

TOWN OF SPRINGFIELD, NEW HAMPSHIRE

ZONING ORDINANCE

DECEMBER 2009 DRAFT

SPRINGFIELD PLANNING BOARD
Springfield, New Hampshire

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ZONING ORDINANCE

ARTICLE I. PURPOSE AND AUTHORITY

The purpose of the Springfield Zoning Ordinance is to promote the health, safety, prosperity, convenience, and general welfare of the residents of Springfield, in conformity with the Town Plan. This purpose is to be accomplished by:

- A. Securing safety from fire and other dangers;
- B. Providing adequate areas between buildings and various rights of way;
- C. Promoting efficiency, economy, and good civic design in development;
- D. Protecting the value of homes and lands;
- E. Ensuring the wise and efficient expenditure of public funds;
- F. Specifying the adequate provision of public utilities and other public requirements;
- G. Lessening congestion in the ~~streets~~ roads;
- H. Preventing over-crowding of land;
- I. Avoiding undue concentration of population;
- J. Facilitating adequate provisions for transportation, solid waste facilities, on site water and sewerage, schools and parks;
- K. Assuring proper use of natural resources and other public requirements.

This zoning Ordinance is authorized by Chapters 672-676, New Hampshire Revised Statutes, Annotated, 1983, as amended, and in conformity with the Town Plan of Springfield.

In accordance with RSA 674:17, this Ordinance is enacted by the voters of the Town of Springfield, New Hampshire, in official Town Meeting.

ARTICLE II. TITLE

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Springfield, New Hampshire.”

ARTICLE III. ZONING DISTRICTS

The Town of Springfield shall be divided into two zoning districts (RSA 674:20) as follows: Rural Residential District and the Forest Conservation District. Appendix A provides a map of the two zoning districts.

3.10 RURAL RESIDENTIAL DISTRICT

The primary purpose of this district is to provide for low-density rural living and open space, in keeping with the scenic, recreational and environmental values inherent in the community and to protect the environmentally sensitive areas of this community such as wetlands, poor soil conditions, steep slopes and prime agricultural soils.

3.11 Permitted Uses

- A. One and two-family dwelling units.
- B. Cluster residential developments.
- C. Home businesses requiring site plan review.
- D. Home occupations *not* requiring site plan review.
- E. Manufactured housing.
- F. Agricultural uses.
- G. Accessory buildings and uses.

3.12 Uses Permitted by Special Exceptions

Other uses, including but not limited to business, commercial, industrial, manufactured housing parks, guest facilities and restaurants may be permitted by the Board of Adjustment.

- A. The Zoning Board of Adjustment shall conduct a public hearing on an application for a use permitted by special exception in accordance with the provisions specified in section 11.30 -Public Notice Requirements.
- B. In order for the Zoning Board of Adjustment to approve a use permitted by special exception, the Board of Adjustment must find the application complies with all of the following provisions of the Zoning Ordinance:
 - 1. Article I. Purpose and Authority;
 - 2. Applicable provisions of Article III. Zoning Districts;
 - 3. Applicable provisions of Article VI. General Provisions;
 - 4. Applicable provisions of Article VII. Special Provisions;
 - 5. Article XI. Zoning Board of Adjustment including:
 - 11.10 – Organization; 11.16 – Powers;
 - 11.40 – Conditions to be Met, 11.42 – Special Exceptions;
 - 11.50 – Decision by the Board; and
 - 11.60 – Rehearings.

The applicant and all known abutters interest holders of any proposed special exception shall be notified by the Board of Adjustment by certified mail at least five (5) days prior to any public hearing regarding

said site (RSA 676:7,I, a). The names of the known ~~abutters~~ **interest holders** shall be supplied by the applicant on a plat plan to be submitted to the Board of Adjustment and addresses shall be supplied.

The applicant shall pay the total costs of posting and advertising any hearing, the cost of certified mailings, any necessary site inspection fees and the cost of any expert or professional advisory services (planning, engineering, legal, etc.) deemed necessary by the Planning Board or the Board of Adjustment.

3.13 Requirements

A. Lot size

The minimum area of any lot shall be at least 1.5 acres per dwelling unit or other principal building, adjusted according to soil and slope conditions, to ensure continuing land capability to sustain development according to State and/or Town standards. The depth of any lot should be no more than four times its ~~street~~ **road** frontage.

The lot size shall be determined in accordance with the following soil and slope factor table with the appropriate multipliers ~~applied to the above minimum~~. A ~~tract or~~ lot used for two or more units without subdivision shall conform to the same area and density requirements used to establish suitable minimum lot areas for individual dwelling units or other principal buildings; i.e. there shall be no more than one unit for each 1.5 acres of the ~~tract or~~ lot or for such larger area as is established by using the appropriate soil and slope factor multiplier. Any proposal to use a ~~tract or~~ lot for more than one unit shall be reviewed and acted upon by the Springfield Planning Board in accordance with the procedures established for subdivisions in the Town’s Subdivision Regulations, as amended.

