ZONING ORDINANCE
FOR
MOULTONBOROUGH, NEW HAMPSHIRE

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MOULTONBOROUGH ZONING ORDINANCE

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(Readers' guide - Not Part of the Zoning Ordinance)

Disclaimer: The Table of Contents is provided solely as a guide to the reader and user of the *Zoning Ordinance*. As such, the Table of Contents is not part of this Ordinance and should not be so construed. For this limited purpose, the Planning Board trusts it serves to facilitate your use of this Ordinance.

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ZONING ORDINANCE
TOWN OF MOULTONBOROUGH, NEW HAMPSHIRE

ARTICLE I

Statement of Purpose and Authority

The Zoning Ordinance of the Town of Moultonborough is intended to regulate land use Within the Town of Moultonborough. The ordinance is designed to take into account the impacts of land uses and to impose limitations on uses of land for the protection of the environment, the natural resources and the rural qualities of Moultonborough. The ordinance is further intended to promote health, safety, economic and social well-being, convenience, prosperity, and general welfare; it is intended to lessen congestion in the streets, to secure safety from fires and other dangers, to provide adequate light and air, to prevent overcrowding of land, and to avoid undue concentration of population and to facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks and to encourage proper use of natural resources. The ordinance is also intended to minimize the impact of potentially incompatible uses with particular consideration given to the character of the area as well as an effort to conserve the value of buildings, to promote good civic design and the wise and efficient expenditure of public funds. Pursuant to the authority granted by chapter 674 of the revised statutes annotated, sections 17 et. Sec. and chapters 672-677 generally, this ordinance is enacted by the voters of the Town of Moultonborough.

ARTICLE II

Title

This ordinance shall be known and may be cited as the Zoning Ordinance of the Town of Moultonborough**.**

ARTICLE III

General Provisions

All land in the Town of Moultonborough shall be subject to the limitations set forth herein. Single family residential, (two-family residential with Planning Board review and approval of an application certifying that the minimum lot size requirement (unit density) for the second dwelling or unit on a lot has been met as per the requirements of Article III A. and Table I), and agricultural uses are allowed throughout the Town of Moultonborough. For Mixed Use, please reference the Table of Permitted Uses in Article VI, Commercial Uses. Accessory uses which are incidental to and subordinate to the principal use of the property are allowed. Farm stands are an accessory use. All uses other than one and two family residential or agricultural shall follow the requirements of commercial uses.

A. Minimum lot sizes. The table below sets forth the minimum lot area upon which a dwelling, structure, building, mobile home, camper, R.V. or house trailer may be constructed, or located, or used according to the soil and slope conditions, where the septic system or drinking water well are to be located on said lot. Larger lot sizes may be required in accordance with the characteristics of each lot. Square footage is set forth as the minimum per dwelling unit required, and no less than 40,000 square feet shall be permitted for each lot, whether or not the lot contains a septic system.

The Town is divided into residential/agricultural zone and three commercial zones, as defined in Article VI. Commercial uses are permitted in the commercial zones, and allowed by special exception throughout the Town in the Residential/Agricultural zone.

Table I

<u>Minimum Lot Sizes Based On Soil And Slopes</u>
(In Square Feet)

Minimum Lot Size - Residential						
Soil Group	1	2	3	4	5	6
Slope						
0-8% or	40,000 ft ^{2}	45,000 ft ^{2}	60,000 ft ^{2}	60,000 ft ^{2}	NP	NP
A/B	1.0	1.3	1.6	1.45		
8-15% or	45,000 ft ^{2}	60,000 ft ^{2}	90,000 ft ^{2}	90,000 ft ^{2}	NP	NP
C	1.1	1.43	1.76	1.6		
15-25%	60,000 ft ^{2}	80,000 ft ^{2}	100,000 ft ^{2}	120,000 ft ^{2}	NP	NP
D	1.2	1.56	2.08	1.73		

Notes: For purposes of determining minimum lot sizes, soil groups shall be as follows:

(1) Group 1 soils shall be well-drained to excessively well-drained soils with rapid permeability;
(2) Group 2 soils shall be well-drained soils with moderate permeability;
(3) Group 3 soils shall be moderately well-drained and well-drained with hardpan;
(4) Group 4 soils shall be bedrock relatively close to the surface;
(5) Group 5 soils shall be poorly-drained soils;
(6) Group 6 soils shall be very poorly-drained soils.

REVISED SOIL GROUPING FOR ESTABLISHING LOT SIZE

Group 1	Group 2	Group 3		Group 4	Group 5		Group 6
Excessively drained and somewhat excessively drained soils with rapidly or very rapidly permeable receiving layer.	Well-drained soils with moderately permeable surface and subsoil layers and having a moderate to rapidly permeable receiving layer.	Somewhat poorly drained or moederately well drained soils, and well drained soils with a slowly or very slowly permeable receiving layer.		Soils with bedrock within 4 feet of the soil surface.	Poorly drained soil		Very poorly drained soils
Adams	Abenaki	Acton	Melrose	Canaan	Au Gres	**Scantic	Biddeford
Boscawen	Agawam	Acton Variant	Metacomet	Cardigan	Bemis	**Scitico	Borohemists
Ceasar	Allagash	Becket	*Metallak	Chatfield	Binghamville	Shaker	Bucksport
Champlain	Bangor	Belgrade	Millis	Elliotsville	Brayton	Squamscott	Burnham
Colton	Berkshire	Barnardston	Montauk	Glebe	Cabot	Stissing	Chocorua
Gloucester	Bice	Barnardston Variant	Mundal	Hogback	*Charles	Swanton	Greenwood
Glover	Canton	Boxford	Newfields	Hollis	*Cohas	Walpole	Ipswich
Hermon	Charlton	Buckland	Nicholville	Kearsarge	Grange	Warham	Matunuck
Hinckley	Dutchess	Buxton	Nicholville Variant	Lyman	Kinsman		Maybid
Hoosic	*Fryeburg	Canterbury	Ninigret	Macomber	Leicester		*Medomak Variant
Masardis	Groveton	Chatfield	Paxton	Millsite	Leicester Variant		*Medomak
Merrimac	*Hadley	Chesuncook	Peru	Monson	*Lim		Muck
Success	Hartland	Colonel	Pittstown	Pennichuck	*Limerick		Ossipee
*Suncook	Haven	Colonel Variant	Pittstown Variant	Rawsonville	*Limerick Variant		Pawcatuck
*Sunday	Houghtonville	Croghan	Plaisted	Ricker	Lyme		Peacham
Redstone	Lombard	Dartmouth	Plaisted Variant	Saddleback	Monarda		Peat
Warwick	Monadnock	Deerfield	*Podunk	Shapleigh	Moosilauke		Pondicherry
Windsor	Occum	Dixmont	*Podunk Variant	Stratton	Naumburg		*Saco
Windsor Variant	Ondawa	Duane	Poocham	Thorndike	Pemi		*Saco Variant
	Ondawa Variant	Eldridge	*Potatuck	Tunbridge	Pillsbury		Scarboro
	Salmon	Elmridge	Roundabout	Winnecook	Pillsbury Variant		*Searsport
	Salmon Variant	Elmwood	Scio	Woodstock	Pipestone		Vassalboro
	Stetson	Finch	Scituate		Raynham		Waskish
	Unidilla	Henniker	Shaker		Raynham Variant		Westbrook
		Hitchcock	*Sheepscot		Raypole		Whitman
		**Howland	Sisk		Ridgebury		Wonsqueak
		Lanesboro	Skerry		*Rippowam		
		*Lovewell	Sudbury		Roundabout		
		Machais	Suffield		*Rumney		
		Madawaska	Sunapee		*Rumney Variant		
		Marlow	Sutton		Saugatuck		

Notes: 1. This chart should be used as a general guide to enable people to make lot size determination. In no way does the series name and description replace an on-site evaluaton of conditions in the field.

* These soils are subject to periodic or frequent flooding.

** These soils should be evaluated particularly closely because of possible site problems

Septic systems not permitted on slopes of 25% or greater - cannot be included in minimum lot size determination.

NP - Septic systems not permitted on these soils- cannot be included in minimum lot size determination.

B. Minimum setbacks. No residential or agricultural buildings, mobile home, camper, R.V., house trailer, or other residential or agricultural structure, or any part or portion thereof shall be placed, located, or constructed in violation of the following provisions:

(1) Fifty feet from the centerline of the improved surface of any roadway used or intended for public travel where there is no defined or legally described right-of-way line, or twenty-five (25) feet from the edge of the right of way, all measured at a perpendicular angle from said roadway or right-of-way line along the lot frontage.

(2) For roads with a right of way in excess of fifty (50) feet, the setback from the centerline of the improved surface of the roadway shall be one-half the width of the right of way plus twenty-five (25) feet, and not less than twenty-five (25) feet from the edge of the right of way, measured at a perpendicular angle from said roadway or right-of-way line along the lot frontage.

(3) Twenty (20) feet from any lot line.

(4) Fifty (50) feet from the high water line of any lake, pond, river, or stream.

(5) No dock may be located nearer than twenty (20) feet from a lot line.

(6) Structures to include stairs and raised walkways to a waterbody as defined by the State of NH, used for access and egress within setbacks are permitted only by Special Exception.

C. Any use that may be obnoxious or injurious by reason of causing odors, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that is dangerous to the health or safety, comfort, peace and enjoyment of the community as determined by the selectmen and the Planning Board is prohibited.

D. No persons shall maintain or keep any hazardous or toxic materials, a dump or a junk yard so near to any street, highway, or other public place or adjoining property so as to be offensive to the public or to the adjoining property. For the purpose of this section of this ordinance, junk yard shall include**,** shall be defined in accordance with RSA 236:112 I, III, IV; 236:112.

E. Off-street loading and parking. Adequate off-street loading and parking areas shall be provided when any new use is established or any existing use is enlarged in accord with the following specifications:

(1) All proposed new residential developments shall provide for adequate off-street parking spaces in accord with this ordinance.

(2) For residential use, a minimum of two (2) parking spaces shall be required for each dwelling unit.

F. (1) Not more than one (1) structure, mobile home, camper or R.V. unit suitable for use or occupancy as a dwelling unit is allowed per lot unless approval shall be obtained from the Moultonborough Planning Board. An accessory structure may be permitted upon the premises so long as it is not adapted for use or occupancy as a dwelling or for any use inconsistent with that of the principal building upon the premises.

(2) Not more than one (1) Recreational Vehicle (RV) such as motor homes, travel trailers, fifth wheels, shall be occupied for more than seven (7) days within any ninety (90) day period on a lot unless approval shall be obtained from the Moultonborough Planning Board using subdivision regulations and the requirements of Table I. All recreational vehicles occupied for

more than seven (7) days within any ninety (90) day period on a lot shall require a State approved operational septic system.

G. No use of any land or structure in the Town of Moultonborough shall be permitted which generates any toxic waste as defined by the state of New Hampshire until a permit for such operations shall be obtained from the town. No such permits shall be issued until waste disposal procedures have been approved by the ground water division of the water supply and pollution control commission, and by the Moultonborough Planning Board, after consultation with appropriate engineers or other waste disposal advisers.

H. It is the specific intent of this ordinance to minimize impact created by use of property upon adjoining property, and specifically, but not limited to, proper provisions for parking, loading and unloading, noise, dust, glare from lights of vehicular traffic and/or illumination of site.

I. Height of buildings.

(1) No building shall be constructed in the Town of Moultonborough with overall height exceeding thirty-four (34) feet above ground level measured as the average of the vertical distances between the ridge of the building and the highest ground level point, and the ridge of the building and the lowest ground level point. This provision shall not apply to church steeples, chimneys, cupolas, silos, antennas, or to unoccupied structures.

(2) Emergency Escape windowsill height shall not exceed twenty (20) feet in vertical height from accessible level ground or a structurally sound deck that provides clear ladder placement area eight (8) feet from the vertical wall. (Ref. NFPA 101-Life Safety Code)

J. Lot dimensions and standards. A dwelling, mobile home, camper, R.V., structure, or building may be located, constructed, and used only on a lot, (to include R.V. and mobile home parks and campgrounds) having the minimum area for the soil and slope conditions as set forth at Table I.

K. Minimum shore frontage for a waterfront lot shall be one hundred fifty feet (150').

L. The exit down slope of the proposed driveway onto a State or Town road cannot exceed 6%, 50' back from the driveway 'cut'.

M. Accessory Dwelling Unit.

I. AUTHORITY
NH RSA 674:71-73, Accessory Dwelling Units

II. PURPOSE

In accordance with NH RSA 674:71 – 73 this provision allows for the creation of an Accessory Dwelling Unit (ADU) as an accessory use to existing single-family detached dwellings.

III. DEFINITION
"Accessory dwelling unit (ADU)" means a subordinate dwelling residence with complete and independent living facilities on the same lot attached to or contained within an existing single-family dwelling. Every accessory dwelling unit shall be deemed a unit of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59.

IV. DESIGNATION
One accessory dwelling unit shall be permitted only on parcels which meet the following conditions:

A. A legal lot of record;

B. Contains one existing single-family detached dwelling which is a conforming use;

C. Contains no other accessory dwelling residence(s).

V. PROCEDURE
Each accessory dwelling unit shall require a building permit and an occupancy permit and meet the standards contained in the section below.

VI. STANDARDS
A. New construction for an accessory dwelling unit shall comply with all the development standards for a single-family detached dwelling including, but not limited to, setbacks, height limits and lot coverage (for lots in the Comprehensive Shoreland Protection Zone) and shall not increase any nonconforming aspect of any existing structure unless otherwise addressed by this chapter.

B. The following standards shall also apply:

1. The maximum size of an ADU shall not exceed 1,000 sq. ft. area.
2. Both the ADU and the primary residence shall comply with the state Building Code and Fire Code regulations for construction, minimum living space, fire exits and smoke alarms.
3. An accessory dwelling shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size or development density of the property.
4. The main exterior entrances may not be on the same side of the building.
5. An interior door shall be provided between the principal dwelling unit and accessory dwelling unit. There is no requirement for said interior door to remain unlocked.
6. The architecture of the ADU shall match that of the primary residence.

7. One off-street parking space shall be provided in addition to those required for the primary residence for a minimum total of three.
8. There shall be no exterior stairway leading to the ADU on the front of the house.
9. There shall be no more than two bedrooms in an ADU.
10. The applicant shall make adequate provisions for water supply and sewage disposal in accordance with NH RSA 485-A: 38, however, separate utility connections are not required by the Town.
11. The owner of a property containing an accessory dwelling shall reside in either the principal or the accessory dwelling as their primary residence.
12. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the principal single-family dwelling.
13. No more than four persons shall occupy an ADU.

ARTICLE IV

Waterfront Property

In addition to other provisions of this ordinance, the following specific terms and conditions shall apply to all property in the Town of Moultonborough with frontage on or over which deeded or other rights of access to public bodies of water in the Town of Moultonborough are granted.

A. Minimum lot size shall be 40,000 square feet. The provisions of Article III, section A, and Table I of this ordinance shall apply.

B. Every lot or parcel of waterfront property to be used in common shall contain a minimum area of 40,000 square feet plus 3,000 square feet for each additional dwelling unit. The area required for the beachfront, water access lot shall not be occupied by any dwelling unit. No portion of the waterfront lot may be counted to satisfy minimum lot size for construction or subdivision.

C. Minimum lot dimensions for each waterfront lot shall be as follows:

(1) Minimum shore frontage shall be 150 feet for the first dwelling unit to be granted access.

(2) An additional 150 feet of frontage is required for each additional dwelling unit after the first unit, where the additional unit is to be located within 250 feet from the reference line established by RSA 483-B, as amended.

(3) An additional 50 feet of frontage shall be required for each additional dwelling unit to be located beyond 250 feet from the reference line established by RSA 483-B, as amended.

(4) The same frontage may not be allocated more than once.

D. For each dwelling unit to be granted rights of access to the water, one (1) parking space shall be provided at the common use beach area for each such dwelling unit located more than one-half mile (by road) from the public body of water.

E. Waterfront lots may be divided into boating areas and swimming areas.

(1) Adequate signs and other safety features shall be provided to ensure safe use of waterfront areas for boating and swimming.

(2) Boating areas shall be separated from swimming areas by natural or man-made dividers, and adequate signs shall mark the separation.

(3) All boating and swimming areas must comply with standards of the state of New Hampshire, and all regulations of agencies of the state of New Hampshire applicable thereto.

(4) One (1) toilet facility each for males and females shall be provided for each 25 lots or units (or portions thereof) granted rights of access.

(5) No docks shall attach to the land at any point closer than 20 feet from the boundary line of the property in question.

F. (1) Dug-in Boathouses in or over the water shall not be allowed.

(2) Existing boathouses may not be expanded.

