Nonconforming x Key WORD Search

Town of New London

ZONING ORDINANCE

As adopted March 11, 1958
including subsequent amendments
to and including May 12, 2015

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d. Commercial Activity: Whenever any activity as listed in (a) and (c)(vi) shall be for commercial sale of such material, it shall be subject to the requirements of RSAs 72-B and 155-E, whenever applicable.

3. Dish Antennas: A Dish Antenna, not a part of a cable television system, located on the same Lot as a principal Use of the land (such as a residence) is to be permitted as an Accessory Use provided the following regulations intended to make such an antenna less obstructive are complied with:

a. The antenna can only be used for private, noncommercial Use.

b. All Dish Antennas in all Zone Districts shall be neutral in color and to the extent possible be compatible with the surrounding neighborhood in appearance and character. The Board may direct that a solid dish be Camouflaged with nonmetallic paint to preserve said character. Antennas on the shores of lakes and ponds shall be placed and Camouflaged so as to be as unobtrusive as possible.

c. Any Dish Antenna larger than 3 feet in diameter and on a permanent base shall require a Building permit.

4. Fire: No owner or occupant of land in any district shall permit fire or other ruins to be left, but within one year shall remove or refill the same to clear ground level or shall repair, rebuild or replace the Structure.

5. Height Regulation: In all districts, Structures shall not exceed 35 feet in Height above Grade unless a Variance is approved by the Board of Adjustment except as noted to follow. Chimneys in or attached to Dwelling Units may exceed 35 feet in Height as necessary only to comply with state and federal fire codes requirements. The Board of Adjustment may grant a Special Exception for flagpoles, water Towers, chimneys, public utility Structures, and church steeples or radio Towers owned and operated by a federally-licensed amateur radio station operator in all districts. In the Agricultural and Rural Residential District and the Conservation District, the Board of Adjustment may grant a Special Exception for a silo or a windmill. In all districts, a radio Tower owned and operated by a federally-licensed amateur radio station operator up to and including 70 feet in Height is a permitted Use. In all districts, the Board of Adjustment may grant a Special Exception to allow a radio Tower owned and operated by a federally-licensed amateur radio station operator in excess of 70 feet in Height. For Nonconforming Structures located within the first 50 feet from the Normal High Water level in the Shore Land Overlay District, the Height shall not exceed 25 feet in Height above Grade except as provided in Article XVI Shore Land Overlay District, Paragraph K, Building Height.

6. Parking and Loading: In all districts, if any proposed business and Use of property is such as to attract vehicles, adequate off-street space shall be provided to accommodate such vehicles. Refer to the requirements in the Site Plan Review Regulations.

7. Proposed Streets: After a line of a future Street is placed on the official map of the Town of New London, or on any Subdivision plot containing a R.O.W., Buildings shall be set back from such a line of such a R.O.W. as though they were Street lines.

8. Sanitary Protection

addition, commercial, institutional or Home Business Uses shall be permitted one free standing or Building mounted Sign with a maximum size of 4 square feet.

3. Institutional District, Institutional/Recreational District and Hospital Institutional District: Because of the size and unique needs of the institutional uses, the size, number and location of all permanent signage shall be subject to approval by the Planning Board through the Site Plan Review process. However, the maximum size of any one sign shall not exceed 15 square feet for any institutional use. Temporary event signage for these Zone Districts shall comply with Section d(12) above.

4. All Districts: Signs naming residential developments/neighborhoods: One on-premise Sign, with the size regulated by the underlying Zone District, which must be located on the common land or on private property and not in the road Right-of-Way.

h. Nonconforming Signs: See Article XX for provisions on Nonconforming Uses and Structures.

i. Enforcement & Penalties: Persons violating the Sign regulations may be fined up to $275 per day. See Article XXVII for provisions on enforcement and penalties.

