

## ARTICLE VII (Shore Land Overlay District)

### 7.0 Purpose:

All lakes are essentially fragile. In order to protect Newbury lakes, actual use of lake side lots is limited through the establishment of the Shore Land Overlay District.

### 7.1 Overlay District Regulations:

The special regulations of this overlay district are in addition to the regulations of either the Business or the Residential District.

### 7.2 Shoreland District:

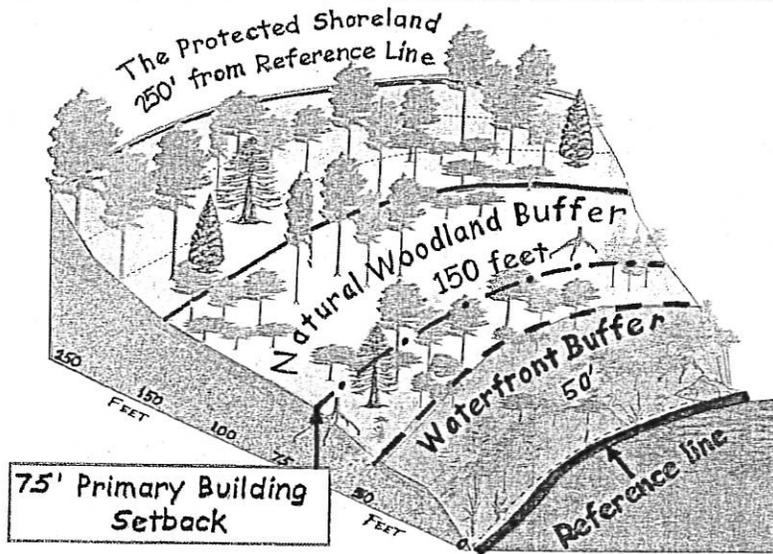
The Shore Land Overlay District extends two hundred-fifty (250) feet inland:

7.2.1 from the reference line (Refer to **ARTICLE II (Definitions)**) on the following lakes and ponds: Lake Sunapee, Lake Todd, Lake Solitude, Doctors Colony Pond, Chalk Pond, Gillingham (Otter) Pond, Loch Lyndon and Mountain View Lake.

7.2.2 from the shoreline of the following permanent Newbury streams: Andrew Brook, Bartlett Brook, Beal's Brook, Beck Brook, Blodgett Brook, Blodgett Brook South, Blood Brook, Mountain Brook, Chandler Brook, Cunningham Brook, Gillingham Brook, Gunnison Brook, Johnson Brook, Morse's Brook, Newbury Harbor Brook, Pike Brook, Reservoir Brook, Ring Brook, Shaw Brook, West Branch North, West Branch South, Roaring Brook (the northerly stream entering Chalk Pond on its southwest shore), and Bly Brook ( the southerly stream entering Chalk Pond on its southwest shore). Ponds in the water courses of these streams are, for the purposes of this ordinance, part of the streams and subject to the same regulation. The locations of these permanent streams are shown on the "Newbury Ponds and Permanent Streams Map" on file in the Newbury Town Office. This map shall be used as the official map to determine the geographic boundaries of permanent streams included in this Shore Land Overlay District.

Please refer to the Graphic on the following page showing the protected shoreland with setbacks and areas of restricted use.

Graphic showing the Protected Shoreland with setbacks and areas of restricted use.



**7.3 Site Requirements:**

7.3.1 Lake/Pond Shore Frontage Requirement: Every new lot shall have lake/pond shore frontage of not less than two hundred (200) feet per dwelling.

7.3.2 Setback from a lake or a permanent stream: Permanent, temporary or portable buildings and structures and septic systems shall be setback a minimum of seventy-five (75) feet from reference line of lakes and from the shoreline of streams except as provided herein. Building setbacks shall be measured with respect to the building footprint or attached structure. The Board of Selectmen, or its designee, may require greater than a seventy-five (75) foot setback for a building and septic system according to the suitability of the shore land.



7.3.2.1 Stairways and walkways with a maximum width of four (4) feet are permitted within the seventy-five foot (75') setback provided adequate soil erosion control measures are implemented as outlined in Section 7.9

7.3.2.2 The Lake setbacks within the Blodgett Landing Cottage District shall be no closer to the lake than the average existing setbacks of the contiguous building on either side of the proposed structure.

**7.4 Zoning Compliance for Alteration – Wastewater Disposal:**

Any alteration of any dwelling or other structure within the Shore Land Overlay District shall require zoning compliance. Before zoning compliance may be issued, the applicant shall supply a certificate of inspection from a qualified sanitary system professional certifying that the existing septic system is adequate for the proposed use and that the system meets the current rules of the New Hampshire Water Supply and Pollution Control Division of the Department of Environmental Services. In the Blodgett Landing Cottage District, the applicant must supply a letter from the Board of Selectmen stating that the waste water system has the capacity to handle the additional waste water flow.

**7.5 Alteration and Reconstruction of Non-conforming Buildings:**

Alteration and reconstruction of an existing non-conforming building situated all or in part within the seventy-five (75) foot setback shall be governed by **ARTICLE XV**.

7.5.1 The addition of decks to existing dwelling units between the buffer zone and the setback are permitted conditioned on: maintaining a minimum setback of fifty feet (50'), a maximum deck width of twelve feet (12'), maintaining an open deck, utilizing simple foundations such as pier or piling foundations to minimize land disturbance, and implementing adequate soil erosion control measures as outlined in Section 7.9.

**7.6 Waterfront Buffer:**

7.6.1 The waterfront buffer (Refer to **ARTICLE II (Definitions)**) shall be those protected shorelands (Refer to **ARTICLE II (Definitions)**) within 50 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters (Refer to **ARTICLE II (Definitions)**) while allowing homeowner discretion with regard to water access, safety, viewscape maintenance, and lot design. The preservation of

natural vegetation on the shore land is important for the ecological balance of Newbury lakes and ponds, for the protection of water quality, for the preservation of the aesthetic quality of the shore land and for erosion control.

7.6.2 Within the waterfront buffer all of the following prohibitions and limitations shall apply:

7.6.2.1 No chemicals shall be applied, including pesticides or herbicides of any kind except as allowed under special permit issued by the division of pesticide control of the New Hampshire Department of Environmental Services under rules adopted by the pesticide control board under RSA 541-A Administrative Procedure Act, or fertilizers of any kind except those specified in RSA 483-B:9, II(d) Minimum Shoreland Protection Standards.

7.6.2.2 Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the Board of Selectmen.

7.6.2.3 No Natural Ground Cover (Refer to **ARTICLE II (Definitions)**) shall be removed except as necessary for a 4-foot wide foot path to water as provided under 7.6.3.3, cutting those portions that have grown over 3 feet in height down to 3' and maintaining a minimum height of 3' for the purpose of providing a view, or as specifically approved by the Board of Selectmen, or its designee,, pursuant to RSA 482-A Fill & Dredge in Wetlands or 483-B: 11, II Minimum Shoreland Protection Standards

7.6.2.4 Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into 50 by 50 foot segments. Within each segment a minimum combined tree (Refer to **ARTICLE II (Definitions)**) and sapling (Refer to **ARTICLE II (Definitions)**) score of at least 50 points shall be maintained. If for any reason there is insufficient area for a full segment, the number of points required to be maintained in that partial segment shall be proportional to that required of a full segment.