G. Comprehensive Shoreland Protection

Purpose and Intent

The water quality of all lakes, ponds, rivers and streams is significantly affected by the land and its vegetation that surround these water bodies. This land is constituted as “shoreland”, and a portion of the shoreland from the water’s edge (reference line) back to 250 feet is protected by the State of New Hampshire under legislation – i.e., NH RSA 483-B, the Shoreland Water Quality Protection Act as amended (SWQPA).

Shoreland vegetation such as trees and saplings, along with shrubs and natural groundcover, and their undamaged root systems, act as a natural filter of flow and runoff of surface, subsurface and deep ground water as well as wastewater; nutrients such as fertilizer; sediment; pesticides; and pollutants. In addition, tree and sapling canopies shade the shoreline itself, making the shoreline healthier by moderating the temperature of the water bodies.

Once there is a disturbance of shoreland vegetation, such as excessive cutting or removal, there is no surface filter or subsurface root system filter, and there is nothing to prevent the shoreland soil and any pollutants from being washed into or eroding into the water body. This in turn raises the temperature of the water body and promotes algae and weed growth, leading to a loss of water clarity and quality.

The Town of Moultonborough possesses more waterfront (Shoreland) property than any other municipality in the state; and the protection of the public waters that abut those lands is of paramount importance to the economic, cultural, recreational, and environmental well-being of the community. The Town of Moultonborough adopts this Section as part of Article IV of its Zoning Ordinance to ensure protection of those public resources:

The Shoreland Water Quality Protection Act as it may be amended (SWQPA), which seeks to protect the state's public waters, is hereby incorporated and adopted herein, and reference must be made to the SWQPA for its requirements and definitions, with the following exceptions:

Under V. (a) (2) (D) (i), Tree and sapling diameters shall be measured at 4 1/2 feet above the ground for existing trees and saplings, or by caliper at a height consistent with established nursery industry standards when nursery stock is to be used, and are scored as follows:
Diameter or Caliper-- Score
1 to 3 inches-- 1
Greater than 3 to 6 inches-- 5
Greater than 6 to 12 inches-- 10
Greater than 12 to 24 inches-- 15
Greater than 24 inches-- 25 *(added "Greater than" for clarity);* and

Under V. (a) (2) (D) (iv), If the total tree and sapling score in any 50 foot by 50 foot segment exceeds **100** points, *(where the RSA currently reads, 50 points)* then trees, saplings, and shrubs over 3 feet in height may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than **100** points *(where the RSA currently reads, 50 points)*; and

Under V. (g) Impervious surfaces.

(1) No more than 30 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces. *(Where the RSA currently continues the sentence to read, unless a storm water management system designed and certified by a professional engineer that will not concentrate storm water runoff or contribute to erosion is implemented.)*; and

Under V. (g) Impervious surfaces.

(3) If the impervious surface area will exceed **20** percent *(where the RSA currently reads, 30 percent)* and the tree, sapling, shrub, and groundcover in the waterfront buffer does not meet the point score requirement of **100 points** in any segment, then such segment shall be planted, as determined by rule of the department, with trees, saplings, shrubs, or groundcover in sufficient quantity, type, and location either to meet the minimum score or to provide at least an equivalent level of protection as provided by the minimum score and shall be maintained in accordance with RSA 483-B:9, V(a).

In addition to the requirements of the SWQPA and not in limitation thereof:

(1) No person shall commence cutting down trees or saplings, within the natural woodland buffer, without first filing with the Code Enforcement Office a diagram of the waterfront buffer as set forth in the SWQPA RSA 483-B:9, V.(a)(2)(D) and photographic documentation of the natural woodland buffer.

(2) Complete copies of all applications and permit requests made to the Department of Environmental Services shall be contemporaneously filed with the Code Enforcement Office.

(3) No building permit shall be issued by the Code Enforcement Officer/Building Inspector until such time as all permits, as contemplated by the SWQPA RSA 483-B:5, are issued by the Department of Environmental Services. Should the Department of Environmental Services fail to render a decision in the time frame provided under SWQPA RSA 483-B:5-a.V. and, as a result, a permit is issued by the Department of Environmental Services, the Code Enforcement Officer shall not issue a building permit unless the Code Enforcement Officer determines that the application made to the Department of Environmental Services meets the requirements of the SWQPA.

(4) The Code Enforcement Officer, or his designee, may, for cause, enter upon any subject land or parcel at any reasonable time after written notification to perform oversight and enforcement duties to ensure compliance under this Article of the ordinance and the SWQPA.

(5) This Article of the ordinance shall not in any manner be construed as being less restrictive than the SWQPA.

(6) The Town of Moultonborough may impose, as set from time to time by the Selectmen, fines, penalties, and remedies for non-compliance with this Article of the ordinance and the SWQPA. Such fines and penalties may not exceed those as are set forth by the SWQPA for non-compliance with the SWQPA. Such fines, penalties, and remedies may be imposed against the property owner and any other person or entity, participating in the violation of this Article of the ordinance or the SWQPA. The Town of Moultonborough may enforce the SWQPA and impose such fines, penalties, and remedies for non-compliance with the SWQPA, as authorized by the SWQPA.

(7) Appeals from the imposition of fines, denial of building permits, penalties and remedies issued by the Town of Moultonborough shall be construed as appeals of administrative decisions and shall be submitted to, and under the jurisdiction of, the Zoning Board of Adjustment. Requests for variances or waivers from the provisions of this section shall be treated as any other request for variance or waiver and shall be submitted to, and under the jurisdiction of, the Zoning Board of Adjustment, except as may otherwise be reserved to the Department of Environmental Services under the SWQPA. However, no variance or waiver shall be granted which would result in standards less restrictive than the SWQPA.

(8) As of the effective date of April 1, 2008, this Section G. shall repeal and replace Section G. of Article IV. entitled, “Removal of Trees, Shrubs and Vegetation” of the Moultonborough Zoning Ordinance.

ARTICLE 5: SIGNS

Section 501 Purpose and Intent
Section 502 General Provisions
Section 503 Commercial Business Signs
Section 504 Sign Illumination
Section 505 Signs for Which a Permit is Not Required
Section 506 Temporary Signs and Temporary Purposes
Section 507 Sign Permit Procedures and Enforcement

Section 501 Purpose and Intent.

A. Purpose. The purpose of this section is to create a legal framework for signage regulations that is intended to facilitate a flexible and agreeable communication between people. Such an ordinance acknowledges the need to protect the safety and welfare of the public, the need for a well-maintained and attractive appearance throughout the Town of Moultonborough and the need for adequate business identification, advertising and communication. Aesthetics and design quality are important to Moultonborough and a large percentage of that which is unattractive can be eliminated through maintenance and inspection, and by formulating reasonable guidelines. This can minimize clutter and enhance the character of the town's commercial areas and residential neighborhoods and protect the public from hazardous and distracting displays.

B. Intent: Signs perform important functions that are essential for public safety and general welfare, including communicating messages, providing information about goods and services, and orienting and directing people. It is further recognized that because of potential detrimental impacts, signs must be regulated to:
   1. Prevent hazards to vehicular and pedestrian traffic safety by controlling the number, location, lighting and placement of signs;
   2. Provide easy recognition and legibility of permitted signs and promote visual order and clarity on streets;
   3. Facilitate efficient communication by implementing design criteria that produce signs that can be easily read and recognized without distracting elements;
   4. Complement the natural landscape and environment;
   5. Support businesses and community vitality through informing the public of available goods, services and activities.

Section 502 General Provisions.

A. All signs shall be maintained in good condition and repair. Any business that closes its operation permanently shall remove any signs in connection with that business within 30 days. The selectmen or their agent shall notify sign owners, orally or in writing, to remove or repair any sign which is in violation of the sign ordinance or becomes in disrepair. If the owner fails to comply immediately after notice, the selectmen shall have the sign removed at the expense of the owner.

B. No sign shall be placed within the limits of any highway right of way or private right of way or in such a position as to endanger traffic on a roadway by obscuring a clear view or to create confusion

with official street signs. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, interference, or hazard for area traffic.

C. Directional signs on Town roads, not greater in size than four (4) square feet for business identification and direction only, may be allowed by permit for each business off site at the discretion of the Board of Selectmen if it is deemed necessary by the Selectmen for traffic and safety reasons.

D. The height of any free-standing sign shall not exceed 20 feet above surrounding road grade or two (2) feet above the roof ridge of any building to which it is affixed.

E. Any sign which is damaged or destroyed may be replaced and/or restored to its former condition within 180 days of the date of its damage or destruction.

Section 503 Commercial Business Signs.

A Commercial site is allowed two (2) advertising sign boards on the property where the business is located based on the following:

A. Either two (2) single faced sign boards; each face not exceeding 36 square feet, or one (1) double faced sign board with each face not exceeding 36 square feet.

B. Additionally, each business may display a business identification sign externally on the building and such sign shall not exceed 16 square feet.

C. Each commercial site is allowed one (1) double faced marquee sign, not to exceed 5 square feet, affixed to the main signboard.

D. No sign may advertise a business off site with the exception of directional signs as per Article 5 Section 502 (C).

Section 504 Sign Illumination.

A. Illuminated signs: Permitted permanent signs may be illuminated by either external lighting or internal lighting, subject to the requirements set forth herein. All illuminated signs shall be shielded so as not to produce glare, undue distraction, confusion, nuisance or hazard to vehicular traffic or adjacent structures or properties. Lighting shall be so shaded, shielded, directed and maintained at a sufficiently low level of intensity to avoid ambient light leakage.

B. Flashing, rotating and intermittent lighting are prohibited.

C. Externally Illuminated Signs: External lighting shall be shielded from view and shall cut-off all upward transmission of light above the level of the sign.

D. Internally Illuminated Signs: Internally lit signs shall be contained in a translucent covering so that the source of lighting shall be unidentifiable. In no event shall a sign have any animation, flashing, changing, or intermittent image or illumination, including, but not limited to, electronic, video, fixed, floating or moving text and/or picture. In no event shall a sign be illuminated by using television, plasma, digital screens and/or light emitting diodes, strobe lighting, liquid crystal displays, fiber optics, holograph or hologram displays, other than those erected by a public entity for public safety and/or traffic control purposes. Internally illuminated signs shall not be permitted in the Village Center Zoning District.

E. Hours of Illumination: Signs may be illuminated from one hour prior to and during hours of business operation to one hour after business operation, or from 6 am to 10 pm, whichever is longer. Nothing contained herein shall limit hours of illumination for signs that are intended to be warning signs for directional or safety purposes.

Section 505 Signs for Which a Permit is Not Required: The following signs are allowed and are exempt from the sign permit procedures:

A. Signs indicating the existence of private property, forbidding trespass or other activities on the property.

B. Signs located on private property and intended to regulate or guide activities within the property even though such signs may be incidentally visible from outside the property, provided that if it is a commercial property the placement of such signs shall first obtain site plan approval from the Planning Board.

C. Signs for non-profit organizations, charities, and service organizations, provided said signage is not commercial in nature. These signs shall be non-illuminated.

D. Temporary real estate signs advertising sale of the property on which the signs are located, not exceeding three (3) feet by four (4) feet in size and limited to two signs per lot. Additionally, off premise directional signs stating real estate or house for sale, must comply with the 1993 policies of the Moultonborough Board of Selectmen or amendments there to.

E. Non-illuminated home business signs which shall not exceed one (1) double-sided sign per property and shall not have a surface area in excess of eight (8) square feet per sign.

F. Up to two contractor signs are allowed on the construction site property only, and are limited to not more than eight (8) square feet and must be removed upon completion of work and/or before occupancy of the property.

Section 506 Temporary Signs, Banners, Flags and Posters:

A. Temporary Signs and Temporary Purpose.

1. Signs, banners and posters including movable mobile reader boards, may be erected for a temporary purpose not to exceed a period of fifteen (15) consecutive days, not more than four times in any calendar year, subject to the owner obtaining a temporary sign permit.

2. Temporary signs shall be limited to no more than two at any one time on any parcel and shall not exceed twelve (12) square feet per side.

3. Temporary signs shall not interfere with a driver's line of sight from any driveway, intersections or along roads, nor shall it be placed less than 20 feet from the nearest paved portion of the road or traveled portion of an unpaved road.

B. Banners or flags indicating that a business is open may be displayed during business hours without permit or other limitations of temporary signs.

Section 507 Sign Permit Procedures and Enforcement.

A. Applications for Sign Permits shall be made upon a form provided by the Town for this purpose. Any changes to signs shall require a new permit. Applications for sign permits involving nonresidential sites shall be made concurrently with site plan applications to the Planning Board. The application shall include the following information:

1. Name, address, phone, and if available, fax and e-mail, of the owner, or authorized agent of the owner, of the parcel upon which the sign is proposed to be placed.
2. Location of the building, structure, and parcel on which the sign is or will be attached or erected.
3. Position of the sign in relation to nearby buildings, structures, property lines, existing or proposed rights-of-way, ordinary high water marks of waterways, and the setback of applicable zoning ordinances.
4. The method of illumination, if any.
5. The size and height of the sign.
6. Two copies of the plans and specifications. The method of construction lettering or graphics, and the type's colors to be used in construction, and/or attachment to a building or in the ground shall be explained in the plans and specifications.
7. The proposed dates of display of the sign, in accordance with Article 5 Section 506 (A) (1), as applicable.
8. The zoning district (including Shoreland zoning) in which the sign is to be placed.
9. A statement that: "Any change in the information in this Application, such as change of address, shall be submitted to the Agent within seven (7) days after the change."
10. Such other information as the Code Enforcement Office may require to ensure compliance with this Sign Ordinance, and any other applicable laws.

B. Permit Fees: Permit Fees for Signs shall be established by the Select Board and the Select Board shall update said schedule from time to time as the Select Board deem appropriate. The Permit Fees should relate to the cost of issuing the permit and may vary based on the size, type, and height of the Sign.

C. All costs to include collection, fines, penalties, disposal of unlawful signs, including attorney's fees, costs and expenses related to the removal of an unlawful sign shall be borne by the violator. The Selectmen shall from time to time set the fines and penalties related to unlawful signs.

ARTICLE VI

COMMERCIAL USES

A. GENERAL PROVISIONS

(1) The Commercial Districts established by the Ordinance are designed to promote and protect the health, safety, convenience, order, prosperity and the general welfare of the Town of Moultonborough. They are intended to provide areas for businesses which rely on automobiles and delivery trucks in day

to day operation while continuing to keep intact the "strong desires of Moultonborough residents to preserve the town's rural attributes," consistent with the goals of the Master Plan.

(2) Because Route 25 is a highly visible tourist route it is important that all proposed uses have attractive landscaping and signs, and other aesthetic qualities. The height and locations of structures should ensure that the scenic views in the area are protected. The Planning Board shall continue to review commercial uses and changes of use through the Site Plan Review process.

(3) Route 25 is a main east west highway with high traffic volumes and frequently congested conditions, therefore, driveways and other points of access should be limited to the greatest extent possible and permitted in the safest possible locations. The Planning Board will consult with the NH Department of Transportation and the property developer to arrive at the best possible access management solutions as described in the town's Site Plan Review regulations and a Memorandum of Understanding between the Town and the DOT.

(4) Outside the Commercial Zones, the remainder of the town is a Residential/Agricultural Zone, where a commercial use is allowed only by Special Exception from the Zoning Board of Adjustment and Site Plan Approval from the Planning Board.

(5) All commercial uses on one (1) acre lots or greater, developing more than 500 square feet of area, and all commercial uses on lots under one (1) acre developing more than 200 square feet of area, shall be required to receive a Site Plan Review approval from the Planning Board prior to any site work beginning. For purposes of this section, "development" shall mean any construction work adding to an existing structure, either increasing the footprint, or increasing the outside dimensions of the structure, including expansions upward, as well as any creation or expansion of impervious area, including parking and other areas. "Development" shall also mean the expansion of commercial display areas over 500 sq.ft. for lots greater than one (1) acre, or 200 square feet for lots under one (1) acre in size.

Cumulative expansions totaling not more than 500 sq.ft. for lots one (1) acre and greater, or 200 square feet for lots under one (1) acres in size, are permitted without Site Plan Review. Any further expansion over these limits shall require Site Plan Review.

All other elements of the Zoning Ordinance shall be complied with.

However, all changes in use, including where no new construction is proposed, which generate more than 100 vehicle trips per day, or involve a use that may have a substantial impact on town infrastructure or services, or the surrounding neighborhood, as determined by the Town Planner, shall be required to obtain a Site Plan Review approval from the Planning Board. In all cases where a use is not clear whether a permit is required, the determination of the Town Planner shall be binding on the need for Site Plan approval. For purposes of this determination, all commercial development developing less than 500 sq.ft. of area, shall submit a detailed letter to the Town Planner detailing the proposed development, reasons for the need to expand or develop the area, and the proposed uses for the site. No commercial use shall commence at the site until either ~~a~~ Site Plan approval has been granted by the Planning Board, or a letter confirming that no permit is required, sent from the Town Planner, is received along with an issued Certificate of Occupancy by the Code Enforcement Officer.