11. Temporary Structures:

a. Any property owner or lessee may accommodate one Trailer of a non-paying guest for a period not exceeding 30 days in any one year.

b. The Board of Selectmen may approve the temporary Use of a Trailer, Manufactured Home, or Storage Container to be maintained as living quarters, office space, storage facilities or a workshop in connection with construction by a person or persons employed in adjoining construction work or for whom a residence is being built, or as an office, storeroom or shop in connection with construction work, provided that such Use is shown to be a temporary expedient and also that the Use will conform to the sanitary protection requirements, if applicable, listed under Section 8 of this Article. Temporary Structures used in conjunction with construction work shall be permitted only during the period the construction work is in progress. Permits for temporary Structures used in conjunction with construction projects shall be issued for a twelve-month period.

c. The Board of Selectmen may approve the temporary Use of a Storage Container in conjunction with Temporary Fundraising Events for Non-Profit Organizations (as permitted in Article II, Section 14, c, below) for the temporary storage of donated goods to be sold by auction, tag sale, yard sale or any other method. A permit for a Storage Container used for this purpose is allowed on property owned or leased by a Non-Profit Organization in all zone districts, shall be issued for a maximum of two separate two-month periods in any calendar year, and is subject to all other provisions of the Ordinance. A Temporary Event permit approved by the Board of Selectmen or their designee is required.

d. Residing in the Basement of foundation Structures before the completion of the total Structure may be permitted by the Board of Selectmen until construction is complete so long as the Building permit for the residence is kept active and has not expired.

e. The temporary use of Trailers or Storage Containers is limited to the provisions in a., and b. and c. above.

1. Accessory Dwelling Units are intended to be secondary to a principal Single-Family Dwelling Unit. In granting a permit, the Board of Selectmen must find that the Accessory Dwelling Unit is developed in a manner which does not alter the character or appearance of the principal Dwelling Unit as a single-Family residence. Only one Accessory Dwelling Unit shall be allowed per principal Dwelling Unit and/or Lot.

2. There shall be no exterior modifications of the Structure that will alter its character or appearance as a single-Family residence. If any entrances or exits must be added to accommodate an Accessory Dwelling Unit, they shall be located to the side or rear of the Building.

3. An Accessory Dwelling Unit shall not be considered to be an additional Dwelling Unit for the purposes of determining minimum Lot size and density.

4. An Accessory Dwelling Unit shall have an area of no less than 300 square feet and no greater than 1,000 square feet. An Accessory Dwelling Unit shall occupy no more than 35% of the heated and finished floor area of the original Dwelling Unit, including the Accessory Dwelling Unit.

5. An Accessory Dwelling Unit shall be designed to allow for re-incorporation into the principal Dwelling Unit. Internal access to the principal Dwelling Unit shall be maintained or constructed.

6. One of the Dwelling Units on the property must be the domicile of the owner.

7. The original dwelling must be a minimum of 5 years old to be eligible for conversion to accommodate an Accessory Dwelling Unit.

8. There shall be no more than two Bedrooms in any Accessory Dwelling Unit.

9. Pursuant to RSA 485-A:38, prior to converting to or occupying an Accessory Dwelling Unit in a manner that would increase the load on a sewage disposal system, the owner of the Primary Dwelling Unit shall submit an application for approval of the sewage disposal system to the NH Department of Environmental Services ("DES") (See also Code of Administrative Rules Env-Ws 1000). As specified in RSA 485:A-38 and Env-Ws 1004.16, the application shall include either evidence that the existing system meets the state and local minimum standards for handling and treating the wastewater flows generated by the Structure, including the Accessory Dwelling Unit, or a design for a new system that meets these standards.

10. Adequate off-street parking, based on the number of Bedrooms in both Dwelling Units, shall be provided in accordance with the provisions of Appendix A of the Site Plan Review Regulations.

d. Existing Nonconforming Accessory Dwelling Units: To be considered a Nonconforming Use, an Accessory Dwelling Unit must have been constructed or installed prior to March 1958, or before whatever date the density in a Zone District in question changed to make a legal two-Family Use Nonconforming.

70. Historical Village: Historic Buildings or replicas of historic Buildings grouped together for the purpose of preserving the historical heritage of the community for future generations and educating people on the historical heritage of the community which is owned and operated by a private nonprofit organization. Fund raising activities such as wedding receptions and barbecues as well as art festivals and crafts demonstrations shall be permitted as Accessory Uses.

71. Home Produce: Includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident, also such articles as are manufactured or altered by members of the household of the bona fide resident of any property.