7.6.2.4.1 Tree and sapling diameters shall be measured at 4 1/2 feet above the ground and are scored as follows:

<u>Diameter</u>	<u>Score:</u>
1 inch to 6 inches	1 point
Greater than 6 inches and less than 12 inches	5 points
Greater than 12 inches	10 points

7.6.2.4.2 Dead, diseased, or unsafe Trees or saplings shall **not** be included in scoring.

- 7.6.2.4.3 If the total Tree and sapling score in any 50 foot by 50 foot segment exceeds 50 points, then Trees and saplings 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 50 points. Trees and saplings may be removed from partial segments provided that the sum of the scores for the remaining Trees and saplings in that partial segment is equal to or greater than the proportional point requirement.
- 7.6.2.4.4 The Board of Selectmen, or its designee, may approve applications pursuant to RSA 482-A Fill & Dredge in Wetlands that include the planting of native trees and saplings as necessary to at least maintain either the existing combined tree and sapling score or the minimum score required. The Board of Selectmen, or its designee, shall not approve any application that would result in a combined tree and sapling score less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the combined tree and sapling score where the segment does not initially meet the minimum score.
- 7.6.2.4.5 Dead, diseased, or unsafe trees, limbs, saplings, or shrubs (Refer to **ARTICLE II (Definitions)**) that pose any imminent hazard to structures or have potential to cause personal injury may be removed regardless of any requirements that pertain to the waterfront buffer under this article. Such exemption shall not be used to contravene the intent of this law. Owners of lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns and beaches, within the waterfront buffer. Existing grass lawns and open areas with either bare ground or weed cover within the fifty (50) foot wide waterfront buffer are encouraged to be converted and replanted with a natural vegetative cover consisting of indigenous species of natural ground cover, shrubs and trees. Conversion to or planting of cleared areas with native species of natural ground cover, shrubs, saplings, and trees is encouraged but

shall not be required unless it is necessary to meet the requirements of 7.11.2.

7.6.2.4.6 A healthy, well-distributed stand of trees, saplings, shrubs and natural ground covers and their living undamaged root systems shall be left in place.

7.6.2.5 Mechanical harvesting and stump removal in the buffer zone is prohibited.

7.6.2.6 Existing stone walls located within the buffer zone shall be retained and not removed.

7.6.2.7 As required by Section 7.9., an erosion and sediment control plan is required for any land disturbance activity within two hundred-fifty (250) feet of a lake or stream.

7.6.2.8 Changes to the natural shoreline shall not be permitted.

7.6.3 Permitted in Waterfront Buffer: Within the Waterfront Buffer the following are permitted:

7.6.3.1 Normal trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views are permitted. Trimming, pruning, and thinning of branches for the purpose of providing views shall be limited to the bottom 1/2 of the trees or saplings.

7.6.3.2 When necessary for the completion of construction activities permitted in accordance with RSA 483-B: 6, Minimum Shoreland Protection Standards a temporary 12 foot wide access path shall be allowed. The access path shall be completely restored and replanted with native vegetation upon completion of construction.

7.6.3.3 A permanent 4-foot wide foot path to the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, is allowed.

7.6.4 Waterfront Buffer Changes: Other construction in the buffer zone is permitted when necessary for maintenance or repair, the installation of water wells, health, erosion control, or safety. Such construction shall require approval of a Special Exception by the Zoning Board of Adjustment. Work for which a permit has been issued by NHDES Wetlands Bureau is permitted without approval of a Special Exception. Land disturbance unrelated to construction shall require approval by the Board of Selectmen of erosion control plans as specified in Section 7.9.

7.6.5 Emergency Replacement of Septic System: The Board of Selectmen may permit emergency replacement of a failed septic system which is located within the waterfront buffer provided the property owner demonstrates to the satisfaction of the Board of Selectmen that a replacement system (Refer to **ARTICLE II (Definitions)**) can not be

located elsewhere on the lot outside the waterfront buffer and further that the replacement system has been located the maximum feasible distance from the shoreline.

**7.7 Natural Woodland Buffer:**

7.7.1 A natural woodland buffer (Refer to **ARTICLE II (Definitions)**) shall be maintained within 150 feet of the reference line. The first 50 feet of this buffer is designated the waterfront buffer and is subject to the additional requirements of subparagraph 7.6. The purpose of the natural woodland buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.

7.7.2 Within the natural woodland buffer of a given lot:

7.7.2.1 Minimum Area in Unaltered State

7.7.2.1.1 For lots with one-half acre or less of land within the natural woodland buffer, the vegetation within at least 25 percent of the area outside the waterfront buffer shall be maintained in an unaltered state (Refer to **ARTICLE II (Definitions)**). Owners of lots legally developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an unaltered state. The percentage of area maintained in an unaltered state on nonconforming lots shall not be decreased.

7.7.2.1.2 For lots with greater than one-half acre of land within the natural woodland buffer, the vegetation within at least 50 percent of the area outside the waterfront buffer, exclusive of impervious surfaces (Refer to **ARTICLE II (Definitions)**), shall be maintained in an unaltered state. Owners of lots legally developed prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of area maintained in an unaltered state. The percentage of area maintained in an unaltered state on nonconforming lots shall not be decreased. Owners of lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited

to existing lawns within the natural woodland buffer.

- 7.7.2.2 Dead, diseased, or unsafe, trees, limbs, saplings, or shrubs that pose an imminent hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to the natural woodland buffer under this article. Such exemptions shall not be used to contravene the intent of the law.
- 7.7.2.3 Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.
- 7.7.2.4 Native species planting efforts that are beneficial to wildlife are encouraged.

## **7.8 Shore Land Rights:**

7.8.1 Access Rights: Lots within the Shore Land Overlay District shall not be used as common areas for waterfront access or for the purpose of granting deeded rights of access to residents of multiple units and/or non-waterfront properties, regardless of the location of such properties, except as provided herein and subject to Board of Selectmen, or its designee, approval. For the purpose of this section, the term "common area" shall mean an area used by a group of three or more unrelated persons or by an association, club or organization consisting of three or more members.

7.8.2 Creation of Access Rights: Rights to gain waterfront access to a water body by or through a shore land lot shall be gained only in accordance with Article 7.8.3 to follow, or the standards set forth in Article 7.8.4 Common Area, below, subject to Planning Board approval of a site plan or as part of a subdivision.

7.8.3 Pedestrian Access Easements: The owner of a shore land lot may grant a recorded pedestrian access easement to an individual or a family to gain pedestrian access through the shore land lot to a body of water.

7.8.4 Common Areas: Lots within the Shore Land Overlay District used as common waterfront areas or for the purpose of waterfront access shall:

7.8.4.1 contain a minimum of two (2) acres.

7.8.4.2 have a minimum of two hundred (200) feet of shore frontage for the first dwelling unit or member having a right of use, and an additional thirty (30) feet of shore frontage for each additional dwelling unit or member.

7.8.4.3 contain no building other than toilet and changing facilities.

7.8.4.4 separate boating areas from swimming areas by natural or made dividers and mark the separation.

7.8.4.5 provide parking areas of three hundred (300) square feet per dwelling unit for each dwelling unit located more than 1/4 mile from the shore land common area. Parking areas shall be setback a minimum of seventy-five (75) feet from reference line. The Planning Board may require greater than a seventy-five foot

setback from reference line for parking areas according to the suitability of the shore land. The parking area shall be screened from the lake or pond.

7.8.4.6 provide toilet facilities approved by the New Hampshire Water Supply and Pollution Control Division of the Department of Environmental Services.