For a change in commercial use that is permitted in the underlying zone and with which no development is proposed, no Site Plan approval shall be required.

All multi-family development shall require Site Plan approval.

(6) All lots in the commercial zones and other commercial lots shall require Planning Board approval before tree cutting or topographical changes can be made. Trees may be removed without Planning Board approval which are a danger to persons or property or which are dead or diseased.

B. GENERAL REQUIREMENTS FOR USES IN COMMERCIAL ZONES

The following requirements and standards shall apply to commercial uses in both Commercial Zone A and Zone B.

(1) Minimum Lot Sizes

Minimum lot sizes will be determined in accordance with Article III, A.

(2) Lots in Multiple Zones

Any lot lying in more than one zone is not considered a subdivided lot. Each portion of such a lot shall be subject to the provisions governing the zone in which that portion lies.

(3) Maximum Square Footages of Buildings or Structures Permitted in Commercial Zones A & B.

The building footprint of any proposed individual building or structure located within Commercial Zone A or Commercial Zone B shall not exceed 12,500 square feet. A special exception may be granted to allow for an increase of up to an additional 12,500 square feet (the maximum total allowed shall not exceed 25,000 square feet); subject to meeting the following criteria:

1) At least 50% of the required parking for the combined commercial uses shall be situated to the rear of the structure (when viewed from the roadway with highest traffic volumes accessing the site).
2) The parking area for the proposed structure is interconnected with an adjoining lot, or, in a case where adjoining property is undeveloped, provisions are made to reasonably accommodate interconnection of parking lots in the future.
3) The primary access driveway for the proposed structure is shared with 1 or more other lots for access management purposes.
4) The architectural design of the proposed structure can reduce the visual mass of the building by creating the appearance of smaller scale interconnected buildings.

If an existing structure located within Commercial Zone A or Commercial Zone B is proposed to be expanded, a special exception may be granted to allow for an increase of up to a maximum of 25,000 square feet; subject to meeting the following criteria:

1) If parking and access ways are proposed to be altered as part of the building expansion, at least 50% of the required parking for the combined commercial uses shall be situated to the rear of the structure (when viewed from the roadway with highest traffic volumes accessing the site).

If said parking and access ways are not proposed to be altered, then this criterion shall not be considered by the Zoning Board of Adjustment.

2) The parking area for the proposed structure expansion is interconnected with an adjoining undeveloped lot by taking reasonable cross-access easement accommodations for the interconnection of parking lots in the future.
3) The architectural design of the proposed structure expansion shall reduce the perceived visual mass of the building by mirroring the original building design style and by creating the appearance of smaller scale interconnected buildings.

C. BOUNDARIES OF COMMERCIAL ZONES AND PERMITTED USES

Commercial Zones within the Town of Moultonborough shall be described and bounded as follows, and the following uses shall be permitted as identified in the Table of Permitted Uses below:

Moultonborough Table of Permitted Uses

P=Permitted, NP=Not Permitted, SE=Special Exception Required

a. *See Zoning Ordinance – Special Conditions Apply

Use	Commercial A	Commercial B	Commercial C	Residential Agricultural	Groundwater Protection Overlay District
Single-Family Residential	P	P	P	P	*
Two-Family Residential	P	P	P	P	*
Multi-Family Residential	P	P	P	SE	*
Agricultural	P	P	P	P	*
Accessory Uses	P	P	P	P	*
Farm Stands	P	P	P	P	*
Retail Establishments	P	P	P	NP	*
Offices	P	P	P	NP	*
Banks	P	P	P	NP	*
Personal and Professional Services	P	P	P	SE	*
Motels and Hotels	P	P	P	SE	*
Bed and Breakfasts	P	P	P	SE	*
Auto Fueling Stations w/convenience	P	P	SE	NP	*
Auto Fueling Stations w/o convenience	P	P	SE	NP	*
Auto Sales, Service and Repair	P	P	SE	NP	*
Boat Sales, Service and Repair	P	P	P	SE	*
Auto Rental	P	P	P	SE	*
Boat Rental	P	P	P	SE	*
Wholesale Business (no outdoor storage)	P	P	SE	NP	*
Clinics	P	P	P	SE	*

Use	Commercial A	Commercial B	Commercial C	Residential Agricultural	Groundwater Protection Overlay District
Churches	P	P	P	SE	*
Commercial Schools	P	P	P	SE	*
Child Care Facilities	P	P	P	SE	*
Nursing Homes	P	P	P	SE	*
Public Facilities	P	P	P	SE	*
Accessory Storage Facility for Retail Establishments	P	P	P	NP	*
Indoor Movie Theatre	P	P	P	NP	*
Restaurants and Eating Establishments	P	P	P	SE	*
Personal Wireless Services Facility Communication Tower	P	P	NP	SE	*
Personal Wireless Services Facility Communication Tower (If Incorporated into another permitted Building)	P	P	P	P	*
Light Manufacturing, including:	SE	P	SE	SE	*
Research and Testing; and					
Assembly, Fabrication, Processing, Reproducing of goods; and					
Packaging, Packing or Bottling					
Mixed Use	SE	SE	P	SE	*
Home Occupations with no more than 1 employee (not incl. residents) and are not visible or detectable from adjacent properties	P	P	P	P	*
Small Wind Energy Systems	P	P	NP	P	*
Adult Uses	SE	SE	NP	NP	*
Excavation (RSA 155-E)	SE	SE	NP	SE	NP
Hazardous Waste Disposal Facility (RSA 147-A)	NP	SE	NP	NP	NP
Solid Waste Landfill	NP	SE	NP	NP	NP
Salt Storage without Indoor, Impervious Containment	NP	SE	NP	NP	NP
Junkyards	NP	SE	NP	NP	NP
Snow Dump	NP	SE	NP	SE	NP
Waste or Septic Lagoon	NP	SE	NP	SE	NP
Petroleum Bulk Plant or Terminal	NP	SE	NP	NP	NP
Recreation Use Outdoor-High Impact	SE	SE	NP	SE	*
Recreation Use Outdoor-Low Impact	P	P	P	P	*
Recreation Use indoor	P	P	SE	SE	*
Function Facility	P	P	P	SE	*

Agritourism	P	P	P	P	*

(1) Commercial Zone "A"

a. Commercial Zone "A" shall include all land within 500 feet of the edge of the right-of-way on either side of Route 25 from the Moultonborough / Center Harbor Town Line to the intersection of Blake Road.

(2) Commercial Zone "B"

a. Commercial Zone "B" shall include all land within 500 feet of the edge of the right-of-way on either side of Route 25 at the intersection of Route 109 South to the Moultonborough / Sandwich Town Line.

(3) Commercial Zone "C", The Village

a. Commercial Zone "C" is established with the intent of maintaining the character of the Village, or Corner as sometimes known, which has, through roughly 200 years of development, maintained a consistent character in massing, setback, density and building type and design. It shall include all land within 500 feet from the centerline of the road on either side of Route 25 from Blake Road to the intersection of Route 109 South.

b. Because requirements within this zone are intended to encourage development that will be compatible with the special character of the village, they may be, in some instances, separate from regulations for other commercial lots in the Town of Moultonborough; see under F. To maintain the character of the zone, developments shall have attractive landscaping (especially within the front setback) and signage, and the building appearance shall be consistent with rural New England Architecture, approved by the Planning Board. The inclusion of sidewalks are allowed within the setbacks.

c. Maximum Square Footages of Buildings or Structures Permitted.

The building footprint of any proposed individual building or structure located within Commercial Zone C shall not exceed 6,000 square feet. A special exception may be granted to allow for an increase of up to an additional 6,000 square feet (the maximum total allowed shall not exceed 12,000 square feet); subject to meeting the following criteria:

1) At least 50% of the required parking for the combined commercial uses shall be situated to the rear of the structure (when viewed from the roadway with highest traffic volumes accessing the site).
2) The parking area for the proposed structure is interconnected with an adjoining lot, or, in a case where adjoining property is undeveloped, provisions are made to reasonably accommodate interconnection of parking lots in the future.

3) The architectural design of the proposed structure is consistent with the historical character of the Village and the visual mass of the building can be sufficiently reduced by creating the appearance of smaller scale interconnected buildings.

If an existing structure located within Commercial Zone C is proposed to be expanded, a special exception may be granted to allow for an increase of up to a maximum of 12,000 square feet; subject to meeting the following criteria:

1) If parking and access ways are proposed to be altered as part of the building expansion, at least 50% of the required parking for the combined commercial uses shall be situated to the rear of the structure (when viewed from the roadway with highest traffic volumes accessing the site). If said parking and access ways are not proposed to be altered, then this criterion shall not be considered by the Zoning Board of Adjustment.
2) The parking area for the proposed structure expansion is interconnected with an adjoining undeveloped lot by taking reasonable cross-access easement accommodations for the interconnection of parking lots in the future.
3) The architectural design of the proposed structure expansion shall be consistent with the historic character and form of the Village and reduce the perceived visual mass of the building by creating the appearance of smaller scale interconnected buildings.

D. Commercial Use within the Residential/Agricultural Zone

A commercial use is permitted within the Residential/Agricultural Zone if the Table of Allowed Uses allows it as a Special Exception and the owner of the property obtains a Special Exception from the Zoning Board of Adjustment and Site Plan Approval from the Planning Board. A substantial change in use or a change to a different use within the Residential/Agricultural Zone may require approval by the Moultonborough Zoning Board of Adjustment of a new or amended special exception.

Maximum Square Footage of Buildings or Structures Permitted by Special Exception within the Residential/Agricultural Zone shall be the same as for Buildings or Structures Permitted within Commercial Zone C, the Village Zone.

E. Special Exceptions

In any zone, when the Zoning Board of Adjustment is asked to approve a Special Exception**,** the Board shall determine that all general provisions and regulations of this ordinance are met, and the Board shall hold a Public Hearing, with Notice to abutters, to hear any valid objections based on demonstrable facts. The Board, in acting on an application for a Special Exception, must apply, but shall not be limited to, the following conditions:

(1) a. A specific site is an appropriate location for the use or structure.
b. If the site is in the Residential/Agricultural Zone:
The structures and activities contained on the site shall be screened from view on all sides by a vegetated buffer of not less than fifty (50) feet in width. Such buffer shall contain noise, light and other impacts of the site so as to minimize the

disturbance of the site on neighboring properties. In no case shall the activities on the site be disruptive to neighboring properties. The buffer shall prevent visibility of headlights and similar vehicle lighting from being visible off the site from all property lines.

c. In the event that lot lines border on rivers, ponds or lakefront areas, the screening requirements for this portion of the lot for vehicle lighting shall ensure that no light or glare is visible over the Lot line(s) when viewed from the water.

(2) A specific site is an appropriate location for the use or structure. The structures and activities contained on the site shall be screened from view on all sides by a vegetated buffer of not less than fifty (50) feet in width. Such buffer shall contain noise, light and other impacts of the site so as to minimize the disturbance of the site on neighboring properties. In no case shall the activities on the site be disruptive to neighboring properties. The buffer shall prevent visibility of headlights and similar vehicle lighting from being visible off the site from all property lines. In the event that lot lines border on rivers, ponds or lakefront areas, the screening requirements for this portion of the lot for vehicle lighting shall ensure that no light or glare is visible over the Lot line(s) when viewed from the water.

(3) The use shall be compatible with the character of the neighboring land uses.

(4) That property values in the surrounding area will not be negatively impacted or reduced by such a use.

(5) There will be no nuisance or hazard to vehicles or pedestrians from any activity generated from the site.

(6) No additional burden on Town infrastructure or services shall be created by the development.

(7) The proposed use shall comply with the minimum land space requirements contained in Article III, Table I.

(8) The capacity of the existing roads and highways to carry related traffic shall be sufficient to allow use, without requiring upgrading or repair of the roadway for the development’s use.

(9) The site must have on-site fire protection facilities, including, but not limited to one (1) of the following: an internal sprinkler system or similar fire suppression system, a fire pond or fire cistern.

The applicant shall have the burden to demonstrate substantial compliance with each of these conditions.

The Board of Adjustment may impose additional conditions in granting a Special Exception. These conditions may include:

(1) Increasing the required lot size in order to protect the adjacent properties.

(2) Limiting the lot coverage or height of buildings because of obstruction to view and/or reduction of light and air to adjacent properties.

(3) Control of location and number of vehicular access points to the property.

(4) Limiting the number, location, and size of signs on site.

(5) Requiring suitable onsite landscaping screening, and to maintain the property in a character in keeping with the surrounding area.

(6) To provide for specific layout of facilities on the property such as the location of the building, parking spaces, and traffic patterns so as to minimize the effect on adjoining properties.

(7) To require further that soil types and slopes be identified on an adequate plan.

(8) To require inspection of existing sewage disposal systems and certifications from professional engineers employed by the Town at the cost of the applicant to report upon the adequacy of the systems for their intended purpose.

All approved special exceptions shall substantially vest by way of development activity, where "development activity" is defined as substantial site work, substantial construction of structures, approved building permit or commencement of business within two (2) years or the approval shall become void as if it were never granted.

If any special exception ceases for any reason for a continuous period of two (2) years or more other than for reasons beyond the control of the owner of the property, or is changed to or replaced by a use allowed by right in the district, the land and building theretofore devoted to such special exception shall thereupon be subject to all the regulations as to use for the zoning district in which such land and building are located as if such special exception had never existed. No use which is accessory to a principal special exception use shall continue after such principal use shall cease or terminate.

F. Requirements for Commercial Uses

The following requirements and standards shall apply to all commercial uses throughout the Town.

(1) Frontage.

All new commercial lots shall have a minimum of 150 feet of frontage. All other existing, vacant lots (for commercial use) under 150 feet shall satisfy the Zoning Board of Adjustment that they meet the following criteria in an application for Special Exception:

a. The lot is aesthetically appropriate

b. Traffic congestion would not be a factor

c. A safe sight distance exists

d. Safety would not be jeopardized by the Volume of use

(2) Setbacks And Buffers For Buildings And Structures.

	Zone A	Zone B	Zone C	Residential/Agriculture
Front	50 feet	50 feet	25 feet	50 feet
Side	25 feet	25 feet	10 feet	50 feet
Rear	25 feet	25 feet	10 feet	50 feet

a. In addition, for commercial uses in Zones A, B, and the Residential/Agriculture Zone, there shall be a twenty-five (25) foot, vegetative buffer, natural or landscaped, within the front setback between the building and the roadway, along the full length of the lot. Where existing sites being proposed for redevelopment do not allow sufficient space for this twenty-five (25) foot buffer to be installed, the Planning Board may grant a Conditional Use Permit to allow a decrease of the required 25 foot buffer width in the foregoing requirement. To obtain such an approval, the applicant must satisfactorily demonstrate that the layout of buildings and infrastructure existing on the site preclude such vegetative buffer, or that such requirement would be detrimental to the successful operation of the proposed development. For purposes of this Article, Redevelopment shall mean any physical change to the existing site requiring Planning Board approval.

(3) Lot Coverage.

In Commercial Zones A and B, and in the Residential/Agricultural Zone, the coverage of any lot, by buildings, inventory and equipment, storage areas, parking and driveway area and any impervious surfaces, shall not exceed 50 percent of the lot, and the open area shall be devoted to landscaping or natural growth. No use of open areas, other than as landscaping and green space, is permitted. In the Village Zone, Commercial Zone C, the lot coverage may be increased to a maximum of 65 percent. Any easement for public use, such as a pathway or walkway through the lot shall not be counted in the lot coverage calculation.

(4) Height Of Building.

No commercial building shall be constructed in the Town of Moultonborough with more than two and one-half (2-1/2) stories, not counting any basement below mean ground level, or with

an overall height exceeding thirty-four (34) feet as measured using the definition contained in Article XV, Section 1503. This provision shall not apply to church steeples, chimneys, cupolas, silos, antennas, or to unoccupied structures.

(5) Lighting.

No commercial use or establishment shall produce strong, dazzling light or reflection of the light beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. Lighting shall also comply with the applicable federal and state regulations. Commercial sites will be limited to full cut-off technology for pole lighting applications only and cut-off technology for all other applications. Full cut-off fixture is defined as a luminaire light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10%) at a vertical angle of 80 above nadir. Cut-off fixture is defined as a luminaire light distribution where the candela per 1000 lamp lumens does not numerically exceed 25 (2.5%) at an angle of 90 degrees above nadir, and 100 (10%) at a vertical angle of 80 degrees above nadir. Candela is a unit of light intensity – formerly candle. Lumens are a unit defined as the amount of light emitted by the lamp, not the amount of light reaching the target area or surface.