72. Impact Fee: A fee or assessment imposed upon Development, including Subdivision, Building construction or other land-use change, in order to help meet the needs occasioned by the Development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and Flood control facilities: public road systems and rights-of-way; municipal office facilities; Public School facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public libraries; and public Recreation Facilities, not including public Open Space.

73. Impervious Surface: Any modified surface that cannot absorb or infiltrate water. Examples of Impervious Surfaces include, but are not limited to, roofs, decks, patios, and paved, gravel or crushed stone driveways, parking areas and walkways. Pervious Surfaces such as pervious asphalt, porous concrete, landscape pavers and similar technologies that are designed to absorb and infiltrate water are not Impervious Surfaces for the purposes of this definition.

74. Inn: A commercial facility for the housing and feeding of transients. Typically the food services are available to the general public and not limited to the transients housed at the Inn.

75. Junk: Any old metals, old bottles, or other solid textile mill waste, unfinished cloth, or other textile mill yarns, old paper products, two or more unregistered motor vehicles which are unfit for use on highways, used parts and material of motor vehicles, and other secondhand or waste articles, the accumulation of which is detrimental or injurious to the neighborhood.

76. Lattice Tower: A type of Tower with multiple legs and structural cross-bracing between the legs that may be self-supporting and freestanding or may be guyed.

77. Legal Nonconforming Building or Structure: A Legal Nonconforming Building or Structure is a Building or Structure which, in whole or in part, does not conform to the regulations of the district in which the Building or Structure is located, but existed as a Legal Building or Structure prior to the adoption of the regulation(s) that now make the Building or Structure Nonconforming.

78. Legal Nonconforming Lot: A Legal Nonconforming Lot is a Lot which, in whole or in part, does not conform to the regulations of the district in which the lot is located, but existed as a legal Lot prior to the adoption of the regulation(s) that now make the Lot Nonconforming.

79. Legal Nonconforming Use: A Legal Nonconforming Use is a Use of any Building, Structure, or land, which does not conform to the Use regulations of the Zone District in which such Use exists, but existed as a legal Use prior to the adoption of the regulation(s) that now make the Use Nonconforming.

80. Livestock: Livestock shall include all horses, cattle, goats, pigs, sheep, llamas, poultry, ostriches, emus, and similar animals other than small animals permitted in ARTICLE II.

92. Meteorological 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, Meteorological Towers shall refer only to those whose purpose is to analyze the environmental factors needed to assess the potential to install, construct or erect a Small Wind Energy System.

93. Mixed Use: The development of two or more uses permitted within the Zone District in the same building or on the same property.

94. 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.

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

96. Mount: The Structure or surface upon which antennas are mounted, including the following types of Mounts:

    a. Roof-mounted: mounted on the roof of a Building.
    b. Side-mounted: mounted on the side of a Building.
    c. Ground-mounted: mounted on the ground.
    d. Structure-mounted: mounted on a Structure other than a Building.

97. Multi-Family Housing: For the purpose of Workforce Housing developments, means a building or structure containing 5 or more Dwelling Units, each designed for occupancy by an individual household.

98. Natural Ground Cover: Any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Natural Ground Cover shall also include naturally occurring leaf or needle litter (duff), stumps, decaying woody debris, stones, and boulders. Natural ground cover shall not include lawns, invasive species as listed by NH Department of Agriculture, Markets and Food in accordance with RSA 430:53, III, exotic species as designated by rule of the NH Department of Environmental Services in accordance with RSA 487:24, VII, imported organic stone mulches or other artificial materials.

99. Natural Woodland Buffer: A forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth that lies within 150 feet of the Reference Line measured horizontally and at right angles to the Reference Line.

100. 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.

101. New Construction: 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.

102. Nonconforming Building or Structure: A Nonconforming Building or Structure is a Building or Structure which, in whole or in part, does not conform to the regulations of the district in which the Building or Structure is located.

103. Nonconforming Use: A Nonconforming Use is a Use of any Building, Structure, or land, which does not conform to the Use regulations of the Zone District in which such Use exists.