7.8.5 Commercial Use of Common Area: Any use of a common area or area of access for business or commercial purposes shall be subject to a special exception as set forth in **ARTICLE XVI**.

## **7.9 Erosion Control:**

7.9.1 Plans for Temporary Control: Erosion and sedimentation control plans shall be required for all construction, filling, grading, dredging, and other activities requiring land disturbance, including well drilling, within two hundred-fifty (250) feet of reference line of Newbury lakes and the shores of permanent streams.

7.9.2 Plans for Permanent Control: Erosion and sedimentation control plans shall be required for controlling runoff after construction or activities requiring land disturbance within three hundred (300) feet of reference line of Newbury lakes and the shores of permanent streams. Best management practices shall be used to control runoff from impervious surfaces and other areas such that runoff water from a ten-year storm event will not directly enter the protected water body.

7.9.3 Plan Description and Process: The requirements above are in addition the general requirements of **ARTICLE XXI (Stormwater Management)**.

## **7.10 Septic Systems for Subdivisions:**

The subdivision of a parcel of land shall be subject to subdivision approval by the department of environmental services under RSA 485-A: 29 Sewage Disposal System. Submission and Approval of plans & specifications if any portion of the land to be subdivided is within the protected shoreland.

## **7.11 Impervious Surfaces:**

7.11.1 Subject to subparagraph 7.11.2, Protected Shoreland, no more than 30 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces.

7.11.2 If the impervious surface area will exceed 20 percent, a stormwater management system shall be implemented and maintained which is designed to infiltrate increased stormwater from development occurring after the effective date of this paragraph in accordance with rules established by the Department of Environmental Services under RSA 485-A: 17 Terrain Alteration. In addition, if the natural tree and sapling cover in the

waterfront buffer does not meet the 50-point minimum score of RSA 483-B:9, V(a)(2)(D) Minimum Shoreland Protection Standards in any segment, then such segment shall be planted, as determined by rule of the Department of Environmental Services, with native trees, saplings, or natural ground cover 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) Minimum Shoreland Protection Standards.

7.11.3 Property owners and developers are encouraged to seek creative solutions that utilize low impact development techniques.

**7.12 Certificate of Zoning Compliance:**

7.12.1 No person shall commence development, construction, excavation, or filling activities within the protected shoreland without obtaining a Certificate of Zoning Compliance from the Board of Selectmen, or its designee, to ensure compliance with this article.

7.12.2 Timber harvesting operations shall obtain a permit in accordance with RSA 485-A: 17, IV Terrain Alteration and therefore shall be exempt from the Certificate of Zoning Compliance.

7.12.3 The fee for a Certificate of Zoning Compliance as required in 7.12.1 above shall be established by the Board of Selectmen.

**ARTICLE VIII (Wetlands Conservation Overlay District)**

**8.0 Purpose and Intent:**

The purpose of this article is to protect the public health, safety, and general welfare by controlling and guiding the use of land areas which are wetlands as defined in **Article II**. It is the intent that this article shall:

8.0.1 Restrict the development of structures and land uses on naturally occurring wetlands, which will contribute to pollution of surface and ground water by sewage, toxic substances, or sedimentation.

8.0.2 Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection, provide filtration of water flowing into ponds and streams, or augment stream flows that are connected to the ground or surface water supply during dry periods.

8.0.3 Protect unique and unusual natural wetland areas.

8.0.4 Protect wildlife habitats, maintain ecological balance and enhance ecological values such as those cited in RSA 482-A:1.

8.0.5 Prevent unnecessary or excessive expense to the Town for the purpose of clean up or mitigating conditions and maintaining essential services which might be required as a result of misuse or abuse of wetlands.

8.0.6 Encourage those low-intensity uses that can be harmoniously, appropriately, and safely located in the district.

8.0.7 Preserve and enhance those aesthetic values associated with the wetlands of the Town.

8.0.8 Prevent damage to structures and properties caused by inappropriate development in wetlands.

**8.1 Overlay District Regulations:**

The special regulations of this overlay district are in addition to the regulations of the underlying district and any coincident overlay district.

**8.2 Wetlands Conservation Overlay District Boundaries:**

The boundaries of the Wetlands Conservation Overlay District shall include all areas in Newbury that meet the definition of Wetland and Wetland Buffer as defined in ARTICLE II including bogs smaller than ten thousand (10,000) square feet. The following are not subject to the provisions of the Wetlands Conservation Overlay District:

8.2.1 Wetlands smaller than ten thousand (10,000) square feet except for bogs of any size; and

8.2.2 Ponds and streams of the Shore Land Overlay District and the seventy five foot setback therefrom.

**8.3 Wetland Buffer:**

The seventy five foot buffer around each wetland has been put in place to protect the wetland from siltation and pollution. The buffer shall be maintained in its natural vegetative state. Earth disturbance, except as permitted below, and chemicals of any sort are not permitted in the buffer.

**8.4 Uses Permitted in a Wetland:**

Permitted uses are those that will not require the erection or construction of any structure 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:

8.4.1 Parks and outdoor recreation uses consistent with the purpose and intent of this ordinance;

8.4.2 Wildlife refuges; and

8.4.3 Conservation and open space areas, and nature trails; and

8.4.4 Uses for which a permit has been issued by NHDES Wetlands Bureau.

**8.5 Use Permitted by Special Exception:**

A Special Exception in the Wetlands Conservation Overlay District may be granted by the Zoning Board of Adjustment for the use outlined below. An applicant will give a copy of the Special Exception application to the Newbury Conservation Commission for

review and comment a minimum of fourteen (14) days in advance of a public hearing by the Zoning Board of Adjustment. The following use may be permitted by Special Exception:

8.5.1 Modification or Relocation of a Watercourse

8.5.1.1 In riverine situations, prior to the modification 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 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.

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

**8.6 Uses Permitted in a Wetland Buffer:**

Literal enforcement of use restrictions within the wetland buffer may interfere with reasonable use of the property. In such cases the Planning Board may allow a use by issuing a conditional use permit.

8.6.1 Authority to Issue Conditional Use Permits: The Planning Board shall have the sole authority to issue conditional use permits pursuant to RSA 674:21. In addition the Planning Board shall have the authority to adopt regulations to implement the provisions of this section.

8.6.2 Uses Which May be Considered: Road, driveway, ditch, culvert, well, utility crossing, or such other use deemed by the Planning Board to have minimal impact on the wetland and wetland buffer.

8.6.3 Permit Required: A conditional use permit from the Planning Board is required for any development (See Article II) in the wetland buffer.

8.6.4 Priority: A conditional use permit for impacting the wetland buffer shall be obtained from the Planning Board before applying to the DES Wetlands Bureau for a wetlands permit if a permit is required for development in the associated wetland.

8.6.5 Standards: Prior to issuing a permit, the Planning Board shall be convinced that:

8.6.5.1 the use cannot be implemented outside the wetland buffer,

8.6.5.2 the location in the wetland buffer will cause the least impact, and

8.6.5.3 the method of implementation will minimize the impact to the wetland buffer.

8.6.6 Administration: The procedure for considering conditional use permits shall be as follows:

8.6.6.1 Application for a conditional use permit shall be made on a form provided by the Planning Board.

8.6.6.2 A notice shall be sent by certified mail to each abutter not less than ten days before the scheduled hearing.

8.6.6.3 Permit applications considered during subdivision or site plan review hearings shall be noticed concurrently with the subdivision or site plan review notices.