(6) Parking And Loading Areas

The following conditions shall apply to all parking and loading spaces provided in conformance with this ordinance:

a. Conformity with the Site Review Regulations Parking Table.

b. The enlargement of any building shall require the provision of off-street parking for the existing building as if it were newly erected, in addition to the required off-street parking spaces for the enlargement.

c. Where one (1) building is used for more than (1) use, parking requirements shall be computed for each use as if it were a principal use.

d. Where a parking area is provided to serve two (2) or more structures, the total number of spaces provided shall be not less than the sum of the individual total numbers of spaces required.

e. Where parking spaces are provided for nonresidential structures and this parking area adjoins a residential use, suitable screening at least seven (7) feet in height shall be provided and maintained.

f. All commercial facilities shall have a minimum of three (3) parking spaces, and all shall provide adequate off-street, onsite parking for users of the facilities.

g. Parking shall not be located within ten (10) feet of any property boundary, though green buffers and vegetative screening is permitted within the setback.

h. In Commercial Zone C, in any new construction all parking shall be in the rear or on the side of a new or redeveloped building, with parking no farther forward than the front line of the building and all loading shall be in the rear. Additionally, in Commercial Zone C, where general parking is nearby and sidewalks or public pathways are available, requirements for onsite parking for commercial uses may apply for a conditional use permit to reduce them. For mixed residential and commercial uses, only the commercial use shall be eligible for this permit. All residential uses must have onsite parking.

(7) Other

a. No use of any land or structure in the Town of Moultonborough shall be permitted which generates any toxic waste as defined by the state of New Hampshire until a permit for such operations shall be obtained from the town. No such permit shall be issued until waste disposal procedures have been approved by the ground water division of the water supply and pollution control commission, and by the Moultonborough Planning Board, after consultation with appropriate engineers or other waste disposal advisers.

b. All commercial uses which may produce cinders, dust, gases, odors, refuse matter, hazardous waste, solid waste, smoke, vapors, electromagnetic or radioactive emission shall be completely and effectively confined within a building or so regulated as to prevent any nuisance or hazard to the public health or safety, and further provided that no unreasonable noise, vibrations, or other disturbance is noticeable at the boundary of the premises.

(8) Compliance. Commercial structures and uses throughout the Town shall comply with all other requirements of this ordinance which relate to commercial uses and structures.

(9) Pre-Existing Lawful And Approved Uses. All lawful and approved structures and commercial uses existing as of the date of the posting of the public hearing of the 1997 amendment (January 5, l997) to the ordinance are deemed to be pre-existing non-conforming uses within the meaning of Article VII of this ordinance.

G. Adult uses/sexually oriented businesses

(1) Purpose And Intent. It is the purpose of this section to regulate the adverse secondary effects of sexually oriented businesses in the interest of the public health, safety and welfare, including, but not limited to, protection of property values, separation of incompatible land uses, location of such uses near major regional highways, and prevention of blight and crime: and, provisions of this section have neither the purpose nor the effect of imposing limitations

or restrictions on the content of any communicative materials, including sexually oriented materials; and it is not the intent nor the effect of this section to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by distributors and exhibitors or sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

(2) Adult Uses/Sexually Oriented Businesses Defined. The terms "adult use and sexually oriented business "shall mean and include any business where more than fifteen percent (15%) of the goods or other items on display, or presentation time of live or recorded performances, are characterized by depiction, description or display of, or use in connection with "sexual conduct," as defined in RSA 650:1, or where more than fifteen percent (15%) of the revenue of the business is from such goods or presentations. Such goods or other items include, but are not limited to theaters, motion picture displays, night clubs, bars or similar establishments, nude modeling studios, massage parlors, or escort agencies.

(3) Where Allowed. Adult uses shall be allowed as a special exception in the zoning district(s) as shown in the Table of Permitted Uses, under Article VI, Commercial Uses. Granting of a special exception for adult uses shall be in accordance with Article VI general provisions and regulations, and all general special exception criteria provided that the following location standards and site appearance criteria are complied with.

a. No structure containing an adult use or a sexually oriented business shall be allowed within Moultonborough's designated drug free school zone, within 1,000 feet of the property line of a church, cemetery, school, day care center, or residential structure, and shall not be located less than 300 feet from the front property line.

b. No sexually explicit materials or advertising shall be visible from outside the building or town boundary line.

c. No private vending rooms or booths shall be constructed unless one side is always open to a public central area.

d. No one under the age of 18 shall be permitted inside such a use, structure, or business and a procedure shall be developed to keep those under 18 from entering the building.

e. All operators and employees shall be of good moral character, meaning, among other things, no operator or employee shall have been convicted of a misdemeanor or felony of a sexually related nature within the previous five years.

(4) Severability. The invalidity of any provision of this article shall not affect the validity of any other provision of the article nor of the zoning ordinance as a whole.

ARTICLE VII

Miscellaneous

A. Specifics for particular exceptions. Before granting an application for special exception, the board of adjustment shall determine, after public hearing, that all general requirements for the issuance of a special exception have been met and that the particular requirements for specific special exceptions have been met as set forth herein.

(1) Condominium Conversions. The board of adjustment may grant a special exception to permit a conversion of an existing use to condominium ownership under RSA 356b:5 if the applicant meets all provisions of this ordinance.

a. There will be no increase in the number of units.

b. There will be no increase in the number of bedrooms per unit.

c. Use meets current standards for septic and water systems.

d. Final condominium documents shall be filed with the Planning Board for approval prior to the sale of the first unit. Review of documents shall be accomplished by town counsel at applicant's expense. Deed covenants shall provide for ownership and maintenance of common open space, roads, utilities, and amenities by compulsory membership in a homeowners association and mandatory assessment of costs therefore.

e. The final plan of conversion shall meet requirements of the Moultonborough subdivision regulations.

(2) Multi-Family And Cluster Development. For the purpose of this ordinance, cluster development shall be the grouping or clustering together of dwelling units and/or other structures without strict compliance with all provisions in this ordinance, provided the groups or clusters are separated from other property and/or from each other by land area owned in common by the owners of units in the development. The purpose of such a development is to preserve the natural beauty of existing undeveloped land and to encourage less intensive residential development, to allow diversity of housing opportunities with open space areas and increased pedestrian and vehicle safety, and to allow efficient use of land, streets, and utility systems.

a. The total number of units shall not exceed the number of units permitted under the soil and slopes provisions of this ordinance, unless the lot is served by municipal sewer and is approved for Multi-family dwelling units.

b. All common land shall be held by a corporate homeowners association or other common ownership approved by the board. The developer shall include in the deed to the owners beneficial rights in the common land including a covenant against development of said land except for certain

structures related to specified noncommercial, recreational uses. The proportionate value of the common lands shall be included in the tax valuation of each lot. The covenants shall include proposed easements and other provisions relating to density and nonresidential uses. The developer shall provide for mandatory assessments of fees for the expense of maintaining, repairing, and replacing common areas, common utilities, septic systems, and water systems as well as for the ownership and maintenance of common open space areas as may exist to ensure their continuity.

c. The total ground area occupied by structures and required parking shall not exceed 20% of the total ground area of the development.

d. Developer shall provide for a community water system and a community septic system adequate to meet current standards and shall ensure its future maintenance.

(3) Marina Condominiums

a. Minimum lot area of 40,000 square feet plus 4,000 square feet per boat slip or per dry storage space for use during boating season.

b. Application shall show plan for winter storage, shall provide for play areas, shall provide for 1/2 parking space per boat slip and for each dry storage space except for those used exclusively for winter storage.

c. Application shall show provision for one (1) men's shower, one (1) men's toilet facility and sink; also one (1) women's shower, toilet facility and sink for each thirty (30) boat slips or fraction thereof.

d. The application shall demonstrate a plan for safe boat and vehicle traffic.

e. The marina condominium shall provide a pumping station facility for the removal of holding tank waste. The facility shall meet minimum standards of the water supply and pollution control commission and all other applicable regulations of the state of New Hampshire.

f. The condominium declaration shall designate a person as on-site manager for all times the facility is open. It shall specify that future changes in the declaration or the marina will require Planning Board approval and it shall provide for the termination of all commercial activity at the marina.

B. Customary Home Occupations. An occupation carried on as a secondary use in a dwelling unit or accessory building by the occupant of such unit. For the use of a dwelling or accessory building in any District for a "home occupation," the following conditions shall apply:

a. "Home occupation" shall include not more than one (1) of the following uses, provided that such uses are clearly incidental and secondary residential purposes; dressmaker, artist, arts and crafts, writer, teacher, provided that not more than eight (8) pupils simultaneously occupy the building, musician, antique dealer, lawyer, doctor, photographer, dentist, architect, engineer or practitioner of any other profession or similar occupation which may be unobtrusively pursued in a residential area. Where occupants of the same dwelling unit pursue differing customary home occupations, said occupations shall be considered as one so long as the following criteria are adhered to as if said occupations were singular.

b. No more than one (1) nonresident shall be employed therein.

c. The use is carried on strictly by the occupant of the principal building.

d. No more than twenty-five percent (25%) of the existing net floor area of the principal and any accessory buildings not to exceed six hundred (600) square feet is devoted to such use.

e. There shall be no display of goods or wares visible from the street.

f. No advertising on the premises other than the signage allowed in Article 5, Signs, Section 505, E, and carrying only the occupant's name and his occupation.

g. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of the exterior appearance, traffic, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way. In a multi-family dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multifamily structure.

h. Any such building shall include no exterior feature of design not customary in buildings for residential use.

i. Such uses as clinics, retail bakeries, gift shops, animal hospitals, kennels, Auto Repair, on-site Auto Sales, Landscaping Businesses (but NOT the office portion of said), on-site Lawnmower/Tractor Sales and or Service and others of a similar nature shall not be considered as home occupations.

j. A minimum of two (2) off-street parking spaces shall be provided. All driveways to be used in connection with such occupations shall conform to the Town's driveway standards.

k. Not more than two (2) commercial vehicles in connection with such home occupation shall be stored on the premises.

l. A permit shall be applied for and received, and a certificate of occupancy for the proposed use shall be issued by the Code Enforcement Officer verifying conformance with the preceding standards. Said Certificate of Occupancy may be revoked if the Code Enforcement Officer determines that the above-stated conditions have not been complied with.

C. Nonconforming Lots.

(1) In any district, structures which are allowed by right, but not structures that are allowed by special exception, may be erected on any nonconforming lot of record even though such lot fails to meet the requirements for area, width, or depth. No portion of said parcel shall be used in a manner which diminishes compliance with lot width, area or depth requirements established by this ordinance, nor shall any division or parcel be made which creates a lot with width, area or depth below the requirements stated in this ordinance. Further, yard dimensions and requirements other than those applying to area, width and depth shall conform to the regulations for the district in which the lot is located.

(2) Two-Family residential uses shall not be permitted on a non-conforming lot. An Accessory Dwelling Unit (ADU) may be permitted on nonconforming lots per Zoning Ordinance Article III, M.

D. Nonconforming uses.

Where, at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, the use may be continued so long as it remains otherwise lawful, provided that:
(1) No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
(2) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
(3) If any nonconforming use ceases for any reason for a continuous period of two (2) years or more other than for reasons beyond the control of the owner of the property, except for provisions of D. (1) and (2) above, or is changed to or replaced by a conforming use, the land and building theretofore devoted to such nonconforming use shall thereupon be subject to all the regulations as to use for the zoning district in which such land and building are located as if such nonconforming use had never existed. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.
(4) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land with the exception of accessory structures associated with a single-family house provided they comply with all other applicable ordinances and regulations.

E. Nonconforming Structures.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height or setbacks, its location on the lot or other requirements concerning the structure may be continued so long as it remains otherwise lawful, subject to the following:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) A building or structure nonconforming either in terms of use or volume (bulk) may be restored to its former volume (bulk) if destroyed by fire or other hazard, provided that restoration of the structure is begun within twelve (12) months after the act of destruction. All such structures in use at the time of destruction for agricultural purposes shall be exempt from the provisions of this subsection, provided that such reconstruction, alterations or repairs are in compliance with the provisions of (1) above.

(3) Should such structure be intentionally moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(4) Additions to nonconforming single-family structures, that were made nonconforming by a zoning amendment that changed the front, side or rear setback requirements, shall be permitted within the front, side or rear setback areas, or waterfront setbacks, provided that the addition is no closer to the lot line or the reference line than the existing nonconforming structure, and no closer than ten (10) feet from the lot line or the reference line. The nonconforming portion of such addition's area footprint shall not exceed a calculation of 20% of the structure's habitable floor space as of the effective date of this provision, and shall not extend towards the applicable lot line or reference line any closer than the existing nonconforming structure's exterior wall, or a line parallel to and extending from the existing nonconforming structure's exterior wall closest to the applicable lot line or reference line. The effective date for Article VII, Sections D and E above: November 3, 2014.

F. Repairs, maintenance and Violation of Law.

(1) On any nonconforming structure or portion of a structure containing a nonconforming use, ordinary repairs may be made, subject to the following provisions: if a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is so declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located. Any duly authorized official charged with protecting the public safety may rightfully order a structure to be secured to a safe condition.

(2) All of the foregoing provisions relating to nonconforming uses and buildings shall apply to all nonconforming uses and buildings existing on the effective date of this Ordinance and to all uses and buildings that become nonconforming by reason of any amendment thereof. The provisions shall not apply, however, to any use established or building erected in violation of law, regardless of the time of establishment or erection.

G. Uses permitted by special exception.

Any use, other than a granted variance, which is permitted as a special exception under the terms of this ordinance shall not be deemed a nonconforming use, but shall without further action be considered a conforming use, specific to that property only.
The effective date for Article VII, Sections C, D, E, F and G above: April 1, 2013.

H. Telecommunication Towers/Sites

(1) Communication towers and commercial antennas shall not exceed the greater of twenty (20) feet above the natural tree canopy of the lot, thirty-two (32) feet in height, or twenty (20) feet above the ridge of any building on which it is attached. All new communication towers and commercial antennas shall reserve two locations on each tower or antenna for transmission and reception equipment for use by police, fire and other emergency service providers, as such providers may be designated from time to time by the Town of Moultonborough. The owner of the land upon which the communication tower or commercial antenna is located and the owner of the communication tower or commercial antenna itself, shall also provide installation, access, and use of poles, wiring, cables, conduits and pipes thereto, all at no charge. The Town of Moultonborough shall be responsible for reimbursement of electric costs incurred for the use of such equipment at the same rates as that charged by the local electric utilities for a commercial site. An appropriate Non-Cancelable Security Bond covering cost of removal of communication towers and commercial antennas shall be required.

ARTICLE VIII

Floodplain Development

A. Establishment and Permits

(1) This ordinance, adopted pursuant to the authority of RSA 674:16, shall overlay and supplement the regulations in the Town of Moultonborough Zoning Ordinance. If any provision of this article differs or appears to conflict with any other provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

(2) The following regulations in this ordinance shall apply to all lands, in the Town of Moultonborough, designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Carroll, NH" dated March 19, 2013, together with the associated Flood Insurance Rate Maps (FIRM), dated March 19, 2013, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

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

B. Definition of Terms may be found in Article XV, Definitions, Section 1502 A. Floodplain Development definitions shall apply only to this Floodplain Development Article, and shall not be affected by the provisions of any other ordinance of the Town of Moultonborough.

C. The code enforcement 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 damage,

(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.

D. 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 code enforcement 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.

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

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

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

(3) any certification of floodproofing.

The code enforcement officer shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

F. The code enforcement officer 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. 1334.

G. Riverine situations and alteration or relocation of watercourses.

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

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

(4) Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone(s) A and 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.

(5) The code enforcement officer shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meets the following floodway requirement:

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

H. Miscellaneous.

(1) In special flood hazard areas the Code Enforcement Officer shall determine the 100-year flood elevation in the following order of precedence according to the data available:

a. In Zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.