NATURAL FACTORS MULTIPLIER TABLE

SLOPE		SOIL GROUPING					
	CLASSIFICATION	1	2	3	4	5	6
AB	8%	1.0	1.3	1.6	2 (1.45)	3.0	NS
C	8-15%	1.1	1.43	1.76	2.2 (1.6)	NS	NS
D	15-25%	1.2	1.56	2.08	2.4 (1.73)	NS	NS
E	25-35%	1.3	1.69	2.4	2.6 (1.9)	NS	NS

Notes:

“NS” = Not Suitable; i.e., At least 5 acres per dwelling unit or the equivalent with made-land for on-site sewage.

1. % slope from topographic map of Springfield, N.H. (D.R.E.D –Dec ’71).
2. Soils identification from USDA -NRSC maps of the town.
3. Soils definitions as follows:

No.	<u>NH DES Administrative Rules Guide</u>	<u>NHOSP Handbook</u>
1.	Well-drained, rapid permeability	Sandy and sandy skeletal
2.	Well-drained, moderate permeability	Coarse, loamy
3.	Moderately well- and well-drained with hard pan	Coarse loamy with pan or high water
4.	Bedrock relatively close to surface	Lithic (stony or rocky)
5.	Poorly drained	Poorly drained
6.	Floodplain or very poorly drained	Unrated

Example for Lots with More than One Soil: This example is for a 3.0 acre lot

Soil Grade	Soil Slope	Multiplier	Soil Area (sf)	Soil Area/Multiplier = Allowed Area Per Soil
1	0-8%	1.0	60,000	60,000
1	15-25%	1.2	30,000	25,000
5	15-25%	n/s	40,680	0
			130,680	85,000
			(3 acres)	(1.95 acres) or 65% of original

1.95 acres/1.5 minimum lot size = maximum one lot or principle dwelling (as opposed to 2 lots)

Example for Lots with More than One Soil: This example is for a 100.0 acre lot

Soil Grade	Soil Slope	Multiplier	Soil Area (sf)	Soil Area/Multiplier = Allowed Area Per Soil
1	0-8%	1.0	2,000,000	2,000,000
1	15-25%	1.2	1,000,000	1,200,000
5	15-25%	n/s	1,356,000	0
			4,356,000	3,200,000
			(100 acres)	(73.46 acres) or 73.5% of original

73.46 calculated acres/1.5 minimum lot size = maximum 48 lot potential (as opposed to 67 lots)

B. Setbacks

~~Any structure, whether portable, movable or fixed, built for a shelter for persons, animals or property of any kind.~~ There shall be a minimum distance of 35 feet between any building and the edge of the right-of-way for any ~~street~~ , road or public way (~~public or private~~) or any lot boundary.

C. Road Frontage

The minimum lot frontage on any ~~street~~ **road** shall be 200 feet. Lots may, however, have less ~~street~~ **road** frontage if the Planning Board approves said lots that are located on curves or cul-de-sacs. Furthermore, lots may have less than 200 feet of frontage if the Planning Board determines that sound planning justifies less frontage.

D. Septic Systems

Replacement of existing **legal** septic systems of the same or smaller design capacity on lots existing prior to the adoption of the Zoning Ordinance in 1987: These replacements septic systems must receive approval of an on-site wastewater disposal (septic system) permit issued by the New Hampshire Department of Environmental Services as provided in the Subdivision and Individual Sewage Disposal System Design Rules, ~~August 1999,~~ or as amended.

New septic systems or replacement **of existing legal** septic systems with *increased design capacity* ~~on~~ ~~lots existing prior to the adoption of the Zoning Ordinance in 1987:~~

No part of any new or replacement septic system shall be permitted within 40 feet of any boundary of the lot.

E. Height

No building or structure, or part thereof, shall exceed 35 feet in height as measured from the high point thereof to the average natural or graded permanent ground level at the wall of the structure nearest to and

below said high point, provided, however, that this provision shall not apply to television and radio antennae, lightning rods, cupolas, steeples, chimneys, utility poles or silos.

3.20 FOREST CONSERVATION DISTRICT

The primary objective of the Forest Conservation District is to preserve and protect Springfield's natural heritage of large tracts of undeveloped forest land. This area of town is characterized by steep slopes, soils with poor capability of supporting on-site sewage disposal systems and buildings with foundations, and is remote from the town service center. Large tracts of undeveloped forest land remain in this area and forestry is the predominant current land use. Wildlife is prevalent as evidenced by the deer wintering areas located in this area.