8.6.6.4 The Planning Board may request review and comment from the Conservation Commission.

8.6.6.5 The Planning Board may attach conditions to the permit as to location and method of implementation.

**8.7 Effect on Lot Size/Density Calculation:**

If part of a lot lies within a wetland, 0% of that wetland shall be counted in the calculation of effective lot size or density. Wetland buffers shall count 100% toward the calculation of effective lot size or density. Effective lot size shall be calculated by deducting 100% of the area in wetlands to result in the developable area for the parcel, presuming that there are no other site constraints such as flood plains, steep slopes, aquifers and deer wintering areas. The resulting area must follow the Lot Size/Density requirements of ARTICLE IV or ARTICLE V depending on the District in which it falls.

For example, the effective lot size is calculated as follows for a 5.5 acre parcel containing 2.5 acres of wetland, 1 acre in the setback from wetlands and 2 acres not in wetland:

*	0% of the area in wetland ( 0% of 2.5 ac.)	=	0 acres
*	100% of the area in the setback (100% of 1 ac.)	=	1 acre
*	Area not in wetlands or setbacks from the wetlands	=	<u>+ 2 acre</u>
*	Effective Lot Size or developable area	=	3 acres

**ARTICLE IX (Steep Slopes Conservation Overlay District)**

**9.0 Purpose:**

The purpose of the Steep Slopes Conservation Overlay District is to limit the intensity of development on steep slopes in order to manage the intensity of use which can be harmoniously, appropriately and safely located on steep slopes; protect surface waters from sedimentation, turbidity, runoff of storm water and effluent from sewage disposal systems; and maintain ecological balance.

**9.1 Overlay District Regulations:**

The special regulations of this overlay district are in addition to the regulations of the underlying zoning District.

**9.2 Steep Slope Overlay District Boundaries:**

The Steep Slopes Conservation Overlay District comprises all areas with a steep slope. See definition of Steep Slope in **ARTICLE II**.

**9.3 Development on Steep Slopes:**

Development is not permitted on steep slopes except as provided in **Article XI (Mt. Sunapee Recreation District)**.

**9.4 Effect on Lot Size/Density Calculation:**

If part of a lot lies within the Steep Slopes Conservation Overlay District, zero percent (0%) of such part shall be counted in the calculation of effective lot size. Effective lot size shall be calculated as follows: determine the area on steep slope and determine the area not on steep slope. The area not on steep slope is the effective lot size or developable area. The result must meet the Lot Size/Density requirements of the underlying district zone in which it is located.

For example, the effective lot size is calculated as follows for a 4 acre parcel containing 2 acres of steep slope and 2 acres not in steep slope:

*	0% of the area in steep slope (0% of 2 ac.)	= 0 acres
*	Area not in steep slope	= <u>+2 acres</u>
*	Effective Lot Size	= 2 acres

**9.5 Clear-cutting:**

Clear-cutting as defined in this ordinance within the Steep Slopes Conservation Overlay District is prohibited except as provided in **Article XI (Mt. Sunapee Recreation District)** and with the following exception: Clear-cutting is permitted as a forestry practice to correct a serious disease, insect damage, or blowdown condition provided that the need for such action is certified by a licensed, professional forester and provided that it is carried out in accordance with an approved forest management plan and supervised by a licensed, professional forester. The forest management plan shall specify the logging techniques to be used, erosion control measures to be used, and shall require appropriate reforestation. The forest management plan must be approved by the Selectmen after review and comment by the Conservation Commission prior to the commencement of any clear-cutting.

**ARTICLE X (Flood Plain Overlay District)**

**10.0 Flood Plain Overlay District Boundaries:**

The following regulations shall apply only to lands designated as flood hazard areas (Zones A and AE) by the Federal Emergency Management Agency on its Flood Insurance Rate Map for the Town of Newbury, dated April 2, 1986, which is declared to be a part of this Ordinance.

**TOWN OF SUNAPEE  
ZONING ORDINANCE**

**ARTICLE I: ENACTMENT**

**1.10 TITLE.**

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

**1.20 PURPOSE.**

The purpose of the ordinance is to promote the health, safety and general welfare of the community by encouraging the most appropriate use of land (RSA 674:16,17), thereby protecting our natural resources and preserving the vitality, atmosphere and varied economic forces of our town. Zoning is a legislative tool that enables local government to meet more effectively the demands of an evolving and growing community, thus providing a workable framework for the fair and reasonable treatment of individuals.

**1.30 VALIDITY.**

**1.31 Adoption.** Pursuant to the authority vested in towns by Chapters 672-676, New Hampshire Revised Statutes Annotated, 1983, the following ordinance is hereby enacted by the voters of the Town of Sunapee, New Hampshire in official Town Meeting convened March 10, 1987.

**1.32 Saving Clause.** Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.

**1.33 Legal Nonconformity.** This ordinance shall not apply to existing structures nor to structures under construction at the time of passage of this ordinance. Existing uses shall not be affected by this ordinance. Future changes to the structure(s) or usage changes shall be consistent with this ordinance.

**1.34 Interpretation of Ordinance.** Where a provision of this ordinance differs from that prescribed by any other applicable statute, ordinance, or regulation, that provision which imposes the greater restriction or the higher standard shall govern.

**1.40 AMENDMENT**

**1.41 Procedure for Amendment.** The provision of this ordinance may be amended with the procedure provided by Chapter 675, New Hampshire Revised Statutes Annotated, 1983.

**1.42 Filing of Zoning Ordinance Amendments.** All Zoning Ordinance amendments shall be placed on file with the Town Clerk for public inspection.

**Section 3.20 – Table of Dimensional Controls – Districts Overlaid (Amended 3/12/2013)**

<b>Requirement</b>	<b>Village Comm.</b>	<b>Village Residential</b>	<b>Mixed Use I</b>	<b>Mixed Use II</b>	<b>Residential</b>	<b>Rural Residential</b>	<b>Rural Lands</b>
<b>Minimum Lot Size:</b>							
<b>1) Shoreline</b>	<b>1.0 Acres</b>	<b>1.0 Acres</b>	<b>1.0 Acres</b>	<b>N/A</b>	<b>1.0 Acres</b>	<b>1.5 Acres</b>	<b>1.5 Acres</b>
<b>2) Aquifer</b>	<b>2.0 Acres</b>	<b>2.0 Acres</b>	<b>2.0 Acres</b>	<b>2.0 Acres</b>	<b>2.0 Acres</b>	<b>2.0 Acres</b>	<b>2.0 Acres</b>
<b>3) Wetlands</b>	<b>1.5 Acres</b>	<b>1.5 Acres</b>	<b>1.5 Acres</b>	<b>1.5 Acres</b>	<b>1.5 Acres</b>	<b>1.5 Acres</b>	<b>1.5 Acres</b>
<b>Maximum Lot Coverage:</b>							
<b>1) Shoreline Impermeable</b>	<b>60%</b>	<b>30%</b>	<b>N/A</b>	<b>N/A</b>	<b>30%</b>	<b>25%</b>	<b>20%</b>
<b>Permeable &amp; Impermeable combined</b>	<b>80%</b>	<b>60%</b>	<b>N/A</b>	<b>N/A</b>	<b>50%</b>	<b>40%</b>	<b>30%</b>
<b>2) Aquifer</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>
<b>3) Wetlands</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>

a bond or other security to assure conformance with approved plans. The security shall not be released until the Board of Selectmen has certified completion of the required improvements in accordance with the plan. The Board of Selectmen may request that the Conservation Commission review the plan and make recommendations.