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

(2) The code enforcement officer's 100-year flood elevation determination will be used as criteria for requiring in zones A and AE that:

a. All new construction or substantial improvement of residential structures have the

lowest floor (including basement) elevated to or above the 100-year flood elevation:

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

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

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

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

(3) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100 year flood elevation; and be securely anchored to resist 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. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

(4) All recreational vehicles placed on sites within Zones A and AE shall either:

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

(5) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either he certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

I. Variances and Appeals.

(1) Any order, requirement, decision or determination of the Town Planner or code enforcement officer made under this Article may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

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

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

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

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

(3) The Zoning Board of Adjustment shall notify the applicant in writing that: (I) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

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

Article IX

Overlay Districts

A. Wetland Resources Conservation Overlay District

Purpose: Wetland protection and preservation are extremely important to the current and future health, safety and public welfare of the Town of Moultonborough. Therefore this article is incorporated into the Zoning Ordinance as a means to protect public and private water supplies, trap and reduce sediment and other pollutants, promote bank stabilization, protect riparian wetlands, minimize flooding, prevent decreases in base flow, protect wildlife habitat and generally protect, preserve and maintain water quality.

a. Overlay District Regulations: The special regulations of this overlay district are in addition to the regulations of the underlying zoning ordinance.

b. Wetlands Conservation Overlay District Boundaries: The Overlay District shall include rivers, lakes, ponds, perennial streams, vernal pools and all jurisdictional wetlands located within the Town of Moultonborough and the surrounding upland areas of each of these resources in the Town as specified in Section D of this Article.

c. Applicability: This Article shall apply to Wetlands that are greater than 20,000 square feet in their entirety and Wetlands of any size that are contiguous to a river, brook, lake or pond, except as exempted under Section IX E. below.

d. Setbacks from Wetlands: Setbacks shall be fifty (50) feet from Wetlands. An undisturbed, naturally Vegetated Buffer shall be maintained within the twenty-five (25) feet immediately adjacent to the applicable Wetlands.

e. Exemptions: Manmade ditches, swales, and storm-water management devices; manmade

sedimentation/detention basins or ponds; manmade ponds such as agricultural ponds, fire ponds, wildlife ponds and the like are exempted from the provisions of this Article. Existing lots of record less than 5 acres created prior to January 3, 2008 or lots proposed for less than 5 acres for which an application has been filed with and noticed by the Planning Board prior to January 3, 2008 are exempted from the provisions of this Article. This exemption shall not apply to lots being developed for commercial uses.

f. Permitted Uses: Within the 50 foot setback, Permitted uses are those that will not require the erection, installation or construction of any structure, building or Impermeable Surface; will not alter the natural surface configuration by addition of fill or by dredging; and are otherwise permitted by this Article. Such uses include, but are not limited to, the following:

1. Outdoor recreation uses consistent with the purpose and intent of this ordinance and parks established for such purposes;
2. Wildlife refuges and wildlife and fisheries management;
3. Conservation areas, open space areas, and nature trails if constructed with no impermeable materials.
4. Docks, breakwaters, moorings, beach maintenance and wells as permitted by the N.H. DES.
5. Construction of wells and water feed lines for water supply;
6. Agriculture and forestry in accordance with best practices, and removal of dead, diseased, unsafe or fallen trees;
7. Construction and maintenance of trails, paths and bridges for non-motorized recreation purposes or for tracked, motorized vehicles on snow;
8. Maintenance and repair of roads, driveways and any other structures approved for conditional use in accordance with this Article;
9. Construction or placement, of sheds or accessory structures which occupy a ground area of no greater than 150 square feet in size, providing they are not in the Naturally Vegetated Buffer and the use of which are incidental and subordinate to the primary structure of the property and providing that they do not require the disturbance or improvement of the soil surface or construction of a sub-surface foundation.

g. Conditional Uses: The following uses may be permitted within the 50 foot setback as Conditional Uses by the Planning Board:

1.Construction, using the least impacting alternative, of roads, driveways, footpaths, bridges and utility crossings and easements necessary for productive use of land not classified as wetlands, consistent with area's zoning.
2. Outdoor recreational facilities that do not require the construction of buildings or installation of impermeable surfaces.
3. Trails and associated structures for use by year-round motorized or non-motorized vehicles.
4. Accessory Structures.
5. Water impoundments for the purpose of creating a water body for wildlife, fire safety, or recreational uses.
6. Other uses that the applicant proves to the satisfaction of the Planning Board will not interfere with the wetlands functions and values, water quality or value as wildlife habitat, consistent with Purpose as stated herein.
7. Modification and relocation of a watercourse as approved by the NH DES.
8. Requirements for conditional use approval:

a. No other area is feasible and reasonable for the proposed use.
b. Soil disturbance will be minimum necessary for construction and operation.
c. Detrimental impact will be minimized.
d. Restoration activities will leave site as nearly as possible in its pre-disturbance condition.
e. Will not disturb habitat for rare, threatened or endangered species as determined by the NH Natural Heritage Bureau.

h. Prohibited Uses Within the 50 Foot Setback:

1. All Uses. Buildings, Structures and Impermeable Surfaces, except as may be provided in Section IX. F. Permitted Uses & G., Conditional Uses.
2. Salt storage yards
3. Automobile junk yards
4. Solid or hazardous waste facilities
5. Fertilizer except lime and/or wood ash
6. Bulk storage of chemicals, petroleum products or hazardous materials and underground tanks
7. Sand and gravel excavations as defined in RSA 155-E and processing of excavated materials
8. Disposal of snow or ice collected from roadways or parking areas

i. Performance Standards relative to the Buffer/Setback:

1. Flagging of the 50 foot buffer/setback is required when construction is to take place within 50 feet of the Wetland - before and during any construction.
2. Applicable industry Best Management Practices shall be employed for pre & post construction, forestry, agriculture, and other permitted activity.

j. Effect on Lot Size/Density Calculation: The land area contained within the 50 foot wetlands setback shall not be counted as wetlands and may be considered in lot density calculations.

k. Enforcement: The Moultonborough Selectboard, itself or through its Agent, the Code Enforcement Officer, shall enforce this Article of the Zoning Ordinance and violations may be punishable by fines as provided by RSA 676:17.

B. Village Center Overlay District (VCOD)

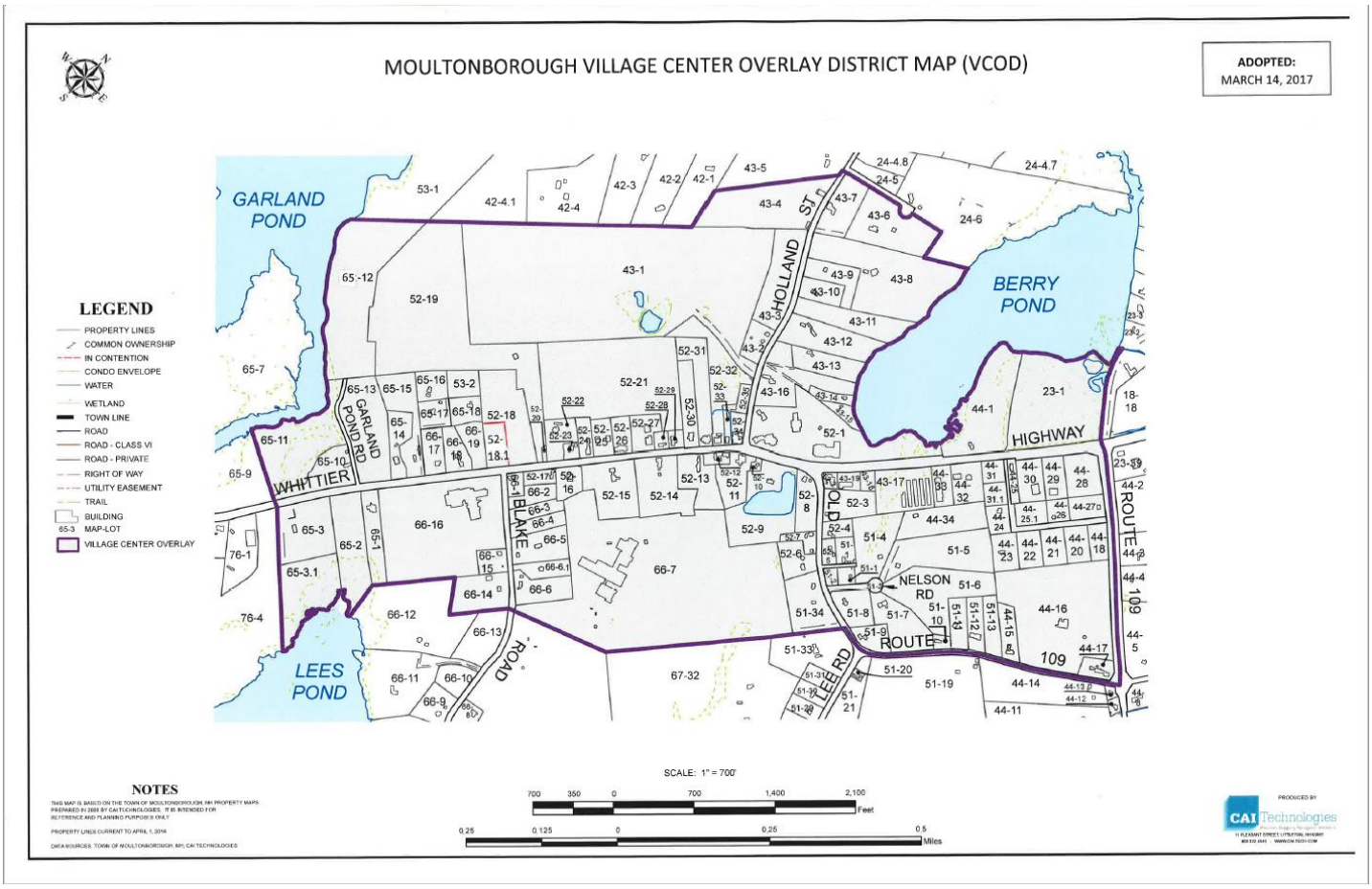
Purpose: Adopted as an Innovative Land Use Control under NH RSA 674:21, the purpose of this Village Center Overlay District (VCOD) is to encourage the development of the Moultonborough Village Center in a manner consistent with its historic pattern, including the size and spacing of structures and open spaces. Such development shall:

- Provide a mix of uses including a variety of housing styles and types;
- Encourage pedestrian-friendly amenities including safe routes for pedestrians and bicyclists, safe crosswalks, sidewalks, and quality landscaping;
- Encourage the preservation of the existing historical and architectural character of Moultonborough Village:
- Encourage the retention of the existing buildings with historical or architectural features that enhance the visual character of the community;

- Encourage a safe and aesthetic environment for vehicular travel;
- Provide opportunity for greater economic activity and vitality;
- Provide consistency with Moultonborough's Master Plan; and
- Maintain the character of the existing residential neighborhoods.

In addition, the Planning Board has the authority to waive any provision of this section, in its discretion, in order to accomplish the above goals. To the extent there is any conflict between the provisions of the VCOD and another article or section of the zoning ordinance, the VCOD regulations control for applications within that district.

Applicability:
The VCOD encompasses portions of existing Commercial A, Commercial C and the Residential/Agricultural Zones and is identified on the Town of Moultonborough Property Map entitled Village Center Overlay District Map. When a proposed use requires a Conditional Use Permit (CUP), the applicant proposing a particular development or use shall meet with the Town Planner and/or Planning Board in order to receive a written zoning determination that the proposed use is consistent with the Purpose of the VCOD.



Permitted Uses:

See VCOD Uses, Table 1, for a list of Uses Permitted, Uses Not-Permitted and Uses that require a Conditional Use Permit (CUP):

Table 1. VCOD Uses

Uses Permitted (P), Uses Not Permitted (NP) and Uses Requiring a Conditional Use Permit (CUP) (See CUP Standards below)

	Use	Zones Overlaid by VCOD		
		R/A	Commercial A	Commercial C
1	Single Family Detached Dwelling	P	P	P
2	Two Family Dwelling	P	P	P
3	Accessory Dwelling Unit (ADU)	P	P	P
4	Accessory Use Building	P	P	P
5	Multi-Family Housing Up to 5 Units	CUP	CUP	CUP
6	Multi-Family Housing More than 5 Units	CUP	CUP	CUP
7	Work Force Housing, RSA 674:58	P	CUP	CUP
8	Home Occupations	P	P	P
9	Senior Housing up to 20 Units	CUP	P	P
10	Nursing Home	CUP	P	P
11	Bed & Breakfast Business	P	P	P
12	Art Gallery	CUP	P	P
13	Artist Live/Work Space	P	P	P
14	Antique Shop	CUP	P	P
15	Schools, Public and Private	CUP	P	P
16	Professional/Medical Office up to 5,000 SF	CUP	P	P
17	Business/Professional Office more than 5,000 SF	CUP	CUP	CUP
18	Day Care for No More than 3 Children	P	P	P
19	Family Daycare Home	P	P	P
20	Family Group Day Care Home	P	P	P
21	Group Child Daycare Center	CUP	P	P
22	Pre-School & School Age Program	CUP	P	P
23	Personal Services (i.e. health care, therapy, housekeeping etc.)	CUP	P	P
24	Mixed Use Building	CUP	CUP	CUP
25	Municipal Facilities	CUP	P	P
26	Public Parks or Open Space	P	P	P
27	Bakery	CUP	P	P
28	Restaurant	CUP	P	P
29	Meeting Hall	CUP	CUP	CUP
30	Religious Institutions	CUP	P	P
31	Hotel or Inn	CUP	CUP	CUP
32	Outdoor Rec Facilities Open to Public	CUP	CUP	CUP
33	Bank	CUP	CUP	CUP
34	Retail Sales	CUP	CUP	CUP
35	Theater or Cultural Center	CUP	CUP	CUP
36	Neighborhood Convenience Store	CUP	CUP	CUP

Conditional Use Standards:

The planning board may issue a Conditional Use Permit (CUP) approving uses provided the planning board determines the following conditions are met.

1. The use is specifically authorized in this ordinance as a conditional use;
2. If completed as proposed by the applicant, the development in its proposed location will comply with the purpose and requirements of the VCOD;
3. The use will not materially endanger the public health, safety, or welfare;
4. The use will be compatible with the VCOD area and with adjoining or abutting uses in the area in which it is to be located;
5. Architecture and landscape design shall contribute to the Purpose of this Article and comply with the Design Standards in the Site Plan Review Regulations;
6. The use will provide an environment to ensure both vehicular and pedestrian safety;
7. The use will be compatible with the natural, environmental, and historic resources of the town;
8. The use will be adequately serviced by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity; and
9. In a defined residential neighborhood, the proposed use shall compliment the character of the existing neighborhood uses.

Design Principles

Any development or redevelopment within the VCOD shall be consistent with the design standards in the Town of Moultonborough Site Plan Review Regulations, the Town of Moultonborough VCOD Design Guidelines and the following design principles:

- Buildings should be compatible with their surroundings and traditional New England architecture and color palettes.
- All building elements should be integrated into a coherent unified design.
- Buildings should be pedestrian-oriented and incorporate elements of site planning that create pedestrian interest and easy access.
- The reuse of existing buildings with special historical value is strongly encouraged. Additions to the side and rear should have compatible styles to the original building.
- All new uses should conform to the visual character and physical patterns of the historic Moultonborough Village.
- Circulation should provide for pedestrian, bicycler and vehicular traffic.

Dimensional Standards:

Developments in the VCOD are subject to the following lot, dimensional and building separation requirements in Table 2, VCOD Dimensional Standards.

Table 2. VCOD Dimensional Standards

Dimension	Standard[1]
Lot Size[2]:	Minimum of 10,000 SF w/off site septic system; 20,000 SF w/onsite septic system – subject to NH DES approval
Depth:	Minimum of 100 feet
Lot Cover:	Up to 50%
Height:	Minimum of 1 ½ stories, but no more than 2 ½ stories or 34-feet in accordance with Moultonborough Zoning Ordinance Article III.I Height of Buildings
Set Backs:	
Front Yard:	10 feet minimum depth. A building with a business on the first floor shall have a front yard setback no less than 20 feet. Where there are buildings on adjacent properties, the set back shall be consistent with, but no closer than buildings on such properties.
Side Yard:	15 feet or no less than 25 feet between principal buildings on adjacent lots
Rear Yard:	15 feet or no less than 25 feet between principal buildings on adjacent lots
Off Street Parking:	Refer to the Moultonborough Site Plan Review Regulations
	No parking lot shall be located between the street and the front line of the principal structure of the lot.
	Minimum of One (1) parking space per dwelling unit
	One (1) space/300 square feet of gross floor area for office or retail.
	Restaurants, cafes, church/meeting hall (public space) and bed & breakfasts/inns per Moultonborough Site Plan Review Regulations
	Minimum of a 9-foot by 18-foot parking space

Notes:

1. The Planning Board may authorize variations from the above standards, except for any requirement provided by state regulation or mandated elsewhere in this ordinance.
2. Minimum lot size will depend on compliance with the provisions found in the NH DES "Subdivision and Individual Sewage Disposal System Design Rules, Chapter Env-Wq 1000", as amended and may be satisfied through the use of an off-site system that is specified through an easement and agreement between the owner/applicant for the proposed activity and the owner of the site on which the system is to be constructed. NH DES uses a soil-based minimum lot size; when NH DES determines that the lot size is greater than 20,000 SF, the DES requirement will govern.
3. The addition, construction or redevelopment of an existing or new single family or two family residential dwelling unit shall be subject to the requirements of this provision.