104. Normal High Water: The limit of flowage rights in a regulated water body. For lakes where dams are owned by the New Hampshire Water Resources Board, information on the level of flowage rights is available from the Board. On Lake Sunapee the Normal High Water is defined as elevation 1094.15 feet above sea level according to U.S.G.S. data or 11.5 feet on the gauge at the dam in Sunapee Harbor. On Pleasant Lake the Normal High Water is defined as 804 feet above sea level according to U.S.G.S. data. In an unregulated water body, Normal High Water is the high water level experienced in an average year.

105. One Hundred Year Flood (100 Year Flood): See Base Flood.

106. Open Space: Land which is un-built upon except for Buildings and improvements necessary and appropriate for accessory recreational Uses. Open Space excludes land under principal and non-recreational Accessory Buildings, sidewalks, driveways, parking areas, and Streets.

107. Ordinary High Water Mark: The line on the shore, running parallel to the main stem of the Stream, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

108. Outdoor, Active Recreation Uses: Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed outdoor places, sites, or fields. Outdoor, Active Recreation Uses include, by way of example, baseball, softball, soccer and other field sports; outdoor track; tennis and other outdoor court games; golf; outdoor basketball courts; trails for hiking, biking, cross-country skiing and equestrian Uses; and outdoor equestrian facilities.

109. Outdoor, Passive Recreation Uses: Outdoor activities that involve relatively inactive or less energetic activities, such as walking, bird watching and picnicking.

110. Overlay District: An area which is subject to special, additional regulations to protect a natural resource. An Overlay District is superimposed over the underlying Use district(s). The special regulations of an Overlay District are in addition to the regulations of the underlying Use district(s). Uses permitted in the underlying Use district may be prohibited or require a Special Exception subject to conditions of the Overlay District. In case of conflict between the Overlay District and the underlying Use district, the more restrictive shall apply.

111. Owner-Occupied Housing: Any Dwelling Unit intended to be conveyed in fee simple, condominium or equity-sharing arrangement such as a community housing land trust and limited equity cooperatives.

112. Parking and Loading Space, Off-Street: An off-street parking space shall consist of a space adequate for parking a vehicle together with properly related access to public Street or alley and maneuvering room. Required off-street parking areas for three or more vehicles shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public Street, walk, or alley, and so that any vehicle may be parked and un-parked without moving another. Off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the town. A buffer zone of 5 feet in width shall be required between the Street right-of-way, and the edge of the on-site parking areas.

113. Planned Unit Development: A Subdivision for any type or mix of residential Uses including single Family, two Family, and multi-Family dwellings and Commercial Uses if allowed by the underlying Zone District which permits the Uses to be clustered on a portion of the entire parcel on the condition that the remaining

D. Permitted Uses: Permitted Uses are those which will not require the erection or construction of any Structures or Buildings; will not alter the natural surface configuration by addition of fill or by dredging; and Uses that are otherwise permitted by the Zoning Ordinance. Such Uses include the following:

(1) Forestry-Tree farming using best management practices in order to protect Wetlands from damage and prevent sedimentation;

(2) Cultivation and harvesting of crops according to recognized soil conservation practices including the protection of the Wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;

(3) Wildlife refuges;

(4) Parks and recreation Uses consistent with the purpose and intent of this Ordinance;

(5) Conservation areas and nature trails;

(6) Open Spaces as permitted or required by the Subdivision regulations or the Zoning Ordinances;

(7) Dry hydrants or fire ponds which are constructed to permit unobstructed flow of water; and

(8) Alteration, expansion or improvement of existing Nonconforming Structures and Buildings, consistent with the provisions of Article XX of this Ordinance, and with cutting, clearing and erosion control plans approved by the Planning Board.

E. Special Exceptions: Special Exceptions may be granted by the Zoning Board of Adjustment after proper public notice and public hearing, for undertaking the following Uses in the Wetlands Conservation Overlay District when an application has been referred to the Conservation Commission, Soil Conservation Service, and New Hampshire Wetlands Board for review and comment at least 30 days prior to the hearing. The Zoning Board of Adjustment shall consider all review comments received by the date set for the hearing. The Board shall, within 30 days after the public hearing, issue a decision granting or denying approval of the application. The decision shall be in writing and state the reasons for that decision. A copy shall be given to the applicant. Special Exceptions include:

(1) Any proposed crossing of a Wetland with an access way, driveway or Street, regardless of width, and/or utility lines. In addition to the usual criteria used by the Zoning Board of Adjustment in evaluating an application for a Special Exception, the applicant must demonstrate to the Zoning Board of Adjustment that there is not a layout of the access way, driveway, Street or utility line, which conforms to New London's regulations and does not cross a Wetland, and that the proposed crossing would create the least impact on the Wetland compared with other possible Wetland crossing locations. Temporary wetland crossings for timber harvesting using best management practices in order to protect Wetlands from damage and prevent sedimentation are exempt from the requirement to obtain approval of a Special Exception. Crossings of man-made earthen structures including drainage ditches, roadside ditches, detention basins, ponds (including farm ponds, fire ponds and intake areas of dry hydrants) and wetlands that have been legally constructed to collect, convey, treat or control stormwater also exempt from the requirement to obtain approval of a Special Exception.

(2) Water impoundments.

Subdivision; or (iv) in an existing Manufactured Home park or Subdivision on which a Manufactured Home has incurred Substantial Damage as the result of a Flood, be elevated on a permanent foundation such that the Lowest Floor of the Manufactured Home is elevated to or above the Base Flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

e. For all new construction or 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 floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect 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; and openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

I. Substantial Improvement of a Nonconforming Structure located within the 50 Foot Buffer in the Shore Land Overlay District: Substantial Improvement of a Nonconforming Structure located within the 50 foot buffer in the Shore Land Overlay District is governed by the specifications in Article XVI Shore Land Overlay District, paragraph H., sub-paragraph 1.

J. Variances:

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

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

a. That the Variance will not result in increased Flood heights, additional threats to public safety or extraordinary public expense.

b. That if the requested Variance is for activity within a designated Regulatory Floodway, no increase in Flood levels during the Base Flood discharge will result.

c. That the Variance is necessary, considering the Flood hazard, to afford relief.

J. Nonconforming Buildings & Structures: Any Nonconforming Building or Structure located entirely or partly within the Waterfront Buffer of all lakes and ponds over 10 acres in size may be continued indefinitely, Altered and/or expanded provided it complies with the following applicable provisions:

1. If the Nonconforming Building or Structure is located entirely within the Waterfront Buffer, then alteration or repair of the Building or Structure is governed by the following:

   a. Alteration or repair of the Building or Structure is only permitted within the existing footprint and outside dimensions, consistent with the provisions of Article XX, Section B, 3, provided the result is a functionally equivalent use. No footprint change or vertical expansion of the existing structure shall be allowed. Any expansion that increases the sewerage load to an on-site septic system, or changes or expands the use of a septic system shall require approval by the NH Department of Environmental Services.

   b. Existing decks and porches located entirely within the Waterfront Buffer may not be covered, enclosed or expanded upward or outward beyond the footprint of the existing deck or porch.

   c. Any Substantial Improvement of an existing Nonconforming Structure located within the boundaries of the 100 Year Floodplain must comply with the requirements of Article XV Floodplain Overlay District.

   d. Improvements may include a new foundation, provided that all of the following conditions are met:

      (1) The new foundation shall be constructed from a vantage point entirely outside the Waterfront Buffer, or from within the structure itself, in a manner that does not disturb any part of the Waterfront Buffer beyond the footprint of the existing building.

      (2) No living space or basement area is added as a result of the new foundation.

      (3) No change in the footprint (drip line) of the structure (within the Waterfront Buffer) will result from the new foundation.

2. If the Nonconforming Building or Structure straddles the Waterfront Buffer, then alteration or expansion of the Building or Structure is governed by the following:

   a. Alteration or expansion of that portion of the Building or Structure located within the Waterfront Buffer is governed by the provisions outlined in section J.1., above.

   b. Alteration or expansion of that portion of the Building or Structure located beyond the first 50 feet inland from the Normal High Water level is governed by the following:

      (1) Alteration or expansion is permitted upward, and outward to the side or rear of the Structure away from the lake.

      (2) Existing, covered porches located beyond the Waterfront Buffer may be enclosed and converted to habitable space and may be expanded upward beyond the footprint of the existing porch.

(3) Existing decks located beyond the Waterfront Buffer may be expanded, covered, enclosed and/or converted to habitable space.