**(III)** Erosion and sedimentation control plans shall describe the nature and purpose of the land disturbing activity, topography, vegetation, and drainage. Erosion and sedimentation control plans shall be developed in conformity with guidelines of the U.S.D.A. Soil Conservation Service and with guidelines of the N.H. Water Supply and Pollution Control Division of the Department of Environmental Services under RSA 149:8-A. Erosion control measures shall be installed before construction and grading if possible.

**(b) Cutting and Removal of Natural Vegetation within the Natural Woodland Buffer:** The preservation of natural vegetation on the shore land is important for the protection of the water quality of lakes and ponds, and the control of erosion. Dead and living trees that provide dens and nesting places for wildlife are encouraged to be preserved and planting efforts that are beneficial to wildlife are also encouraged. The Natural Woodland Buffer shall be defined as the area within 150' of Normal High-water.

**(I)** A cutting and clearing plan shall be subject to the approval of the Planning Board for the following:

**(1)** Cutting within the Natural Woodland Buffer of more than five (5) trees having a diameter of six (6) inches or more at a point 4.5 feet above the existing ground in any calendar year;

**(2)** Removal of large areas of vegetation (over one thousand [1000] square feet) within the Natural Woodland Buffer in any calendar year. **(Amended 3/12/1996)**

The Board of Selectmen or their Agent shall review and approve the cutting of all trees having a diameter of six (6) inches or more which are not included above. **(Amended 3/12/1996)**

In addition, on ponds, lakes or rivers, any cutting, or removal of natural vegetation must be by permit from DES. **(Amended 3/10/2009)**

**(II) (Repealed 3/12/1996)**

**(III)** Where natural vegetation is removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

**(IV)** Normal trimming, pruning, and thinning (cutting and clearing not included in (i) above) to enhance growth, to minimize the entry of vegetative debris into lakes and ponds, or to prevent the overgrowth of natural beaches is permitted as is felling and replacement of decaying trees and shrubs

(V) Not more than a maximum of 50% of the basal area of trees and a maximum of 50% of the total number of saplings shall be removed for any purpose in a 20-year period. Replacement planting with native or naturalized species may be permitted to maintain the 50% level. Trees, saplings, shrubs, and ground covers which are removed for structures, driveways, or parking areas shall be excluded when computing percentage limitations, but such exclusion shall be limited up to an area of 7500 square feet. **(Amended 3/12/1996)**

(VI) Stumps and their root systems which are located within 50' of normal high-water shall be left intact in the ground, unless removal is specifically approved by the Wetlands Board pursuant to RSA 482-A. **(Adopted 3/12/1996)**

(VII) A Well-Distributed Stand of Vegetative Matter shall be maintained in the Natural Woodland Buffer except for those areas within 20' of existing or proposed structures, driveways, or parking areas. The exception does not apply to minor structures. This exception also does not apply to the area within 50' of a lake, pond, or fourth order stream where cutting shall be limited to 10' around a proposed structure. **(Amended 3/09/2010) (Amended 3/11/2014)**

(9) The following permits are required by the State of New Hampshire Department of Environmental Services for properties within the Shoreline Overlay District:

- (a) Permit for any new septic system, replacement septic system, or increase in the sewerage load on an existing septic system;
- (b) Permit for the subdivision of any lot, regardless of lot size, if such lot is dependent on an on-site subsurface sewage disposal system;
- (c) Permit for the alteration of terrain exceeding 50,000 square feet;
- (d) Permit or waivers as required under RSA 483-B-1. **(Amended 3/10/09)**

Any local approvals for projects within the Shoreline Overlay District shall be contingent upon the receipt of all applicable State approvals. **[Amended 3/12/1996]**

#### **4.40 PERSONAL WIRELESS SERVICE FACILITIES (Adopted 3/13/2001)**

(A) Purpose and Intent. It is the express purpose of this Section to:

- (1) permit carriers to locate personal wireless service facilities in Sunapee, in compliance with the Telecommunications Act of 1996;
- (2) enable wireless services to become available to the citizens of Sunapee;
- (3) ensure that personal wireless service facilities are consistent with the town's land use policies and goals; and
- (4) ensure that personal wireless service facilities are compatible with the rural setting and character of Sunapee, including its aesthetics and visual features.

Compatibility is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility. In particular, Sunapee wishes to preserve its many scenic views, its historic structures and areas, and its rural character. All four of the above stated

zoning districts.

**(5) Lot Size and Frontage Requirements** – The Planning Board shall determine the minimum lot size based on factors such as character of the land, type of housing proposed, and adequacy of sewage disposal. In no case shall a cluster lot have less than 15,000 square feet of area or less than 75’ of road frontage.

**(6) Buffer Strip** – A buffer strip of 50’ shall be maintained between any structure and the perimeter boundary of the overall tract (this includes the Right-of-Way line of any road). This strip shall consist of existing, natural vegetation wherever feasible. The Planning Board shall have the discretion to determine the size and type of any re-vegetation required.

**(7) Setbacks** – No building may be located within 20’ of the edge of any road or 10’ from the edge of any right-of-way within the development or 10’ from any side or rear property line of a cluster lot unless such property line is part of the buffer strip as defined above. **[Amended 3/14/2006]** For Cluster Developments created after the passage of this provision, there shall be no side or rear yard setbacks unless such is part of the buffer strip defined above.

**(8) Building Separations** – No building shall be located closer than 20’ to any other building in the Cluster Development. The Planning Board may require greater separations after consultation with the Fire Department regarding adequacy of fire protection at the site.

**(9) Lot Coverage** – Lot coverage calculations shall be based on the entirety of the Cluster Development. The allowable lot coverage for the Cluster Development shall not exceed the limits prescribed in the underlying zoning district.

**(10) Open Space Requirements**

**(a)** The total area of the open space shall equal at least half of the total gross land area of the Cluster Development. Open space shall be considered areas exclusive of any lot, any road or utility right-of-way, parking areas and any amenity to the development (i.e. swimming pools, tennis courts, garages, barns, storage, etc...)

**(b)** There shall be a continuity of open space throughout the development. Where necessary this continuity may be maintained using pedestrian or bicycle paths.

**(c)** All covenants, deeds, or other agreements regarding the management and perpetuity of the open space shall be reviewed and approved by Town Counsel with the expense paid by the developer.

**(C) Procedure**

Subdivision approval by the Planning Board is required for all Cluster Developments. The subdivision application will be processed concurrently with the Cluster Development request. All requirements of the Subdivision Regulations must be met in addition to the provisions in this ordinance.

**(D) Review Criteria**

The Planning Board shall not approve any Cluster Development unless all of the following criteria are satisfied:

# ZONING ORDINANCE ✕ OF THE TOWN OF PLYMOUTH, NEW HAMPSHIRE



Originally Adopted: September 9, 1961  
Last Amended: March 13, 2012

\$10.00

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:

- D. 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) or the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "Manufactured Homes" in Paragraph (c)(6) of section 60.3
- E. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding, are permitted provided they meet the following requirements:
  - a. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - b. the area is not a basement;
  - c. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
  - d. NOTE: Article VII – Floodplain Development was amended March 15, 2007

## **Section 710 Environmentally-Sensitive Zone**

**710.1** It is hereby established that an Environmentally-Sensitive Zone be created to include all land within 500 feet as measured horizontally from the edge of the normal river channels of the Baker and Pemigewasset Rivers and the mean high water line of Loon Lake.