C. West Village Overlay District (WVOD)

Purpose: Adopted as an Innovative Land Use Control under NH RSA 674:21, the purpose of this West Village Overlay District (WVOD) is to encourage the development of appropriate- sized businesses and housing in the western edge of Moultonborough in an area partially served by existing municipal sewer infrastructure. This development shall be consistent with the existing prevailing character of the "West village" area and the adjoining Center Harbor village area. The goals of such development shall be to:

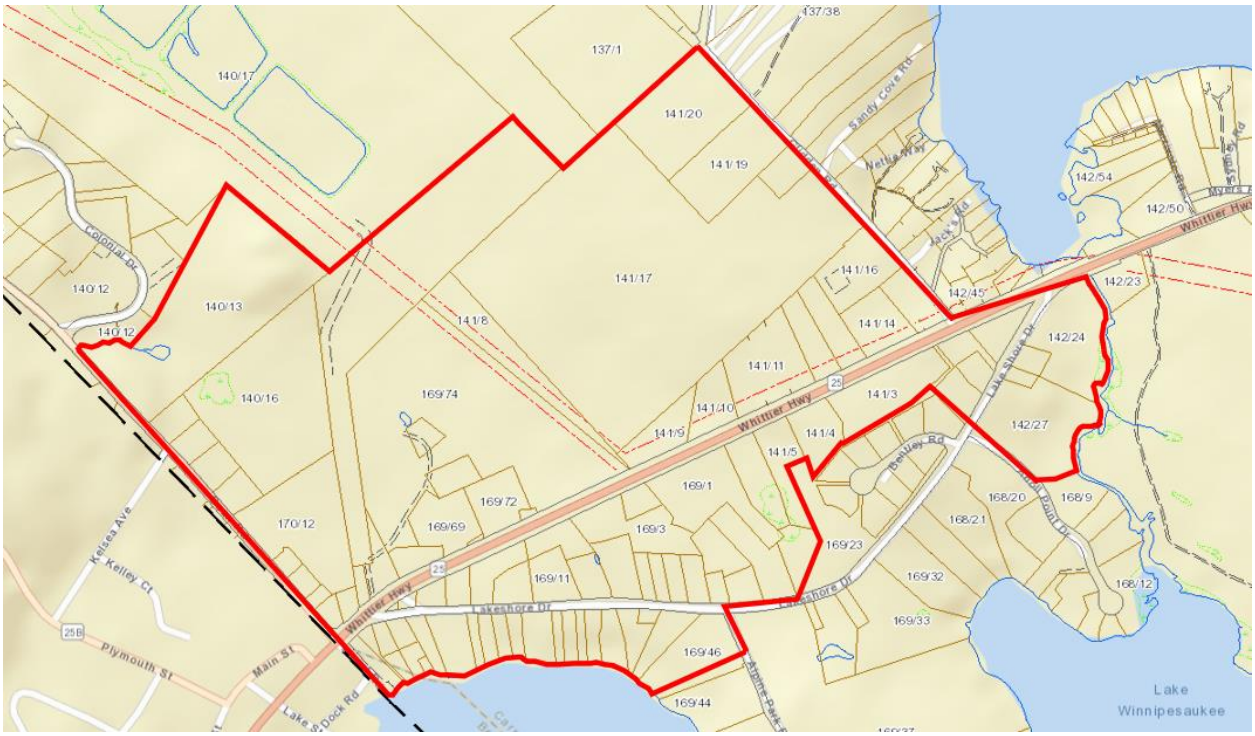
- Provide opportunity for greater economic activity and vitality for this area of Moultonborough.
- Encourage the development of service businesses, retail establishments and housing.
- Encourage development of a variety of housing styles and types with an emphasis on cost effective clustered and multi-tenant units while maintaining the character of residential and mixed-use neighborhoods which exist in adjoining residential and mixed-use areas.
- Encourage pedestrian-friendly amenities including safe routes for pedestrians and bicyclists, safe crosswalks, sidewalks, and quality landscaping;
- Encourage a safe and aesthetic environment for pedestrian and vehicular travel;
- Provide consistency with the Moultonborough Master Plan.

The Planning Board has the authority to waive any provision of this section, in its discretion, in order to accomplish the above goals. To the extent there is any conflict between the provisions of the WVOD section and another article or section of the Moultonborough Zoning Ordinance, the WVOD regulations control for applications within that overlay district.

Applicability:
The WVOD encompasses portions of existing Commercial A and the Residential/Agricultural Zones and when adopted will be identified on the Town of Moultonborough Zoning Map entitled West Village Overlay District. When a proposed use requires a Conditional Use Permit (CUP), the applicant proposing a particular development or use shall meet with the Town Planner or Planning Board in order to receive a written zoning determination that the proposed use is consistent with the six Purposes of the WVOD in Section I, "Purpose", listed above.
NOTE: Any proposed use which is not shown on Table 3 as either a "Permitted" use (P) or a use permitted by "Conditional Use Permit" (CUP) must first obtain a variance for the proposed use from the Zoning Board of Adjustment.

WVOD Boundary Map:
The map titled "West Village Overlay District Map", dated August 9, 2018, delineates the proposed boundary of the proposed West Village Overlay District and is a graphic part of this section of the Zoning Ordinance.

MOULTONBOROUGH WEST VILLAGE OVERLAY DISTRICT (WVOD)



WVOD Overlay Adopted March 12, 2019

WVOD Permitted Uses:
See WVOD "Table of Permitted Uses" (Table 3) for a list of uses Permitted (P) and uses that require a Conditional Use Permit (CUP).

Table 1. WVOD Table of Permitted Uses Uses Permitted (P) and Uses Requiring a Conditional Use Permit (CUP) (See CUP Standards below)			
	Use	**Zones Overlaid by WVOD**	
		R/A	Commercial A
1	Single Family Detached Dwelling	P	P
2	Two Family Dwelling	P	P
3	Accessory Dwelling Unit (ADU)	P	P
4	Accessory Use Building	P	P
5	Multi-Family Housing Up to 8 Units per Building	CUP	P
6	Home Occupations	P	P
7	Senior Housing	CUP	P
8	Nursing Home	CUP	P
9	Bed & Breakfast Business	P	P
10	Art Gallery	CUP	P
11	Artist Live/Work Space	P	P
12	Antique Shop	CUP	P
13	Schools, Public and Private	CUP	P
14	Professional & Medical Office(s)	CUP	P
15	Day Care	P	P
16	Pre-School & School Age Program	CUP	P
17	Personal Services (i.e. health care, therapy, housekeeping etc.)	CUP	P
18	Mixed Use Building	P	P
19	Municipal Facilities	CUP	P
20	Public Parks or Open Space	P	P
21	Bakery	CUP	P
22	Restaurant	CUP	CUP
23	Meeting Hall	CUP	P
24	Places of Worship	CUP	P
25	Hotel or Inn	CUP	P
26	Outdoor Rec Facilities Open to Public/Low Impact	CUP	CUP
27	Bank	CUP	P
28	Retail Sales	CUP	P
29	Theater or Cultural Center	CUP	P
30	Convenience Store	CUP	CUP

NOTE: All uses listed above, <u>except</u> those uses listed on lines 1, 2, 3 are subject to Site Plan Review by the Planning Board)

Conditional Use Permit, Conditions:

The Planning Board may issue a Conditional Use Permit (CUP) approving uses, provided the Planning Board determines the following are met:

1. The use is specifically authorized as a use and the use will be compatible with the WVOD area and with adjoining or abutting uses in the area in which it is to be located;
2. The development in its proposed location will comply with the goals listed in the "Purpose" section of the WVOD (Section I);
3. The use will not materially endanger the public health, safety, or welfare;
4. Architecture and landscape design shall contribute to the Goals listed in Section I of this Article and comply with the Design Standards in the Site Plan Review Regulations;
5. The use will provide an environment to ensure both vehicular and pedestrian safety;
6. The use will be compliant with the environmental regulations of the town, state and federal governments;
7. The use will be adequately serviced by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use, and will not necessitate excessive public expenditures to provide facilities and services with sufficient additional capacity; and
8. In an existing residential neighborhood, the proposed use shall compliment the character of the existing uses of the neighborhood.

Design Standards, Guidelines and Principles:

Any development or redevelopment within the WVOD shall be consistent with the design standards in the Town of Moultonborough Site Plan Review Regulations, the Town of Moultonborough Design Guidelines and the following design principles and WVOD Minimum Standards:

- Buildings should be compatible with their surroundings and traditional New England architecture and color palettes;
- All building elements should be integrated into a coherent unified design;
- Buildings should be pedestrian-oriented and incorporate elements of site planning that create pedestrian convenience and easy access;
- The reuse of existing buildings is strongly encouraged. Additions to the side and rear should have compatible architectural styles to the existing building;
- All new uses should conform to the visual character and physical patterns of the WVOD;
- Circulation should provide for pedestrian, bicycler and vehicular traffic.

WVOD Dimensional Standards:

Developments in the WVOD are subject to the following lot, dimensional and building separation requirements in Table 2, WVOD Dimensional Standards.

Table 2 WVOD Minimum Standards	
Standard [1]	
Sewage Disposal:	New Development, excluding single family residential, shall be required to connect to public sewer service.
Lot Size [2]	
Residential (Single Family/Two Family	Minimum of 10,000 SF w/off site sewage disposal; 40,000 SF w/onsite septic service – subject to NH DES approval
Commercial	Minimum of 10,000 SF per lot
Multi-Family Residential	Minimum of 10,000 SF per dwelling unit
Lot Frontage:	Minimum of 25 feet
Lot Cover:	Maximum of 50%
Height:	No more than 2 ½ stories or 34-feet in accordance with Moultonborough Zoning Ordinance Article III. I Height of Buildings
Set Backs:	
Front	Minimum of 10 feet
Side	Minimum of 15 feet or no less than 25 feet between principal buildings on adjacent lots
Rear	Minimum of 15 feet or no less than 25 feet between principal buildings on adjacent lots
Off Street Parking:	
Commercial / Multi-Family Residential	Refer to parking requirements listed in Section 11 of the Moultonborough Site Plan Review Regulations. 40% of the required parking may be located between the street and the front line of the commercial or multi-family structure. The remainder of the required parking shall be located to the rear or side of the commercial or multi-family structure.
Commercial / Multi-Family Residential	Refer to parking requirements listed in Section 11 of the Moultonborough Site Plan Review Regulations. One (1) space/300 square feet of gross floor area for commercial structures
Commercial	Refer to parking requirements listed in Section 11 of the Moultonborough Site Plan Review Regulations.
Residential	Minimum of Two (2) parking spaces per dwelling unit
Pedestrian Standards:	Sidewalks, minimum one bench and one bicycle rack per commercial / multi-family development project
Landscape Design:	
Commercial / Multi-Family Residential	Landscape Plan required

Foot Notes:

1. The Planning Board may authorize variations from the above standards, except for any requirement provided by state regulation or mandated elsewhere in this ordinance.
2. Minimum lot size will depend on compliance with the provisions found in the NH DES "Subdivision and Individual Sewage Disposal System Design Rules, Chapter Env-Wq 1000", as amended and may be satisfied through the use of an off-site system that is specified through an easement and agreement between the owner/applicant for the proposed activity and the owner of the site on which the system is to be constructed. NH DES uses a soil-based minimum lot size; when NH DES determines that the lot size is greater than 20,000 SF, the DES requirement will govern.
3. The construction or redevelopment of an existing or new single family or two-family residential dwelling unit shall be subject to the requirements of this provision.
4. New development, excluding single family residential development, shall be required to connect to public sewer service.

Article X

Small Wind Energy Systems Ordinance

A. Purpose:

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

B. Procedure for Review:

1. Building Permit: Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed, except for Commercial Zone C, the Village Zone, where they are not allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.

2. Application: Applications submitted to the building inspector shall contain a site plan with the following information:

   i) Property lines and physical dimensions of the applicant's property.

   ii) Location, dimensions, and types of existing major structures on the property.

   iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.

   iv) Tower foundation blueprints or drawings.

   v) Tower blueprints or drawings.

   vi) Setback requirements as outlined in this ordinance.

   vii) The right-of-way of any public road that is contiguous with the property.

   viii) Any overhead utility lines.

ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.

x) Small wind energy systems that will be connected to the power grid shall include a copy of the approval for interconnection with their electric utility provider.

xi) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.

xii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.

xiii) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.

xiv) List of abutters to the applicant's property.

3. Abutter and Regional Notification: In accordance with RSA 674:66, the building inspector 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 building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

C. Standards:

1. The building inspector shall evaluate the application for compliance with the following standards;

a. Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.

ii) Guy wires are prohibited.

b. Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.

c. Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.

d. Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

e. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.

f. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

g. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

h. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.

i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.

ii) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.

iii) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

i) Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.

j) Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.

k) Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

l) Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

D. Abandonment:

1. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

2. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:

a. Removal of the wind generator and tower and related above-grade structures.

b. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

3. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall

determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

4. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

E. Violation:

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

F. Penalties:

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

ARTICLE XI

Administrative Provisions

A. Authority. The Zoning Board of Adjustment shall have the powers designated by RSA 673, RSA 674, and specifically RSA 674:33 as well as such other powers as lawfully assigned to it by the legislature and by ordinance or by vote of the town meeting.

(1) The Zoning Board of Adjustment shall hear and decide appeals if it is alleged there is error made by an administrative official of the town or by any other town board in any order, requirement, decision, or determination related to this ordinance.

(2) The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

B. Special Exception. The Zoning Board of Adjustment shall make special exceptions to the terms of the ordinance upon proper application therefore; and in the event that it shall determine, after public hearing, that the special exception will result in harmony with the

general purpose and intent of the zoning ordinance of the Town of Moultonborough and that it shall be in accordance with the general and/or specific rules contained in this ordinance.

C. Limited Special Exceptions/Temporary Use. For all temporary uses not allowed by XI, H. (1 & 2), the board of adjustment, through a simplified application process, not requiring site plan approval from the Planning Board, may grant a limited special exception, after due notice and hearing, for the temporary occupancy and use of a structure or land, in any zone, for a purpose that does not conform with the zone requirements. Such occupancy and use shall be subject to any reasonable conditions and safeguards which the board of adjustment may impose to minimize any injurious effect upon the neighborhood or to protect contiguous property. The approval by the board of adjustment and the limited special exception based thereon, for such temporary occupancy and use, shall not be granted for a period of more than twelve (12) months and may be renewed upon reapplication to the board of adjustment however, such occupancy and use shall be of a temporary nature, with no expectation of becoming permanent.

D. Variances. The Zoning Board of Adjustment may, upon appeal in specific cases, authorize a variance from the terms of the Zoning Ordinance, if the Board finds that all of the following facts exist:

(1) The variance will not be contrary to the public interest;
(2) The spirit of the ordinance is observed;
(3) Substantial justice is done;
(4) The values of surrounding properties are not diminished; and
(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, where said term means, either owing to special conditions of the property that distinguish it from other properties in the area: no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one; or,

If, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

E. Procedures. The board of adjustment shall adopt rules governing its proceedings pursuant to the requirements of RSA 676:1.

F. Notice Of Decision. The Zoning Board of Adjustment shall issue a final written decision which either approves or disapproves an application. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. The decision shall be placed on file in the board's office and shall be made available for public inspection within 72 hours after the decision is made.

G. Rehearings. Within 30 days after any decision or order of the Zoning Board of Adjustment is filed with the Land Use Department, any party to the action or proceeding, or any person

directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding or covered or included in the order in accord with RSA 677:2. A motion for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the Zoning Board of Adjustment shall be taken unless the applicant shall have made application for rehearing as provided in RSA 677:2 and no ground not set forth in the application shall be urged, relied on, or given any consideration by a court except as provided in RSA 677:3. The board of adjustment shall, within 30 days after a motion for rehearing is filed, either grant or deny the motion or suspend the order or decision complained of pending further consideration; and any order of suspension may be upon such terms and conditions as the Town may prescribe.

H. Issuing Permits. The Board of Selectmen or their designated agent shall issue any and all building permits required. No permit shall be issued for the erection of any structure and the use of any land unless the proposal complies with the provisions of this ordinance. The Board of Selectmen shall determine the format for applications for building permits and the required fee from time to time. Building permits shall be posted in a prominent place on the lot to which the permit pertains.

(1) Temporary Use. Residential sales (tag, barn, yard, garage, etc.). The temporary use for the occasional sale of personal items, conducted at the residence of the homeowner to dispose of surplus items will not require a special exception or permit for change of use. "Occasional" shall be defined as no more frequently than 4 days, either separately or grouped, during any 60 day period.