3. These provisions supersede the provisions outlined in Article XX Legal Nonconforming Uses, Nonconforming Buildings and Non-conforming Lots, Paragraph B. Nonconforming Buildings, Section 1. The provisions of Article XX Legal Nonconforming Uses, Nonconforming Buildings and Structures and Non-conforming Lots, Paragraph B. Nonconforming Buildings and Structures, Sub-paragraph 3. pertaining to Substantial Improvement, restoration, reconstruction and/or replacement apply to Article XVI Shore Land Overlay District.

K. Building Height: Nonconforming Structures located within the Waterfront Buffer in the Shore Land Overlay District shall not exceed 25 feet in Height above Grade.

L. Overlapping Regulations: In all cases where the Shore Land Overlay District is superimposed over another Zone District in the Town of New London, that district whose regulations are more restrictive shall apply. Furthermore, where any provision of this district differs from those of other ordinances or regulations of the Town or State, then that provision or ruling which imposes the greater restriction or higher standard shall govern.

ARTICLE XX
LEGAL NONCONFORMING USES, LEGAL NON-CONFORMING BUILDINGS AND STRUCTURES, AND LEGAL NON-CONFORMING LOTS

A. Legal Nonconforming Uses: Any Legal Nonconforming Use may be continued indefinitely subject to the following limitations:

1. Resumption after Discontinuance: When a Legal Nonconforming Use of land, Structures or Buildings has been discontinued for one year, then the land, Structures and Buildings shall be used thereafter only in conformity with this Ordinance.

2. Change or Expansion: Any Legal Nonconforming Use shall not be changed to another Nonconforming Use. Any Legal Nonconforming Use shall not be expanded.

3. Superseded by a Conforming Use: If a Legal Nonconforming Use is superseded by a conforming Use, then it shall thereafter conform to the Use regulations of this Ordinance, and the Nonconforming Use may not thereafter be resumed.

4. Restoration, Reconstruction and/or Replacement of Buildings containing a Legal Nonconforming Use: Nothing herein shall prevent the restoration, reconstruction and/or replacement within 3 years of a Building containing a Legal Nonconforming Use destroyed in whole or in part by fire or other natural disaster so long as this Use does not result in a new or expanded Nonconforming Use.

B. Legal Nonconforming Buildings and Structures: Any Legal Nonconforming Building or Structure may be continued indefinitely and may be Altered, expanded, restored, reconstructed and/or replaced subject to the following limitations:

1. Alterations and Expansions of Legal Nonconforming Buildings and Structures in the Shore Land Overlay District: Alterations and expansions of Legal Nonconforming Buildings and Structures located entirely or partly within the Shore Land Overlay District shall be governed by the provisions outlined in Paragraph H. Nonconforming Buildings and Structures in Article XVI Shore Land Overlay District.

2. Alterations and Expansions of all other Legal Nonconforming Buildings and Structures: Any Legal Nonconforming Building may be Altered or expanded provided, however, that such alteration or expansion does not make any existing Legal Nonconforming Building a more Nonconforming Building within the terms of this Ordinance and provided that all other standards of this Ordinance are met. For example, if an existing Structure does not comply with the Front Yard setback requirement, then this Structure could not be expanded to result in a Structure with less Front Yard setback unless a Variance was approved by the Zoning Board of Adjustment. However, the Structure could be expanded upward or to the side along the existing Nonconforming setback provided that the expanded Structure complies with all other standards of this Ordinance. If the expansion constitutes a Substantial Improvement, then the resulting Structure is permitted only if it complies with all of the standards of this Ordinance including the aspect that makes the existing Legal Nonconforming Building or Structure Nonconforming.

3. Substantial Improvement, Restoration, Reconstruction and/or Replacement of Legal Nonconforming Buildings or Structures:

   a. Legal Nonconforming Building or Structure destroyed by Fire or Other Natural Disaster:

Nothing herein shall prevent the restoration, reconstruction and/or replacement within 3 years of a Legal Nonconforming Building or Structure destroyed in whole or in part by fire or other natural disaster so long as the new Structure is a functionally equivalent use (with regard to number of Bedrooms and Dwelling Units), does not result in a Substantial Improvement (when compared to the original structure), and does not result in a more Nonconforming Building than was originally at the site.

b. Voluntary Replacement or Substantial Improvement of a Legal Nonconforming Building or Structure:

1. For use with ARTICLE XV Floodplain Overlay District: The Substantial Improvement or voluntary replacement of a Legal Nonconforming Building or Structure is permitted only if it complies with all of the standards of this Ordinance including the aspect that makes the existing Building or Structure Nonconforming. This section does not include Building Maintenance within the types of work that comprise Substantial Improvement.