**710.2** Notwithstanding provisions for setbacks elsewhere in these regulations:

- A. Structures shall be setback 75 feet from the edge of the normal river channel or the mean high water line of the lake

**710.3** Notwithstanding provisions for frontage elsewhere in these regulations:

- A. minimum waterfront frontage shall be 150 feet per unit
- B. for multiple unit structures containing 3 or more dwelling units, minimum waterfront frontage shall be 75 feet per unit

**710.4** The following are prohibited within the Environmentally-Sensitive Zone as outlined above:

- A. any construction within the setback area
- B. any disturbance for which an Earth Excavation Permit issued under RFA 155-E (soil and gravel mining) is required.
- C. Any placement or removal of fill excepting that which is incidental to the lawful construction or alteration of a building or structure or the lawful construction or alteration of a parking lot or way including a driveway on a portion of the premises where removal occurs
- D. any placement or removal of fill excepting that which is incidental to agricultural or silvacultural activities, normal landscaping or minor topographical adjustment

**710.5** Any embankments remaining as a result of the placement or removal of fill shall be graded and stabilized to reduce erosion. The maximum slope of an embankment shall be no greater than 3:1 unless designed otherwise by a qualified engineer.

## **Section 711 Appeals and Variances**

**711.1** Any order, requirement, decision or determination of the Selectmen or their designee made under this article may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

**711.2** 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 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

**711.3** The Zoning Board of Adjustment shall notify the applicant in writing that:

- A. 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
- B. 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.

**711.4** The community shall:

- A. maintain a record of all variance actions, including their justification for their issuance, and
- B. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

\$5.00

# ZONING ORDINANCE

TOWN OF FREEDOM, NEW HAMPSHIRE



ADOPTED OCTOBER 6, 1987

## AMENDMENTS:

March 13, 1990	March 11, 2003
March 12, 1991	March 8, 2005
March 8, 1994	March 11, 2008
March 10, 1998	March 10, 2009
March 13, 1999	March 9, 2010
March 14, 2000	March 8, 2011
March 13, 2001	March 13, 2012
March 12, 2002	March 12, 2013
March 11, 2014	March 10, 2015

*See Also:*

*The Zoning Board of Adjustment Rules of Procedure regarding appeals*

*and*

*The Subdivision Regulations and Site Plan Review Regulations*

**FREEDOM ZONING ORDINANCE**  
**FREEDOM, NEW HAMPSHIRE**

304.5 TABLE      "SF" SHORE FRONT DISTRICT  
for Lakes & Ponds over 10 acres & Ossipee River

Objective

Most of the land immediately adjacent to Freedom's lakes, ponds and rivers is overlaid by soil types which are characterized by erosion and drainage hazards. These lands require conservation and land management practice which minimize environmental and aesthetic degradation.

The following restrictions are applicable to land within the designated Shore Front District. They are designed to protect and enhance water quality, prevent overcrowding of shore land in the interest of public health and safety, and to preserve the natural beauty and wildlife habitat of the waterfront areas in the Town.

Location of the Shore Front District

The Shore Front District is an environmental overlay district superimposed over the zoning district shown on the zoning map. This overlay district extends from the normal high water level on all lakes and ponds over 10 acres and the Ossipee River, to a point 300 feet inland. The following uses are allowed in addition to the uses allowed in the underlying district.



SHORE FRONT DISTRICT

USES

Permitted Uses

Special Exception Uses

- |   |  |
|---|--|
| 1. Outdoor recreational facilities                                    | 1. Marina  |
| 2. Accessory uses such as beach, dock, driveway                       | 2. Shore front common area   |
| 3. Erosion control for projects eligible for a permit by notification | 3. Erosion control for larger projects not eligible for permit by notification |
| 4. Water storage facility <small>Amended 3/10/1998</small>            | 4. Cutting & removal of trees and natural vegetation                           |
| 5. Residential camping  | 5. Use accessory to Special Exception  |

***FREEDOM ZONING ORDINANCE  
FREEDOM, NEW HAMPSHIRE***

304.5 TABLE "SF" SHORE FRONT DISTRICT Continued

Area and Dimensions:

Minimum lot size	same as underlying district
Minimum road frontage	same as underlying district
Minimum shore frontage (if applicable)	200 feet
Minimum front yard	same as underlying district
Minimum side yard	same as underlying district
Minimum rear yard (from normal high water level)	75 feet
Leach field (from normal high water level)	125 feet
Driveway (from normal high water level)	75 feet



Uses which are permitted or special exception uses allowed in the underlying District are allowed in SF District subject to the additional requirements as described herein.

**FREEDOM ZONING ORDINANCE**  
**FREEDOM, NEW HAMPSHIRE**



Section 304.6                      SHORE FRONT DISTRICT - OTHER REQUIREMENTS

304.6.1 Construction in the Shorefront - RSA 483-B, the Shoreland and Water Quality Protection Act, requires a permit for construction, excavation, and filling activities within the protected shoreland. Any person undertaking construction, excavation, or filling activities in the protected shorefront that meet the criteria a) to d) below shall obtain a permit from the NH Department of Environmental Services. In order to conduct the project in the town of Freedom, the applicant shall complete an application and provide one copy of all state application materials and the state issued permit by notification to the Freedom Code Enforcement Officer. The Freedom Code Enforcement Officer will issue a zoning permit after reviewing the application materials and the permit issued by the Department of Environmental Services. Projects that do not meet the criteria listed in a) to d) below will go to the Zoning Board of Adjustment for a special exception under article.304.6.4.

Project criteria for permit by notification:

- a. Construction, excavation, and filling, or other activity that impacts less than 1,500 square feet and adds no more than 900 square feet of impervious area within a protected shoreland area.
- b. Construction, excavation, and filling, directly related to stormwater management improvements and erosion control projects or environmental restoration or enhancement projects.
- c. Maintenance, repairs, and improvements of public utilities, public roads, and public access facilities.
- d. Any similar activities defined as qualified for a permit by notification by rules of NH Department of Environmental Services.

304.6.2 Shore Front Common Areas - Special Exception Standards

The following special exception standards shall apply in the Shore Front District. No other special exception standards shall apply notwithstanding any other provision of this Ordinance. Shore front common areas which provide access to the lake, pond or river by lots which do not front on the shore shall meet the following minimum requirements:

- 304.6.2.1 The shore front common area shall contain a minimum of two acres.
- 304.6.2.2 The shore front common area shall have a minimum of 200 feet of shore frontage for the first dwelling unit and an additional 20 feet of shore frontage for each additional unit more than one. The reference to dwelling units is with regard to those dwelling units located on lots which do not have shore frontage and have the legal right to use the shore front common area.
- 304.6.2.3 No building other than toilets and changing facilities, picnic shelters and suitable recreation facilities shall be constructed on a shore front common area.
- 304.6.2.4 No more than 25% of the total shore frontage may be used to locate docks or other structures designed to accommodate boating.
- 304.6.2.5 One off-street parking space (18' x 12') shall be provided for each dwelling unit situated more than 1/4 mile from the shore front common area. Parking areas shall be set back a minimum of 75 feet from the normal high water level. A buffer of natural vegetation shall be maintained between the beach and/or docking area and the parking area. The buffer may include facilities permitted within the shore front area.