(2) Temporary Use. Commercial uses such as; (special event, flea market, farmers market, etc.). Temporary uses, up to a maximum of three (3) consecutive days over a 30 day period, or up to ten (10) consecutive days on a one-time basis annually, may be permitted upon application to and approval by the Board of Selectmen. Such occupancy and use shall be subject to any reasonable conditions and safeguards which the Board of Selectmen may impose to minimize any injurious effect upon the neighborhood or to protect contiguous property. Rather than acting upon an application, the selectmen may at any time direct the applicant to proceed through the board of adjustment rather than through the selectmen.

I. Enforcement. The Board of Selectmen or their agent is given the power and authority to enforce the provisions of this ordinance and to control the issuance of any building permits. Upon receiving information which the selectmen deem credible that this ordinance is being violated, and upon an affirmative vote of a majority of the Board of Selectmen, the selectmen are authorized to enforce the provisions of this ordinance asking appropriate relief in the superior court, or by taking any other legal action.
The Board of Selectmen may appoint a building official whose duty it shall be to represent the board in administering and enforcing this ordinance. The appointment of a building official does not supersede the board's authority or obligation.

J. Penalties. Penalties for violation of the zoning ordinance shall be as set forth in RSA 676:17 and 676:19.

K. Severability. If any section, clause, provision, or portion of this zoning ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holdings shall not affect any other section, clause, provision, or portion of this ordinance which is not, in and of itself, determined to be invalid or unconstitutional.

L. This ordinance shall take effect upon its passage.

ARTICLE XII

Storm water Management Ordinance

I. PURPOSE

To protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements to control the adverse affects of increased post-development storm water runoff, decreased groundwater recharge, and non-point source pollution associated with new development and redevelopment.

II. AUTHORITY

The provisions of this Article are adopted pursuant to RSA 674:16, Grant of Power, RSA 674:17, Purposes of Zoning Ordinance, and RSA 674:21, Innovative Land Use Controls.

III. APPLICABILITY

The requirements of this article shall apply to all subdivisions platting new roads, commercial, and multi-family developments and redevelopments which disturb 20,000 square feet or more in all zoning district(s).

IV. STORM WATER MANAGEMENT PLAN

All subdivisions, commercial and multi-family developments and redevelopments which disturb 20,000 square feet or more shall submit a Storm water Management Plan (SMP) with an application for subdivision or site plan review. The SMP, shall be prepared by a licensed New Hampshire, Professional Engineer, and shall address and comply with the requirements set forth herein and as specified by the Planning Board. The plan shall, at a minimum, include drainage and water quality reports indicating both pre-development, and proposed post-development, conditions, with a statement of comparison between pre-and post-development conditions. The plan shall be in conformance to the greatest extent possible with the design guidelines and principles set forth in the most recent edition of the NH Storm water Manual.

V. STORM WATER MANAGEMENT REQUIREMENTS

All development activity must comply with the following provisions to reduce and properly manage storm water post-development:

A. There shall be no negative impact to water quality post-development from pre-development conditions.

B. Post-development peak runoff rate and volume shall not exceed pre-development levels for a 50-year storm event.

C. Storm water management designs shall demonstrate that annual average pre-development groundwater recharge volume (GRV) is maintained post-development, when compared to pre-development conditions.

D. For the purposes of calculating pre-development conditions, any site that was wooded in the last five (5) years shall be treated as though the pre-development conditions are undisturbed woods.

E. All storm water management plans shall include an Operation and Maintenance (O&M) Plan for the system (prior to final approval of any permits) to ensure continued proper functioning of the system. Such O & M plan shall be recorded at the Registry of Deeds prior to issuance of any Certificates of Occupancy for the site(s). Guidance for the development of such a plan may be found in the New Hampshire Storm water Manual.

VI. ENGINEERING REVIEW

A. The applicant shall submit a fee, as determined by the Planning Board to cover the costs of outside engineering peer review of their proposed storm water management plan(s), and other pertinent plans and documents, if deemed necessary by the Planning Board.

B. Additional copies of all plans, engineering studies, and additional information as requested by the Planning Board shall be provided as necessary to allow for thorough outside engineering review.

VII. EFFECTIVE DATE

This ordinance shall be effective as of June 30, 2010.

Article XIII

Groundwater Protection Ordinance

I. AUTHORITY

RSA 674:16, and RSA 674:21(I)(j) relative to innovative land use controls.

II. PURPOSE

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

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

III. GROUNDWATER PROTECTION DISTRICT

The Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries, both

(1) all of the Wellhead Protection Areas for public water supply wells as defined under Article III, part (I) of this ordinance. The district is shown on the map entitled, Water Resources, Natural Resource Inventory, Moultonborough NH, dated February 10, 2007, and

(2) the Stratified Drift Aquifer(s) shown on the map entitled, Water Resources, Natural Resource Inventory, Moultonborough NH, dated February 10, 2007.

During Planning Board review, when the actual boundaries of this Overlay District are disputed by any owner, abutter or the Planning Board, the Board may, at the applicant's expense, require the services of a professional hydrologist, specialist, engineer, or other certified professional, to determine the site-specific boundaries of the district as relating to the subject site. Based upon site-specific, documented, scientific and technical information submitted by the qualified professional(s), the Planning Board shall have authority to make the final determination as to the location of disputed boundaries for the site before the Board.

IV. APPLICABILITY

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

V. PERFORMANCE STANDARDS

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

A. For any commercial use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a storm water management plan shall be prepared by a licensed N.H. Engineer.

B. Conditional uses, as defined under Article IX shall develop storm water management and pollution prevention plans. The plans shall demonstrate that the use will:

    1. Minimize, through a source control plan that identifies pollution prevention measures, the release of regulated substances into storm water;

    2. Demonstrate that recharge to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Or 603.03) at the property boundary;

    3. Stipulate that expansion or redevelopment activities shall require an amended storm water plan and may 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).

C. 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;

D. All regulated substances 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;

E. Facilities where regulated substances are stored must be secured by means of a door and/or gate that is locked when authorized personnel are not present.

F. 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. Storage of such substances in sealed drums or barrels shall not constitute compliance with this Article unless said drums or barrels are also stored within an enclosed structure

G. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property;

H. 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;

I. Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.

J. All sanitary sewer systems must be designed to minimize or eliminate leakage or discharges from the system into the groundwater.

K. On site waste disposal systems shall be located so as to avoid or minimize groundwater contamination.

L. Where the subject site is partially in the Overlay District, all potential pollution sources, including on site waste disposal systems, shall be located outside the Overlay District, to the maximum extent feasible.

VI. SPILL PREVENTION, CONTROL AND COUNTERMEASURE (SPCC) PLAN

Conditional uses, as described under Article X, part (A), using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Fire Chief 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. It shall include:

1) A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.

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.

3) A list of all regulated substances in use and locations of use and storage;

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.

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

VII. PERMITTED USES

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Groundwater Protection District unless they are Prohibited Uses or Conditional Uses. All permitted uses must comply with the Performance Standards unless specifically exempt under Article XII.

VIII. PROHIBITED USES

The following uses are prohibited in the Groundwater Protection District.

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

B. The development or operation of a solid waste landfill;

C. The outdoor storage of road salt or other deicing chemicals in bulk, or the indoor storage where there is no impervious containment;

D. The development or operation of a junkyard;

E. The development or operation of a snow dump;

F. The development or operation of a wastewater or septage lagoon;

G. The development or operation of a petroleum bulk plant or terminal;

H. The development or operation of gasoline stations.

I. Excavation, as defined in RSA 155:E, or mining within four (4) feet of Seasonal High Water Table. This prohibition applies to future excavation of existing site as well as future excavation sites.

J. Any other use or activity that:
    a. Will have a detrimental effect on the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants, or;
    b. Will cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer, or;
    c. Will discharge wastewater on the site other than that which is permitted under the provisions of this Ordinance.

IX. CONDITIONAL USES

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

A. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Article VII, is approved by the local Fire Department;

B. Any commercial use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.

In granting such approval the Planning Board must first determine that the proposed use is not a prohibited use and will be in compliance with the Performance Standards in Article V.

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

The Planning Board may impose such reasonable restrictions or conditions on the Conditional Use Permit on matters it deems advisable in order to protect the health, safety and groundwater quality of the residents of Moultonborough.

A Conditional Use Permit may be withdrawn by the Planning Board if the use is not conducted in accordance with the terms of this Ordinance and any restrictions or conditions of the Conditional Use Permit.

X. EXISTING NONCONFORMING USES

Existing nonconforming uses may continue unless such use is determined to be an imminent hazard to the public health and safety by the Code Enforcement Officer or Health Officer. All pre-existing nonconforming uses must be in compliance with all applicable state and federal requirements, including Env-Ws 421, Best Management Practices Rules.

XI. EXEMPTIONS

Nothing in this Article shall be deemed to prohibit the storage and handling of products in quantities for normal household use. The following uses are exempt from the specified provisions of this ordinance:

A. Storage of heating fuels, which are also regulated substances, 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.

B. 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.

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

XII. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

Where both the State and the municipality have existing requirements, or where the provisions of this Article are in conflict with any other ordinance, statute or law, the more stringent standard shall govern.

XIII. MAINTENANCE AND INSPECTION

A. For uses requiring Planning Board approval under this Article, a narrative description of all maintenance requirements for structures required to comply with the Performance Standards of this Article, as applicable, shall be referenced in the deed for the site and shall be recorded, so as to run with the land on which such structures are located, at the Registry of Deeds for Carroll County. The description so prepared shall comply with the requirements of RSA 478:4-a, and shall include recommended maintenance cycles to ensure proper operation of these structures.

B. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Code Enforcement Officer at reasonable times with prior notice to the landowner.

C. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under this ordinance.

XIV. ENFORCEMENT PROCEDURES AND PENALTIES

The Planning Board and/or Code Enforcement officer shall enforce the provisions of this Ordinance and to ensure that requirements and restrictions or conditions are complied with. Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676.

XV. SAVING CLAUSE

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

XVI. EFFECTIVE DATE

This ordinance shall be effective as of June 30, 2010.

ARTICLE XIV

STEEP SLOPES PROTECTION ORDINANCE

I. STATUTORY AUTHORIZATION

A. RSA Title LXIV, Chapters 674:16, Grant of Power

B. 674:21, Innovative Land Use Controls

C. 674:21(j), Environmental Characteristics Zoning

D. 673:16, II; 676:4, I(g); and 674:44,V collectively authorize planning boards to collect fees from applicants to cover the costs of hiring outside experts to review subdivision applications and site plans.

II. PURPOSE

The purpose of this ordinance is to reduce damage to streams and lakes from the consequences of excessive and improper construction, erosion, storm water runoff, or effluent from improperly sited sewage disposal systems, and to preserve the natural topography, drainage patterns, vegetative cover, scenic views, wildlife habitats, and to protect unique natural areas. It is also the intent of this ordinance to protect the citizens of Moultonborough from adverse impacts to flooding due to development on steep slopes, and to preserve the integrity of the Town's drinking water supply from contamination through untreated, or uncontrolled, storm water runoff caused by developments in areas with slopes of 15 percent or greater.

III. APPLICABILITY

This Article shall apply to all development requiring a Building Permit, Subdivision Approval and/or a Site Plan Review Permit, with a slope of 15 percent or greater, and where the proposed site disturbance is greater than 20,000 square feet in the aggregate. Site disturbance areas greater than 20,000 sq.ft. in

size, but which do not impact greater than 20,000 sq.ft. of slopes greater than 15 percent, shall not be required to comply with this Article.

IV. APPLICATION REQUIREMENTS

A. All applications subject to this Article must show on a plan the area subject to site disturbance, and all adjacent areas within 200 feet of the area subject to site disturbance, in two-foot contours, including all surface waters and wetlands, and proposed and existing physical features, structures, utilities, storm water control systems, septic and well structures, and access ways.

B. An engineering plan must be prepared by a 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.

C. A hydrology, drainage, and flooding analysis must be included that shows the effect of the proposed development on water bodies and/or wetlands, both on the site and within 200 feet of the subject parcel.

D. A grading plan for the construction site and all access routes must be prepared by a licensed engineer.

V. PERFORMANCE STANDARDS

All uses permitted in the underlying district shall be considered a conditional use when required to comply with this Ordinance, and must meet the following conditions for approval:

A. The grading cut and fill should not exceed a 2:1 ratio. Cuts and fills shall be minimized.

B. Existing natural and topographic features, including the vegetative cover, will 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.

C. No structure shall be built on an extremely steep slope (greater than 25 percent prior to site disturbance).

D. There shall be no negative impact to water quality post-development from pre-development conditions.

E. Post-development peak runoff rate and volume shall not exceed pre-development levels for a 50-year storm event.

F. Storm water management designs shall demonstrate that annual average pre-development groundwater recharge volume (GRV) is maintained post-development, when compared to pre-development conditions.

G. For the purposes of calculating pre-development conditions, any site that was wooded in the last five (5) years shall be treated as though the pre-development conditions are undisturbed woods.

VI. ADMINISTRATION OF CONDITIONAL USE PERMITS

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

A. A Conditional Use Permit shall be granted by the planning board, after a public hearing, upon a finding that the proposed use is consistent with the spirit and intent of the ordinance, meets the required performance standards in Section V, and following receipt of a review and recommendation of the conservation commission and any other professional expertise deemed necessary by the board.

B. The applicant must demonstrate 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 district.

C. The Building Inspector and/or Planning Board shall not issue a Building Permit, Subdivision Permit or Site Plan Permit subject to the terms of this Article until the Planning Board has issued a Conditional Use Permit. Applications for said Conditional Use Permit before the Planning Board may be combined with Site Plan or Subdivision Permit applications and processed simultaneously.

VII. COSTS

All costs pertaining to the consideration of an application, including consultants fees, on-site inspections, environmental impact studies, notification of interested persons, and any other costs associated with Planning Board review under this section, shall be borne by the applicant and paid prior to the Planning Board taking final action.

VIII. EFFECTIVE DATE

This ordinance shall be effective as of September 1, 2011.

ARTICLE XV: DEFINITIONS

Section 1501 Use Guidance
Section 1502 Terms with Applicability in Specific Articles
Section 1503 General Definitions

Section 1501 Use Guidance

A. For the purposes of this zoning ordinance, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word "shall" is mandatory; the word "may" is permissive; the words "used" or “occupies" include the words "intended, designed or arranged to be used or occupied". The terms herein are not necessarily the only valid definitions for these terms.

B. From time to time, as sections of the ordinance are added or revised that include new definitions of terms; said terms shall be codified solely within this article, Section 1502 or Section 1503, Reserved, as applicable, and not within the text of the amended section.

C. Unless otherwise stated, the terms or words in this article shall be interpreted as follows:

D. The following articles contain definitions that may be specific and applicable to said article; in the case of terms or words defined in both Sections 1502 & 1503, Reserved, the term or word in Section 1503, Reserved, shall apply to articles other than those listed below:

1. Article III, D.: Junkyards.
2. Article VIII Flood Plain Development;
3. Article IX: Wetland Resources Conservation Overlay District;
4. Article X: Small Wind Energy Systems Ordinance;
5. Article XII: Storm water Management Ordinance;
6. Article XIII: Groundwater Protection Ordinance;
7. Article XIV: Steep Slopes Protection Ordinance;

E. Where terms are not defined in this Ordinance, and are defined in the applicable Building Code, the definition contained in the Building Code shall apply.

F. Where terms are not defined in this Ordinance or the Building Code, then, the term shall have such meaning as the context applies.

Section 1502 Terms with Applicability in Specific Articles.

A. Article VIII Flood Plain Development.

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

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

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

"Building" - see "structure."

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

"FEMA "means the Federal Emergency Management Agency.

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

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

"Flood Insurance Study" (FIS) means an examination, evaluation and determination of flood hazards

and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

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

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

"Floodway"- see "Regulatory Floodway"

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

"Historic Structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

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

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1) By an approved state program as determined by the Secretary of the Interior, or

2) Directly by the Secretary of the Interior in states without approved programs.

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

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than l80 days. This includes manufactured homes located in a manufactured home park or subdivision.

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

"Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction" means, for the purposes of determining 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.

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

"Recreational Vehicle" is defined as:

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

“Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Special flood hazard area” (See - "Area of Special Flood Hazard”).

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

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

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

"Substantial Improvement" means any combination of repairs; reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section E or Section H(2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

B. Article IX: Wetland Resources Conservation Overlay District.

Buffer: The protected upland areas adjacent to wetlands and surface waters in the Conservation Overlay District other than the wetlands themselves.

Certified Wetland Scientist: A person qualified to delineate wetland boundaries and prepare wetland maps and who is certified by the state of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.

Hydric Soils: Soils that are saturated or flooded during a sufficient portion of the growing season such that they develop anaerobic conditions in the upper soil layers.

Impermeable Surface: Driveways, parking areas, walkways, or other features introduced to a property that are constructed of materials, such as concrete, asphalt or stone, that prevent the passage of water through them to the soil below.

