for all Variances prior to construction. The Zoning Board of Adjustment shall hold a hearing to consider the required septic system Variances within 14 calendar days of receipt of an application. This "emergency action" does not negate the need for the Applicant to adhere to all applicable State requirements. Upon receipt of approval from the Zoning Board of Adjustment, the Selectmen or its designee shall expedite the issuance of a building permit for the new system. (3/94 & 3/14)

1100.1.2: 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. (3/00)

SECTION 1200: MISCELLANEOUS PROVISIONS

1200.1: Saving Clause:
The invalidity of any provision of this Ordinance shall not affect the validity of any other provisions.

1200.2: Effective Date:
This Ordinance shall take effect immediately upon its adoption.

1200.3: Amendments:
This Ordinance may be amended by majority vote of any Town Meeting, in accordance with State law and regulations.

1200.4: 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)

SECTON 1300: DEFINITIONS

1300.1:
For the purpose of this Ordinance, the following terms have the following meaning:

Abutter – 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 or a local land use 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 Building, Structure, Use – A building, structure, or use secondary to and serving the principal structure or use and on the same lot as the principal structure. When used in connection with agricultural uses, "accessory structure" shall include all structures customarily used for agricultural purposes. (3/97, 3/11, 3/15)

Accessory Dwelling Unit (or "ADU") – A residential living unit that is within or attached to a single-family dwelling that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. (3/17)

Accessory Farming and Agricultural Activities. All activities (e.g., Agritourism) that are accessory to the primary farm operation including, but not limited to, eating a meal, overnight stays, enjoyment of the farm environment, education about farm operations, gatherings such as reunions and weddings, or active involvement in the activity of the farm. (RSA 21:34-a,II(b)(5)) (3/19)

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

Applicant – A person or entity submitting an application for development, a permit, or other required approval under this Ordinance. Applicant includes the owner of the property and any person designated by the owner to represent the owner. (3/15)

Application – The completed form or forms and all accompanying documents, exhibits, and fees required of an Applicant by the applicable department or board of the Town for development review, approval, or permitting purposes. (3/15)

Approval – The recognition by the decision-making authority, certified by written approval on a plan or Plat or in a Notice of Decision that the Application meets the requirements of the Town regulations, granted at a duly called meeting of the authority. (3/13, 3/15)

Board – For the purposes of Subdivision, Site Plan Review, or Boundary Line Adjustment, Board means the Planning Board, and for purposes of Variances, Appeals, Equitable Waivers, Special Exceptions, and District Boundary Determinations, Board means the Zoning Board of Adjustment, of the Town of Holderness, New Hampshire.
(3/13, 3/15)

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)

Buffer – The strip of natural vegetation separating a development from streets and highways. (3/13)

Building Footprint – The exterior dimensions of a structure, including, but not limited to, any permanent extensions such as decks, porches, balconies, steps, breezeways, chimneys, and the overhang or drip line. (3/11)

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

Civic Uses – Uses by agencies and departments of Town, Grafton 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 – Any use involving in part or in whole the sale of merchandise, materials, or services, but not including home occupations as defined in the Ordinance. (3/11)

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 serving at least 15 service connections or a daily average of at least 25 individuals.

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

Compliance Officer – A person or persons designated by the Board of Selectman of the Town to uphold and ensure compliance with the Zoning Ordinance. (3/15)

Day Care Center – A facility where more than 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)

Decision-Making Authority – An individual or body vested with the authority to make recommendations or act on Application requests. The final decision-making authority is the one which has the authority to act on a request by approving or denying it. This may include the Town Administrator, the Health Officer, the Compliance Officer, the Zoning Board of Adjustment, the Planning Board, the Conservation Commission, or the Board of Selectmen. (3/15)

Development – Any man-made change to improved or unimproved real estate, including but not limited to,

buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operation, or storage of equipment or materials. (3/13)

Driveway – Access for not more than 2 adjacent lots. (3/13)

Dry Well – An effluent disposal area constructed as a covered, underground pit with an open-jointed or perforated lining and surrounded with septic stone, into which effluent is discharged for final disposal into the surrounding soil. The term includes seepage pit and effluent disposal pit. As defined by the NH Code of Administrative Rules En-Wq 1002.24 and as it may be amended. (3/12)

Duplex – A structure used for residential purposes consisting of two dwelling units with a common wall. (3/17)

Dwelling, Single-Family – A detached residential building or structure other than a mobile home, designed for and occupied by1family only.

Dwelling, Two-Family – A structure containing two dwelling units; a duplex. (3/15)

Dwelling, Multi-Family – A residential building or structure designed for or occupied by 3 or more families, with the number of families in residence not exceeding the number of dwelling units provided or permitted.