**FREEDOM ZONING ORDINANCE**  
**FREEDOM, NEW HAMPSHIRE**

Section 304.6.2 continued

304.6.2.6 Toilet facilities approved by the New Hampshire Department of Environmental Services shall be provided at the rate of a separate toilet facility for males and females, for each 25 dwelling units or a portion thereof, granted legal right of access. The Zoning Board of Adjustment may reduce this requirement where fewer than 15 units have access to the shore front common area if it is determined that a lesser facility shall provide adequate facilities. With regard to this special exception, no other standards contained in this Zoning Ordinance shall apply.

304.6.3 Special Exception Standards for Marinas:

The term "Marinas" shall include but not limited to condominium docking facilities, community docking facilities and commercial docking facilities. A Marina shall be subject to the following minimum standards:

- 304.6.3.1 A Marina shall contain a minimum lot area of 1 acre plus 3,000 square feet per boat slip or dry storage space to be used during the boating season.
- 304.6.3.2 Adequate recreation and/or play area shall be provided.
- 304.6.3.3 The Board of Adjustment shall approve the plan and design for any winter boat storage area.
- 304.6.3.4 Off-street parking shall be provided at the rate of one space for each boat slip and for each dry storage space but not for those spaces used exclusively for winter storage.
- 304.6.3.5 There shall be provided a separate toilet facility and one shower and sink for males and females, for each 25 boat slips or dry storage space or fraction thereof, but not including for spaces used exclusively for winter storage.
- 304.6.3.6 A pumping facility for the removal of holding tank waste shall be provided. Such facility shall meet all standards as established by the New Hampshire Department of Environmental Services and any other applicable State regulations.
- 304.6.3.7 The Zoning Board of Adjustment may reduce the requirements for Marinas with accommodations for 8 or fewer boats.

304.6.4 Special Exception Standards for Erosion Control

304.6.4.1 Construction: Erosion and sedimentation control plans shall be filed with the ZBA for all filling, grading, dredging and other activities regarding land disturbance less than 100,000 square feet, except as defined in Section 304.6.1. The plan shall describe the nature and purpose of the land disturbing activity, the amount of grading involved, a description of soils, topography, vegetation and drainage. The Zoning Board of Adjustment shall review all plans before construction begins and determine that erosion and sedimentation will be reasonably controlled to avoid undue adverse impact. The ZBA may require the applicant to post a bond or other security to assure conformance with approved plans. The bond shall not be released until the Zoning Board of Adjustment has certified completion of the required improvements in accordance with the plan. If the applicant obtains a RSA 485-A:17 permit from the New Hampshire Department of Environmental Services, then the requirements herein shall be deemed to have been satisfied.

***FREEDOM ZONING ORDINANCE  
FREEDOM, NEW HAMPSHIRE***

304.6.5 **Agriculture:** To prevent runoff of fertilizers, pesticides and erosion of soils and sedimentation of surface water, a buffer strip of at least 75 feet consisting of permanent, native vegetation shall be maintained between any agricultural uses such as farming, pasturing, nurseries and horticulture and the normal high water level.

304.6.6 **Special Exception Standards for Cutting and Removal of Trees and Natural Vegetation in the Shorefront District:**

304.6.5.1 Intent: The Legislature of the State of NH has found that the shorelands of the state are among its most valuable and fragile natural resources and their protection is essential to maintain the integrity of public waters. The intent of this provision of the Town of Freedom's zoning ordinance is to protect Freedom's water bodies via the Town's authority under RSA 674:16.

304.6.5.2 Any cutting or clearing of trees within seventy five (75) feet of the reference line in the shorefront district shall require a special exception from the Zoning Board of Adjustment. The applicant shall provide a cutting plan that conforms to the following shoreland protection standards:

304.6.5.2 (a) Maintenance of a Waterfront Buffer.

- (1) The waterfront buffer shall be those protected shorelands within 75 feet of the reference line. The purpose of this buffer is to protect the quality of public waters while allowing homeowner discretion with regard to water access, safety, viewscape maintenance, and lot design.
- (2) Within the waterfront buffer all of the following prohibitions and limitations shall apply:
  - (A) No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf, or established vegetation except if applied by horticultural professionals who have a pesticide application license issued by the department of agriculture or as allowed under special permit issued by the division of pesticide control under rules adopted by the pesticide control board under RSA 541-A, or fertilizers of any kind except those specified in RSA 483-B:9, II(d).
  - (B) Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the ZBA pursuant to RSA 482-A or RSA 483-B:11, II or unless rocks are removed to improve runoff control or the planting in the waterfront buffer, and stumps that are removed are replaced with pervious surfaces, new trees, or other woody vegetation.
  - (C) No natural ground cover shall be removed except as necessary for a foot path to water and access ways as provided under section 304.6.5. 6 of this ordinance for normal maintenance, to protect the waterfront buffer, cutting those portions that have grown over 3 feet in height for the purpose of providing a view, to provide access to natural areas or shoreline.

**FREEDOM ZONING ORDINANCE**  
**FREEDOM, NEW HAMPSHIRE**

Section 304.6.5.2 continued

(D) Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into segments 50 foot (along the shore) by 75 foot (parallel to the property line). Owners of land within the waterfront buffer shall measure, calculate, and maintain the tree, sapling, shrub, and groundcover point score in each of these segments in accordance with the methods and standards described in subparagraphs (i) through (ix).

(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 and including 6 inches--	5
Greater than 6 and including 12 inches--	10
Greater than 12 inches--	15

(ii) For the purpose of planting under RSA 483-B:9, V(g)(3), shrubs and groundcover plants shall be scored as follows:

Four square feet of shrub area-- 1 point.

Ground cover, not including mowed lawn--1 point for every 50 square feet.

Shrub and groundcover shall count for at least 15 points and not more than 25 points in each full segment.

(iii) Dead, diseased, or unsafe trees or saplings shall not be included in scoring.

(iv) If the total tree and sapling score in any 75 foot by 50 foot segment exceeds 100 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. If for any reason there is insufficient area for a full segment, or the segment contains areas incapable of supporting trees and saplings, such as areas of rock, ledge, or beaches, the point score requirement for the remaining vegetation in that partial segment shall be reduced proportionally to that required of a full segment. Vegetation shall not be removed from any segment which fails to meet the minimum point score for that segment. Owners are encouraged to take efforts to plan the maintenance of their waterfront buffer areas including the planting of additional non-invasive vegetation to increase point scores within segments, thus providing sufficient points to allow the future removal of vegetation as may become necessary while still meeting the requirements of this paragraph.

**FREEDOM ZONING ORDINANCE**  
**FREEDOM, NEW HAMPSHIRE**

Section 304.6.5 continued

304.6.5.3 Permits granted by the zoning officer

- (a) A shorefront resident who wishes to remove four or fewer trees in a segment, may apply to the zoning officer for approval of the cutting plan as described above, which follows the same standards and methodology as listed above, as long as the resulting points still meet the 100 point requirement.
- (b) The zoning officer's approval will be effective thirty (30) days after his decision is made.
- (c) Within five (5) days of issuing an approval, the Zoning Officer shall mail notice of the approval to all abutters. The property owner or his authorized agent shall provide a complete list of abutters, and pay the costs of noticing abutters of the decision by certified mail.

304.6.5.4 For lots in the floodplain or lots sloping toward the lake at greater than a 12.5% grade, any cutting between seventy-five (75) and three hundred (300) feet of the reference line shall also require a cutting or clearing plan to be approved by the Zoning Board of Adjustment. The cutting plan shall meet the intent of this ordinance as stated in Section 304.6.5.1. and using a methodology similar to that set out in Section 304.6.5.2 augmented for the larger area involved.