Naturally Vegetated: Uncut or undisturbed forest, minimally disturbed or managed forest, abandoned pasture or fields, or other land displaying vegetation that is not introduced as a consequence of development.

Setback: The minimum distance between the edge of a delineated wetland or high water mark of a body of water or stream, as the case may be, and any building and structures, septic systems or impermeable surfaces. The distance is to be measured horizontally in a direction perpendicular to the delineated wetland or high water mark of the body of water or stream.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support a prevalence of vegetation typically adapted for life in a saturated soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs, vernal pools and similar areas. For the purpose of determining buffer zones for site plan and subdivision review wetland boundaries shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetland, by a certified wetland scientist according to the Corps of Engineers Wetlands Delineation Manual, 1987, and the Field Indicators Guide for Identifying Hydric Soils in New England, 2004.

C. Article X: Small Wind Energy Systems Ordinance.

Meteorological tower (met tower): Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the

environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

Modification: Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

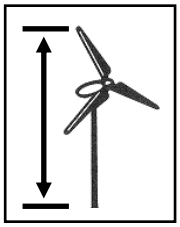
Net metering: The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

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

Shadow flicker: The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

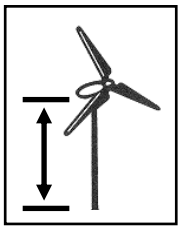
Small wind energy system: A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

System height: The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



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

Tower height: The height above grade of the fixed portion of the tower, excluding the wind generator.



Wind generator: The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

D. Article XII: Storm water Management Ordinance.

Development: For the purposes of this article, development refers to alterations to the landscape or structures that create, expand or change the location of impervious surfaces or alters the natural drainage of a site.

Disturbance: For purposes of this Article, disturbance shall mean any earth moving construction activity, including creation or modification of impervious surfaces, structures, landscaping, infrastructure, or any change of the existing grade from pre-development conditions.

Impervious Surface: Any structure or land surface with a very low capacity for infiltration, including but not limited to asphalt pavement, cement, roofs, gravel and paved roadways,

compacted soils, and other similar surfaces that do not easily infiltrate storm water runoff. Pervious pavement is not considered an impervious surface.

Infiltration: The process by which water enters the soil profile (seeps into the soil).

Multi-Family Development: Development of more than two (2) dwelling units on a single lot.

Recharge: The amount of water from precipitation that infiltrates into the ground and is not evaporated or transpired.

Redevelopment: For purposes of this Article, Redevelopment shall mean any physical change to an existing site requiring Planning Board approval.

Sediment: Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Site: The lot or lots on upon which development is to occur or has occurred.

Storm water: Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other drainage facilities.

Storm water Runoff: Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

Vegetation: Is defined to include trees, plants, shrubs, vines or other forms of plant growth.

E. Article XIII: Groundwater Protection Ordinance.

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

Petroleum bulk plant or terminal: means 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.

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

Gasoline station: means that portion of a property where petroleum products including diesel fuel and other distillates are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline and/or other petroleum products.

Impervious: not readily permitting the infiltration of water.

Impervious surface: a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete, gravel or paved roads, driveways, parking lots, and rooftops. Earthen, wooden; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

Junkyard: an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard, and includes garbage dumps and sanitary landfills. The 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.

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

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

Regulated substance: petroleum, petroleum products, and substances listed under 40 CFR 302, 7-1-05 edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

Sanitary protective radius: The area around a public water supply well which must be maintained in its natural state as required by Env-Ws 378 or 379 (for community water systems); Env-Ws 372.12 and Env-Ws 372.13 (for other public water systems).

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 regulated-substances container that will be stored there.

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.

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

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

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

Temporary Storage of Construction Materials: Whichever comes first

A. No more than One Month past the date of completion of construction, or
B. Six months from initial storage of materials

F. Article XIV: Steep Slopes Protection Ordinance.

Erosion: The wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

Extremely Steep Slope: Slopes having a gradient of twenty-five percent or greater based on two-foot contours analyzed over ten foot vertical intervals, prior to cut and fill, as measured perpendicular to the slope.

Sedimentation: The process by which sediment resulting from erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse or wetland.

Site Disturbance: Any activity that removes the vegetative cover and/or creates erosion from the land surface, including structures, roadways, landscaping and other activities. Site disturbance where the grade is not affected, and where soil stabilization shall occur within a reasonable time from the date of project completion, as deemed by the Planning Board, shall not be considered Site Disturbance under this Article.

Slope: The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees; rise over run.

Steep Slope: Slopes having a gradient of fifteen percent or greater based on two-foot contours analyzed over ten foot vertical intervals, prior to cut and fill, as measured perpendicular to the slope.

Vegetative Cover: Grasses, shrubs, trees, and other vegetation that hold and stabilize soils.

G. Article III, D.: Junkyards.

Junk yard: means a place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material. As used in this subdivision, the term includes, but is not limited to, the following types of junk yards:

(a) Automotive recycling yards, meaning a motor vehicle junk yard, as identified in subparagraph (c), the primary purpose of which is to salvage multiple motor vehicle parts and materials for recycling or reuse;

(b) Machinery junk yards, as defined in paragraph III; and

(c) Motor vehicle junk yards, meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:

(1) Motor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or
(2) Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle.

Machinery junk yard: means any yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of 500 square feet.

Motor vehicle: means "motor vehicle" as defined by RSA 259:60, I, namely, any self-propelled vehicle not operated exclusively upon stationary tracks, including ski area vehicles.

Section 1503 General Definitions

A

Abandonment: To stop the use of property. When the use of a property has ceased for a continuous period of two (2) years or more other than for reasons beyond the control of the owner of the property, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use.

Access: A means of vehicular or pedestrian approach, entry to, or exit from property.

Accessory Building or Structure: A detached subordinate structure(s), the use of which is incidental to that of the principal structure and located on the same lot therewith. An accessory structure may be permitted upon the premises so long as it is not adapted for use or occupancy as a dwelling or for any use inconsistent with that of the principal building upon the premises.

Accessory Dwelling Unit: Accessory dwelling unit (ADU) means a subordinate dwelling residence with complete and independent living facilities on the same lot attached to or contained within an existing single-family dwelling.

Accessory Use: A use incidental and subordinate to and customarily associated with a specific principal use, located on the same lot.

Addition: A structure added to the original structure at some time after the completion of the original, or an extension, alteration, or increase in floor area or height of a building or structure.

Agriculture - The pursuit of those activities normally associated with the raising of a crop or the care of animals, including forestry as defined in RSA 21:34-a, as amended, for agricultural purposes.

Alteration, structural: Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders, or in the dimensional or configurations of the roof or exterior walls.

Assisted Living Facility: A facility for persons who are unable to live independently that provides: (a) private living quarters, which may include kitchen facilities limited to a sink, refrigerator and/or microwave, (b) supervision and general care, including but not limited to the provision of meals, housekeeping, health care, and (c) assistance with moderate activities of daily living. For purposes of this Ordinance, an assisted living facility shall be deemed a Medical Care Facility.

Automated Teller Machine: A mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether outside or in an access-controlled facility.

B

Bank (see **Office)**: A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments and fiduciary activities.

Bed and Breakfast: A transient lodging establishment, generally in a single family dwelling, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals.

Bedroom: A room furnished with a bed and intended primarily for sleeping, unless otherwise specified by other regulations contained in this title or other local regulations.

Building (see **Structure**): Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, plant, process, equipment, goods, or materials of any kind. When a portion thereof is completely separated from every other portion by a dividing wall (or firewall when applicable) without openings, then each such portion shall be deemed to be a separate building.

Building Code: The International Building Code (IBC) and /or the International Residential Code (IRC) as applicable to the particular structure type. The IBC and the IRC is published by the International Code Council Incorporated and is as adopted with amendments, additions and deletions from time to time by the State of New Hampshire and as such applies to the Town of Moultonborough.

Building Height (height of building): The average of the vertical distances between the ridge of the building and the highest ground level point, and the ridge of the building and the lowest ground level point. This provision shall not apply to church steeples, chimneys, cupolas, silos, antennas, or unoccupied structures.

Building Permit: A document issued by a code official indicating that a proposed construction, alteration or reconstruction of a structure complies with the building code, and that a proposed use, building or structure is in accord with the Zoning Ordinance; and authorizing an applicant to proceed with said use, building or structure.

C

Campground: An area or premises operated as a commercial enterprise, generally providing space for seasonal accommodations for transient occupancy or use by tourists occupying camping trailers, self-propelled campers, tents and/or lodges. Such accommodations may include facilities for picnicking, boating, fishing, swimming, outdoor games and other sports and activities, but not including miniature golf courses, golf ranges or any mechanical amusement device. A camp ground shall be designed for seasonal occupancy, as opposed to permanent year-round occupancy, and shall not be construed to mean a Mobile Home Park.

Clinic: An establishment for treatment of outpatients and providing no overnight care for patients or any facility that provides limited diagnostic and outpatient medical care, but is unable to provide prolonged in-house medical/surgical care.

Code Official: Any employee of the Town of Moultonborough authorized to administer or enforce the Zoning Ordinance, including, but not limited to the Code Enforcement Officer and the Director of Planning.

Conditional Use Permit (CUP): A permit issued by the Planning Board authorizing a particular use in a specified location, upon demonstrating that such use complies with all the conditions and standards specified by the zoning Ordinance. A CUP may be part of a larger land use application or may be a stand-alone request to the Board.

Congregate Care Living Facility: A facility which provides housing and general care on a permanent or temporary basis including the provision of supportive services, such as special care, treatment and training, in a supervised setting with on-site counselors and/or other staff. This term shall not include an Assisted Living Facility.

D

Dwelling: A building or portion thereof containing one or more dwelling units.

Single-family dwelling: A building consisting of a single dwelling unit.

Two-family dwelling: A building consisting of two dwelling units.

Multifamily dwelling: A building consisting of three or more dwelling units.

Dwelling Unit: A building or portion thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. This use shall not be deemed to include such transient occupancies as hotels, motels, rooming or boarding houses.

F

Fence: A structural device erected to serve as an architectural element, landscape element, visual screen or physical barrier.

Function Facility: A room or building for the purpose of hosting a party, banquet, reception, or other social event. They are often found within pubs, clubs, hotels, or restaurants where food may also be served. Some are run by fraternal organizations and rented out as a fundraiser for the organization. Some condominium associations and apartment complexes have these to keep the noise of parties out of the residential units.

H

Hazardous Materials: A material, waste or combination of materials or wastes, including the latest state and federal Hazardous Materials lists, which, because of the quantity, concentration or infectious characteristics, may cause or significantly contribute to illness or present a substantial hazard to health, safety or welfare or to the environment.

Hotel: A building in which the primary use is transient lodging accommodations offered to the public on a daily rate for compensation and where ingress and egress to the sleeping rooms is made primarily through an inside lobby or office, supervised by a person in charge at all hours, together with such accessory and subordinate uses such as, but not limited to, restaurants, bars, taverns, nightclubs, function rooms, places of public assembly or recreational facilities.

Extended Stay Hotel: A hotel offering suites with living, kitchen, and sleeping areas.

I

Independent Living Facility: A residential development that is limited to occupancy by elderly persons and/or by persons with handicaps, as defined in the Federal Fair Housing Amendments Act of 1988. Such a facility shall provide: (a) dwelling units with complete kitchen facilities, (b) supportive services, such as meals, personal emergency response systems, recreation and transportation services, and (c) design features, such as wider doorways and hallways, accessible-ready bathrooms and lower light switches.

L

Light Manufacturing: A facility that works predominantly with previously prepared, manufactured, or processed materials or parts; may include assembly, fabrication, accessory research and testing, office uses, most high technology production, packaging or combination of such uses; does not result in significant noise, glare, odor, dust, smoke or vibration which could be detectable beyond the building; and, does not include uses classified as H-1, H-2, H-3 or H-4 in the Building Code.

M

Marina: A facility for storing, servicing, fueling, berthing, securing and launching of private pleasure marine craft that may include the sale of fuel and incidental supplies for boat owners, crews and guests.

Mixed Use: Any development, or even a single building, that blends a combination of residential, commercial, or institutional uses, where those functions are physically and functionally integrated; containing or zoned for commercial and residential facilities or development.

Motel (see **Hotel**): A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door.

Extended Stay Motel: A motel offering suites with living, kitchen, and sleeping areas.

N

Nonconforming Lot: A tract of land, designated on a duly recorded subdivision plat, or by duly recorded deed, or by other lawful means, that complied with the lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, or whose creation predates zoning, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

Nonconforming Structure: A building or structure that was legally established but which no longer complies with the Density/Intensity and Dimensional Standards of the underlying zoning district.

Nonconforming Use: A use of land that lawfully existed before enactment of the Zoning Ordinance or amendment to the Zoning Ordinance, and that may be maintained after the effective date of the ordinance, although it no longer complies with use restrictions.

Nursing Home: Residential facilities offering twenty-four (24) hour skilled nursing care for patients who are recovering from an illness, or receiving care for chronic conditions, mental or physical disabilities, terminal illness, or alcohol or drug detoxification. Care may include in-patient administration of medicine, preparation of special diets, bedside nursing care, and treatment by a physician or psychiatrist. Out-patient care is limited to prior patients only, and excludes any opiate substitution treatment or any facility whose primary function is to care for persons unable to care for themselves. The term is applicable not only to rest homes, which are primarily for the aged, but also to chronic and convalescent homes. This type of facility is characterized by residents who do little or no driving. Traffic is primarily generated by employees, visitors and deliveries.

O

Office (see **Bank):** A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

Overlay District: A zoning district that is superimposed over portions of one or more underlying zoning districts in order to apply additional or modified standards addressing a special purpose, such as Flood Plain Development.

R

Recreation Use Outdoor- high impact: A building or designated area dedicated to specific leisure activities which can be expected to produce increased levels of traffic, parking, noise, lighting, runoff, and other impacts on abutters and natural resources. Specifically, but not limited to, facilities which produce any of the following conditions: Unwanted sound not occurring in the natural environment., increase traffic over existing levels, use nighttime lighting, have parking areas for 6 or more vehicles, contain impervious surfaces which may increase stormwater runoff over existing levels, increase drainage to wetlands or water bodies , or carry the potential to otherwise negatively impact the local ecology (environment, flora and fauna) or quality of life of town residents. Examples are athletic fields and courts, commercial beaches, miniature golf, skateboard parks, recreation centers, off-road vehicle parks, motorized vehicle racing facilities, and golf courses.

Recreation use indoor – A recreational facility entirely indoors, with or without seating for spectators, and providing accommodations for a variety or individual and organized sports. Such facility may also provide other regular organized events, such as children's programs, dance studios and instruction, music schools and instruction, martial arts studios and instruction, skateboard facilities, trampoline or gymnastics facilities, health and fitness club facilities, swimming pools, snack bar, restaurant, retail sales or related sports, health, or fitness items, and other support facilities.

Recreation Use Outdoor- low impact: A building or designated area dedicated to specific leisure activities which does not produce Unwanted sound not occurring in the natural environment, does not

increase traffic, does not use nighttime lighting, does not have parking areas for 6 or more vehicles, does not contain impervious surfaces which may increase stormwater runoff over existing levels, or increase drainage to wetlands or water bodies , or does not otherwise negatively impact the local ecology (environment, flora and fauna)or quality of life of town residents. Examples include trails for hiking, biking, cross-country or backcountry skiing, snowshoeing, wildlife watching, nature studies, disc golf, small docks or piers for fishing, kayaking, non-motorized boating, passive outdoor recreational activities and areas dedicated to hunting game, fishing, and trapping.

Research and Testing: Laboratories and related facilities for research, development and testing, excluding biological or chemical laboratories and high hazard uses. Prototype production facilities and related assembly of high technology equipment or components may be included, but shall not exceed 60% of the gross floor area of the building.

S

Structure: Any production or piece of work artificially built up or composed of parts and joined together in some definite manner. The term includes, but is not limited to, buildings, fences, signs, swimming pools, etc.

Sustainable Development: a pattern of resource use that aims to meet human needs while preserving the environment so that these needs can be met not only in the present, but also for generations to come (sometimes known as **ELF**-Environment, Local people, Future). This may also be defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. For purposes of this ordinance, development types are limited to environmental and economic.

U

Use: Any purpose for which a lot, building or other structure or a tract of land may be designated, arranged, intended, maintained or occupied; or to any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Permitted Use: A use allowed in a zoning district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Ordinance.

Principal Use: The primary use of any lot.

Special Exception Use: A use that meets the intent and purpose of the zoning district but which requires the review and approval from the Zoning Board of Adjustment, in order to ensure that any adverse impacts on adjacent uses, structures, or public services and facilities that may be generated by the use can be, and are, mitigated.