2. For use with all remaining ARTICLES of the Zoning Ordinance: The voluntary replacement or relocation of a Legal Nonconforming Building or Structure, or Alterations to a Legal Nonconforming Building or Structure that result in a 50% increase in the square footage of useable floor area (including decks, porches, basements, garages and attics, in addition to finished floor area) of that Structure is permitted only if it complies with all of the standards of this Ordinance including the aspect that makes the existing Building or Structure Nonconforming. For the purposes of this Section, additions to the square footage of floor area of any Structure shall be cumulative beginning with first improvement following the date of the adoption of this amendment.

C. Legal Nonconforming Lots:

1. Legal Nonconforming Lots within the Shore Land Overlay District: Development of Legal Nonconforming Lots within the Shore Land Overlay District shall be governed by the provisions outlined in Paragraph J, Legal Nonconforming Lots in Article XVI Shore Land Overlay District.

2. All Other Legal Nonconforming Lots: Any other Lot with less area or Frontage than required which is lawfully established, recorded and taxed as a Lot of Record before the enactment or amendment of this Ordinance, shall be deemed a conforming Lot.

3. To insure maximum conformity with this Ordinance, any abutting land in common ownership with said Lot of Record may, with the approval of the Planning Board, be merged with said Lot.

and that no enforcement action, including written notice of the violation, has been commenced against the violation during that time by the municipality or any person directly affected.

3. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from Use restrictions. An equitable waiver granted under this section shall not be construed as a Nonconforming Use, and shall not exempt future Use, construction, reconstruction, or additions on the property from full compliance with the Ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

Variance: The Board may, on an appeal, grant a Variance from the provisions of this Ordinance, if ALL the following facts are found by the Board:

1. No diminution in value of surrounding properties would be affected;

2. Granting the permit would be of benefit to the public interest;

3. Denial of the permit would result in unnecessary hardship to the owner seeking it;

4. By granting the permit substantial justice would be done; and

5. The Use must not be contrary to the spirit of this Ordinance.

J. Action by the Board: After a public hearing, the Board may grant the application, deny the application or refer the application back to the applicant for modification.

1. An action taken by the Board to deny an application must be accompanied by a written statement as to how the application fails to fulfill the requirements and conditions specified above.

2. The Board may impose such conditions and restrictions as deemed necessary to meet the objectives of this Ordinance on any application granted under the terms of this Ordinance.

3. If denied, the Board shall issue a final written decision on an application. This decision shall be filed in the Town Office within 72 hours after the decision has been made. If the application is denied, all of the reasons for denial shall be indicated in the denial letter and the record.

4. If any application is denied, then there must be a material change of circumstances affecting the merits of the application or the application be for a Use that materially differs in nature and degree from its predecessor in order for the Board of Adjustment to hear the application.

K. Rehearings: A rehearing of a decision of the Zoning Board of Adjustment may be sought if the petitioner wishes to call to the attention of the Board any errors that it may have made so as to allow the Board to correct those errors. A rehearing must be requested within 20 days of the recording and filing of the decision in the Town Clerk's Office and its being made available for public inspection. Unless actually filed later, for purposes of rehearing requests, such decisions shall be presumed to have been filed in accord with statutory requirements at the end of the third business day following the Board meeting at which the decision was made. (See RSA. 676:3; RSA. 677:2; RSA. 677:3). Any party to the action or proceeding, or any person directly affected thereby, or the Selectmen, may apply for a rehearing. Upon the filing of a

practices as determined by the U.S. Department of Agriculture Natural Resource Conservation Service.

(3) Wildlife refuges;

(4) Parks and recreation Uses consistent with the purpose and intent of this Ordinance;

(5) Conservation areas and nature trails;

(6) Open Spaces as permitted or required by the Subdivision regulations or the Zoning Ordinances.