304.6.5.5 The Zoning Board of Adjustment may request the Conservation Commission to review the plan and make recommendations.

304.6.5.6 Where cutting extends to the shore line, no more than one opening 6 feet in width shall be permitted for each 100 feet of natural shore line. Otherwise, a natural buffer of 75 feet in depth shall be maintained. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding runoff and erosion in preserving natural beauty.

304.6.5.7 A resident who wishes to cut a dead, diseased, or unsafe tree within the shorefront district can make an application to the zoning officer for a permit. This application must include an opinion from a licensed NH forester or certified arborist that the tree is dead, diseased, or unsafe in order to obtain a permit. Trees damaged by natural causes deemed hazardous by the Zoning Officer or without needles or leaves should be exempt from the requirement to have a certified arborist or a licensed forester's opinion.

Section 304.6.5 Amended 03/11/2014  
Section 304.6.5 Amended 03/13/2012  
Section 304.6.6 deleted 3/13/90



**TOWN OF BARRINGTON, NEW HAMPSHIRE**

**ZONING ORDINANCE**  
**AS AMENDED MARCH 11, 2014**

Prepared by the  
Barrington Planning Board  
ZO 2014 V1.1

## ARTICLE 2 ..... ZONING DISTRICTS

### 2.1 .... Establishment of Zoning Districts

For the purposes of this Ordinance the Town of Barrington is divided into five (5) base zoning districts. Each zoning district is identified on the Official Zoning Map. All of the area within the municipal boundaries is located in one of these five base districts.

The designations for the zoning districts are as follows:

General Residential (GR)  
 Neighborhood Residential (NR)  
 Village (V)  
 Regional Commercial (RC)  
 Town Center (TC) (added March 2008)

In addition to these base districts, this Ordinance also establishes the provisions of a series of overlay zoning districts that function in concert with the base districts. These overlay zoning districts are intended to regulate the use of specific environmental features or other characteristics or uses. Where an overlay zoning district coincides with all or any part of a base zoning district, the regulations for the base zoning district and the overlay zoning district shall be applied to the coincident area.

The designations for the overlay zoning districts are as follows:

Wetlands Protection District Overlay (WDO)  
 Shoreland Protection District Overlay (SDO) \*  
 Floodplain Management District Overlay (FDO)  
 Groundwater Protection District Overlay (GDO)  
**Stratified Drift Aquifer Overlay (SDAO)**  
**Swains Lake – Water Management Zone Overlay (SL-WMZO)**  
 Wireless Communications Facilities Overlay (WCO)  
 Highway Commercial District Overlay (HCO)

#### 2.1.1.....Official Zoning Map

The location and boundaries of the zoning districts are hereby established as shown on a map titled "Zoning Map of the Town of Barrington, New Hampshire," (hereafter referred to as the Zoning Map) dated March 8, 2005, and as amended, which is hereby declared to be a part of this Ordinance. The Zoning Map shall use, as a base map for displaying zoning district boundaries, the most current property maps available for the town. The Zoning Map, along with the Ordinance, shall be kept on file, and made available to the public, at the office of the Town Clerk. A reproduction of this map is contained in the appendix of this Ordinance.

#### 2.1.2.....Interpretation of District Boundaries

Where any uncertainty exists with respect to the boundary of any district as shown on the zoning map, the following rules shall apply:

- 2.1.2(1).....Where a boundary is indicated as being a street, railroad, river, or other body of water, it shall be construed to be the center line or middle thereof, or where such boundary approximates a town boundary, then to the limits of the town boundary.
- 2.1.2(2).....Where a boundary is indicated as following approximately or parallel to a street, railroad, river or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the zoning map. If no dimension is given, such distance shall be determined by the use of the scale shown on the zoning map.
- 2.1.2(3).....Where a dimensioned boundary coincides, within ten (10) feet or less, with a lot line, the boundary shall be construed to be the lot line.
- 2.1.2(4) .....Where a boundary is indicated as intersecting the center line of a street, railroad, river or other body of water, and unless it is otherwise indicated, it shall be construed to intersect at right angles to such center line or in the case of a curved center line, to the tangent to the curve at the point of intersection.
- 2.1.2(5) .....The abbreviation "PL" means property line as shown on the town tax maps as in effect on the effective date of this article.
- 2.1.2(6) .....The abbreviation "CL" means "center line," and "CI" means "center of intersection."
- 2.1.2(7).....When a lot is split by a zoning district boundary, the regulations of this Ordinance applicable to the larger part by area of such lot may, at the option of the owner, be deemed to govern the smaller part of the lot beyond. Uses permitted within the smaller part of the lot, and that are not permitted on the larger part of the lot, shall require a conditional use permit from the Planning Board, as specified in Section 3.4 of this Ordinance, to establish such a use on the larger portion of the lot where it is otherwise not permitted.

## 2.2 ....Statements of Purpose - Base Zoning Districts

This section of the Ordinance provides individual Statements of Purpose for each of the base zoning districts. These statements are intended to provide insight into the underlying intent for establishing each district with regard to appropriate and suitable types of development that may not be perceived solely from the list of permitted uses and required dimensional standards. These Statements are based primarily on information presented in the town's master plan, as well as other community planning documents and forums.

From an overall perspective, the zoning districts are intended to promote a hierarchy of development opportunities that offer a variety of development densities, for both residential and non-residential development, in order to achieve a balanced approach to future growth that is sensitive to property rights as well as the future land use goals of the community, as stated in the 2004 Master Plan.

**ARTICLE 11 ..... SHORELAND PROTECTION DISTRICT OVERLAY (SDO)**

**11.1 ...Purpose and Intent**

The purpose of the Shoreland Protection District is to preserve the overall quality of surface waters, and their adjacent environs, in the Town of Barrington in order to protect the public health and maintain the ecological integrity associated with these resources. More specifically, the intent of the regulations established in this Article are:

- 11.1(1).....Maintain the quality of surface waters to insure protection of groundwater and drinking water supplies; and
- 11.1(2).....Conserve and protect the aquatic and terrestrial habitat associated with the town’s rivers, lakes and ponds; and
- 11.1(3).....Preserve and enhance the aesthetic values associated with shoreline areas in order to maintain the town’s rural character; and
- 11.1(4).....Encourage those uses that can be appropriately located adjacent to the town’s surface water resources.

**11.2 ...District Defined**

- 11.2(1).....No structure of any type including, by way of example and not by way of limitation, all buildings, garages, sheds, parking lots and driveways, may be constructed within seventy-five (75) feet of the shoreline of any year-round stream, or any lake or pond over two (2) acres.
- 11.2(2).....For the Isinglass River this overlay zone shall consist of all properties located within one hundred (100) feet of the mean high water mark of the river, wherein no structure of any type including by way of example and not by way of limitation, all buildings, garages, sheds, parking lots, and driveways, may be constructed.



**11.3 ...Exemptions from Regulations**

- 11.3(1).....Lots of record that existed prior to July 28, 1988 (which was the effective date of the original version of this provision) are exempt from these shoreland setback provisions to the extent that it can be demonstrated that conformance is impossible; however, any structure on such lots must conform as fully as possible.
- 11.3(2).....Exemptions to the setback provisions of Section 11.2 of this Article shall be made for the installation of docks, floats and other structures that are customarily associated with the recreational use of water.