Dwelling Unit – One or more 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 designed or used for residential purposes containing independent cooking, sanitary facilities, and adequate room for (3/04) sleeping. 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. (3/11)

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. Any easement shall be a minimum of 50 feet in width. (3/19)

Engineer – A duly licensed professional engineer as required by the New Hampshire licensing laws. (3/13)

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 reasonably 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, living area square footage, above or below ground. This includes, but is not limited to, porches, decks, roof overhangs, patios, and basements/cellars. (3/18)

(2) Expansion of use shall be any use that increases the impact of that use 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 septage), 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, 3/14)

Family – An individual, or two or more individuals related by blood, marriage, or legal adoption or guardianship, or a group of not more than six unrelated persons living together as a single housekeeping unit, including domestic help, but excluding boarders or roomers. (3/15)

Farm Roadside Stand. An agricultural activity, and not considered commercial, provided that at least 35% of the product sales in dollar volume is attributed to products produced on the farm. (RSA 21:34-a,III) (3/19)

Fence – A solid or divided wall which is intended to prevent access from one area to another area and is not intended to retain earth. (3/13)

Flood Hazard – Those areas subject to periodic flooding. (3/97)

Funeral Home – An establishment engaged in undertaking services such as preparing the dead for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home includes a funeral chapel. (3/15)

General Farming and Agriculture. All activities of a farm as defined in RSA 21:34-a. (3/19)

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)

Guest House & Bunk House are distinguished from a dwelling unit by being limited to sleeping facilities with no plumbing. These structures shall not be used to satisfy the residency requirement. (3/10)

Group Development – The residence of a group of 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.

Health Care – A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, or physical condition, including, but not limited to a general hospital, diagnostic center, treatment center, rehabilitation center, extended care center, intermediate care center, outpatient laboratory or emergency care center. (3/15)

Health Officer – As defined in NH RSA 128. (3/15)

Home Occupation – Any use conducted by a member of the family within a dwelling or an accessory building which is incidental to the use of the dwelling as a residence and conforming to the criteria set forth under General Provisions. (3/11)

Impervious Area or Surface – Any modified surfaces including, but not limited to, the area of the building footprint, paved, gravel or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or infiltrate water. (3/11)

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 in which more than 6 dogs or domestic animals more than 1 year old are housed, groomed, bred, boarded, trained or sold.

Leach field or Effluent Disposal Area (EDA) – An area designed for the final disposal of effluent, commonly referred to as a leach field, including the bed and any required fill extensions, in which effluent is dispersed using leach lines or dry wells. As defined by the NH Code of Administrative Rules Env-Wq 1002.27 and as it may be amended. (3/12)

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

Living Space – This includes any area measured in square feet, or any space measured in cubic feet, that is enclosed space used for indoor living or storage. This includes dormers and lofts, and any open space regardless of ceiling height. This does not include crawl spaces and screened-in porches (porches not enclosed with windows). (3/18)

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. (3/19)

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-Bed & Breakfast – A building which contains accommodations with or without kitchens, primarily provided to transient guests and offered to the public for compensation. (3/15) (3/17)

Multi Use Facilities/Property – A structure or structures on 1 lot that has both residential and non-residential uses. The setbacks 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 commercial site, this will require Site Plan Review as well as a Special Exception. (3/98, 3/15)

Municipal or Government Building – A building or structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public. (3/15)

Municipal Wastewater System – A wastewater collection, treatment and disposal system that serves at least 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 15 service connections or a daily average of at least 25 individuals and operated by a municipal or regional government.

Museum – A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, historic, or literary objects of interest or works of art, intended to be used by members of the public for viewing with or without an admission charge and which may include, as an accessory use, the sale of goods to the public as gifts or for their own use. (3/15)

Natural Ground Cover – Any herbaceous plant or any woody seedling or shrub generally less than 3 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 Lot – A lot which was lawfully created but which does not conform to the current minimum dimensional requirements specified for the zone in which it is located. (3/11)

Non-Conforming Use or Structure – An activity or a structure or a portion thereof, which lawfully existed before the adoption of amendment of this Ordinance, but which does not conform to all of the current terms and standards for the zone in which it is located and which are contained in this Ordinance.

Non-Residential Development – All development of buildings, structures, or land except 1 family and two-family dwellings and related non-commercial accessory structures. (3/12)

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

Nursing Home – A nursing home, convalescent home, skilled nursing facility (SNF), care home, rest home, or intermediate care facility providing a type of residential care. It is a place of residence for people who have significant difficulty coping with activities of daily living and require continual nursing and care. (3/15)

Parking Space – A single parking space is 10 feet in width by 20 feet in length and having additional adequate area for maneuvering.