(7) Dry hydrants or fire ponds which are constructed to permit unobstructed flow of water.

(8) Alteration, expansion or improvement of existing Nonconforming Structures and Buildings, consistent with the provisions of Article XX of this Ordinance, and with cutting, clearing and erosion control plans approved by the Planning Board.

3. Uses Permitted by Special Exception: The following Uses may be permitted by Special Exception by the Zoning Board of Adjustment:

(1) Any crossing of a Stream with an access way, driveway or Street, regardless of width, and/or utility lines. In addition to the usual criteria used by the Zoning Board of Adjustment in evaluating an application for a Special Exception, the applicant must demonstrate to the Zoning Board of Adjustment that there is not a layout of the access way, driveway, Street or utility line which conforms to the Town of New London's regulations, which does not cross a Wetland, and that the proposed crossing would create the least impact on the Wetland compared with other possible Wetland crossing locations.

(2) Proposals to alter or relocate a watercourse shall comply with the following:

a. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Department of Environmental Services and submit copies of such notification to the Zoning Board of Adjustment, in addition to the copies required by the RSA 483-A:1-b. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Zoning Board of Adjustment, including notice of all scheduled hearings before the Wetlands Board and the Zoning Board of Adjustment.

b. The applicant shall submit to the Zoning Board of Adjustment certification provided by a registered professional engineer assuring that the Flood carrying capacity of an altered or relocated watercourse can and will be maintained.

c. The Zoning Board of Adjustment 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 Zones A and AE meet the following Floodway requirement:

"No encroachments, including fill, new construction, Substantial Improvements, and other Development are allowed within the Floodway that would result in any increase in Flood levels within the community during the Base Flood discharge."

For purposes of determining whether the installation of a Tower or antenna complies with district Development regulations, including but not limited to set-back requirements, Lot-coverage requirements, and other such requirements, the dimensions of the entire Lot shall control, even though the antennas or Towers may be located on leased parcels within such Lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance, shall not be deemed to constitute the expansion of a Nonconforming Use or Structure. Such facilities shall not be deemed to be an Accessory Use.

2) Amateur Radio; Receive-Only Antennas: This Ordinance shall not govern any Tower, or the installation of any antenna that is under 70 feet in Height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.

3) Essential Services & Public Utilities: Telecommunications Facilities shall not be considered infrastructure, Essential Services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for Telecommunications Facilities is a Use of land, and is addressed by this Article.

D. Locational, Height and Siting Requirements:

1) Zone Districts: Telecommunications Facilities shall be permitted in all Zone Districts.

2) Yard Requirements: equipment, Buildings, guide wires and other Structures shall conform to the minimum front, side and rear setbacks for the Zone Districts in which they are to be located. Towers must be set back a distance equal to 125% of the Height of the Tower from all property lines.

3) Height Standard: Subject to any stricter standards as set forth below, a Telecommunications Facility shall not exceed one hundred fifty (150) feet in Height.

a. Telecommunications Facilities in Wood Areas: In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for a Telecommunications Facility, shall not exceed twenty (20) feet above the Average Tree Height of the five (5) tallest trees within one hundred fifty (150) feet above the facility. Notwithstanding the twenty (20) foot limitation described above, an additional height may be approved upon a finding by the Planning Board as part of their review, that the additional height is necessary in order to provide adequate coverage to create an appropriate Fresnel Zone or to provide for co-location, and that the additional height will not have adverse visual impact on the scenic character or appearance of the area. A Telecommunications Facility shall only be the minimum height necessary to achieve the coverage required.

An alternative tower structure or other camouflaging device shall be used that effectively conceals the presence of the tower and antennae. Appropriate camouflaging for wooded areas include: ranger or forest fire water towers of a size typically found in the State of New Hampshire, Monopole Towers effectively disguised as trees, or other structures acceptable to the Planning Board.

b. Telecommunications Facilities in Fields or Agricultural Areas. A Telecommunications Facility located in a field or other open area without a tree canopy shall be adequately camouflaged. Appropriate camouflaging for fields or open areas includes agricultural silos, windmills, or other structures acceptable to the Planning Board and of a size typically found in the State of New Hampshire.