Park – A public or private area of land, with or without buildings, intended for outdoor active or passive recreation. (3/15)

Plat – The survey, map, drawing, or chart for a subdivision or site plan submitted to the Planning Board for approval. (3/13) A document prepared by a registered surveyor or engineer that delineates property lines and shows monuments and other landmarks for the purpose of identifying property. (3/15)

Plot Plan – A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing and proposed buildings, the location of the lot in relation to abutting streets, and other such information. (3/15)

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

Private Street or Way – A strip of land used as access to 3 or more lots or parcels of land and which is not public. (3/13)

Professional Offices – A facility whose personnel provide a service such as legal, medical, personal services, banking, educational services, burial services. (3/94, 3/01, 3/15)

Public Safety Facility – A government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities. (3/15)

Recreational Camping Park or Recreational Campground – 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 structures are located, established or maintained, and operated 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. (3/16)

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, and (5) not a primary residence. (3/94)

Reference Line – As defined in the Shoreland Water Quality Protection Act (RSA 483-B), this term shall mean, for all lakes, ponds and artificial impoundments greater than 10 acres in size, the surface elevation as listed in the Consolidated List of Water Bodies subject to Shoreland Water Quality Protection as maintained by the NH Dept. of Environmental Services (583' for White Oak Pond; 562.5' for Little Squam Lake; and 563' for Squam Lake). For the Squam Channel, the section north of the bridge will be governed by the Reference Line for Squam Lake and the section south of the bridge will be governed by the Reference Line for Little Squam

Lake. For other water bodies (ponds, rivers and perennial streams), the Reference Line is defined by the ordinary high-water mark. (3/15)

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)

Residential Unit – See Dwelling. (3/10)

Restaurant – A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building. (3/15)

Retail – The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license. (3/15)

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 – A grant or reservation of land for use by others, which may include the public, and which must be included in the conveyance of land affected by such Right-of-Way. Any right-of-way shall be a minimum of 50 feet in width. (3/19)

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, 1,000 feet from said mean high water level.

Road Agent – The duly designated road agent of the Town of Holderness. (3/13)

Roadway – The finished road surface between the shoulder breaks. (3/13)

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 – The use of a structure or property for not more than 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)

Shoreland Frontage – The width of a lot measured along its common boundary with a river, lake, or pond, measured at the reference line. The width shall be based on the sum of reasonable straight-line incremental measurements. However, in no case shall a straight-line increment be less than 25 feet. (3/15)

Sign – Any device (including, but not limited to, letters, words, numerals, figures, emblems, pictures or any part of this combination) used for visual communication intended to attract the attention of the public and visible to the public right-of-way or other properties. The term, sign shall not include any flag, badge, or insignia of any

governmental unit, nor shall it include any item of merchandise normally displayed within a show window of a business. (3/15)

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 – As defined and classified by "Key to Soil Types," High Intensity Soil Maps for NH SSSNNE Special Publication No. 1, as amended. (3/13)

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 percent (3/08)

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

Structure – Anything constructed or erected using materials or a combination of materials, including signs, the use of which requires location on the ground or attachment to something having location on the ground. A structure shall also include subsurface mechanisms such as, but not limited to, septic systems, swimming pools, and wells. Fences that are 6 feet in height and lower are excluded. (3/11, 3/14)

Subdivision – The division of a lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land as defined in RSA 672.14. (3/15)

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 – No more than 150 days in a 365-day period. (3/13)

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 1 year. (3/94)

Unsuitable Land – Land which is unsuitable for development by reason of high-water table; slopes in excess of 25 percent; or bedrock or impervious strata. (3/15)

Useable Lot Area – The net area of a tract, parcel or lot excluding wetlands and areas with slopes greater than 25 percent. 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 – An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions as defined by RSA 482-A:2,X and as it may be amended. (3/08, 3/11)

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.

Wildlife Land – Land used as a sanctuary or place of refuge for wildlife. (3/13)

1300.2: Floodplain Hazard District Definitions:
The following definitions shall apply only to Floodplain Hazard District, 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 – 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 (FIRM). (3/07)

Base Flood – A flood having a 1 percent possibility of being equaled or exceeded in any given year.

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

Breakaway Wall – 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 – 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 – Federal Emergency Management Agency.

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

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

Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure – Any structure that is:

(1) 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.
(2) 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.
(3) 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
(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

Lowest Floor – 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 – 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 – A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale. (3/07)

Mean Sea Level – 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 – 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 floodplain 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 – 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 permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway – 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 – 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 – 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 – Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should equal the appraised value prior to the start of the initial repair or improvement, or, 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 – The failure of a structure or other development to be fully compliant with the community's floodplain 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 – 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.

Approved by:

_____ _____

Planning Board Chairman, B. Snelling *Date*

_____ _____

Planning Board Vice Chairman, C. Lehner *Date*

Received by:

_____ _____

Town Clerk, E. King *Date*

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, a 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)

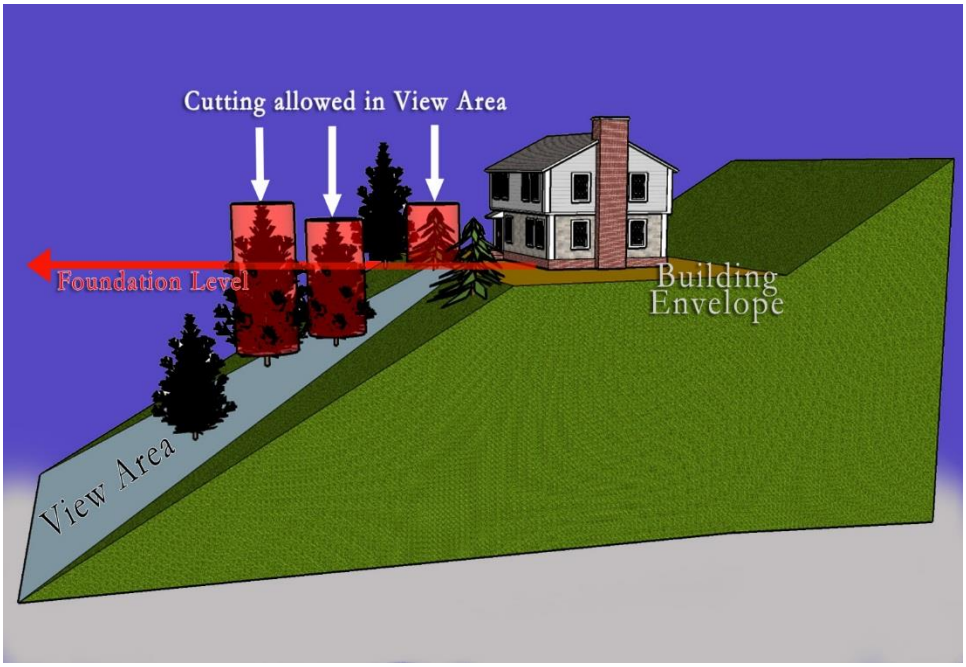
RIVER CORRIDOR (RC)
That area of land contiguous to the Pemigewasset River, 500 feet from the mean high-water level or, in the case of the flood plain, 1000 from said high water level.

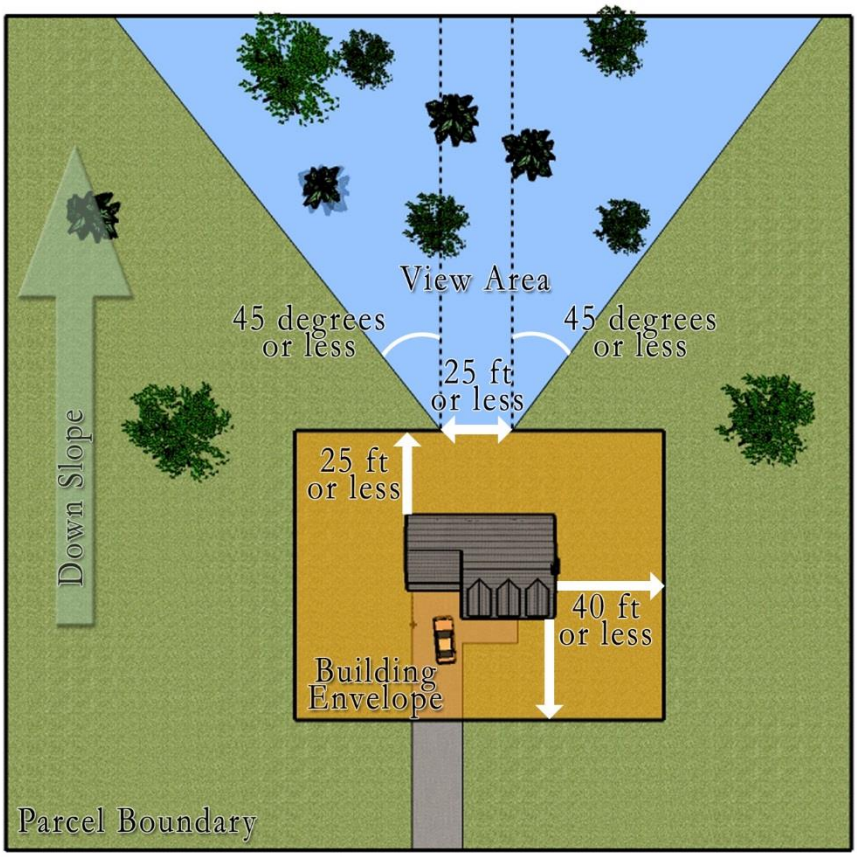
FLOOD HAZARD ZONE (FH)
All lands West of interstate Route 93.

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
Down Slope
40 ft or less
Building Envelope
Parcel Boundary