The following public benefits are realized by meeting this primary objective:

- Encouraging continuation of large contiguous tracts of forest land in private and public ownership to provide forest resources and outdoor recreation.
- Encouraging forestry and timber harvesting and permitting other compatible land uses.
- Preserving scenic views.
- Protecting wildlife habitat.
- Protecting water quality of surface waters throughout the watershed.
- Protecting natural areas; avoiding the burden of unreasonable town expenditures for the purpose of providing town services to locations which are remote and difficult to access.
- Avoiding the risk to health and safety of town employees and volunteers of providing emergency services to locations which are remote and difficult to access.

3.21 Permitted Uses

The following uses are permitted in the Forest Conservation District:

- A. Forestry, tree farming and nurseries. Timber harvesting operations shall be conducted in accordance with best management practices so as to prevent soil erosion and damage to surface waters.
- B. Agriculture.
- C. Wildlife refuges, requiring no structures.
- D. Publicly-owned recreational facilities, such as parks and other active and passive outdoor recreation uses, requiring no structures.
- E. Conservation areas and nature and hiking trails.
- F. Single family dwelling and accessory structures and uses.
- G. Home occupations and home businesses.
- H. Essential services
- I. Cluster Development

3.22 Uses Permitted by Special Exception

The following uses may be permitted by the Board of Adjustment provided an application complies with all provisions outlined in Section 3.12 – Uses Permitted by Special Exception:

- A. Temporary sawmills.
- B. Water storage facilities.

- C. Structures for publicly-owned recreational facilities, such as parks and other active and passive outdoor recreation uses. Any proposed structure must be for outdoor recreational use and have a minimal impact, such as a ski warming hut or hiking shelter.
- D. Privately-owned tax exempt recreational facilities available to the public for active and passive outdoor recreational uses. Any proposed structure must be for outdoor recreational use and have a minimal impact, such as a ski warming hut or hiking shelter.
- E. Structures within wildlife refuges. Any proposed structure must be for the wildlife refuge use and have a minimal impact.

3.23 Requirements

A. Lot Size & Density

The minimum lot size in the Forest Conservation District is 50 acres. There shall be only one dwelling unit **or principle building** per 50 acres.

B. Lot Size Averaging Option

Lot size averaging permits flexibility in subdivision design to promote the most appropriate use of land, to facilitate economical and efficient provision of public services; to allow land use patterns which preserve agricultural soils, outstanding natural, topographic and geologic features; and to preserve the natural and scenic qualities of the open and forest land in the Town for conservation and recreation. This innovative land use is enabled through RSA 674:21.

The Planning Board may approve reductions in lot size, frontage and setbacks in accordance with the objectives of the Master Plan. The minimum acreage of the parent lot ~~that~~ necessary to engage the lot size averaging subdivision plan shall be 75 acres. This ordinance shall only apply to the area designated by the Town as the Forest Conservation District.

See Appendix B for a full explanation of the Lot Size Averaging Option.

C. Setbacks

There shall be a minimum distance of 50 feet between any building and the edge of the right-of-way for any road or public way or any lot boundary.

~~Minimum Front Yard Setback: 50 feet~~

~~Minimum Side Yard Setback: 50 feet~~

~~Minimum Rear Yard Setback: 50 feet~~

D. Road Frontage

Minimum Road Frontage: 400 feet **(See definition of “Frontage, Road”)**

E. Height

No building or structure, or part thereof, shall exceed 35 feet in height as measured from the high point thereof to the average natural or graded permanent ground level at the wall of the structure nearest to and below said high point, provided, however, that this provision shall not apply to television and radio antennae, lightning rods, cupolas, steeples, chimneys, utility poles or silos.

ARTICLE IV. CONSERVATION OVERLAY DISTRICTS

These special regulations of overlay districts are in addition to the regulations of the underlying zoning district.

4.10 WETLANDS CONSERVATION OVERLAY DISTRICT

Wetlands are extremely important to the Town as they provide area for floodwater storage, wildlife habitat and groundwater recharge. It is intended that this Overlay District shall:

1. Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and groundwater by sewage or toxic substances;
2. Prevent destruction of or significant changes to natural wetlands which provide flood protection;
3. Protect unique, rare and valuable natural areas;
4. Protect wildlife habitat and maintain ecological balance;
5. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
6. Prevent expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands;
7. Encourage those low intensity uses that can be harmoniously, appropriately and safely located in wetlands.

4.11 Wetlands Conservation Overlay District Boundaries

The Wetlands Conservation Overlay District is an overlay district which places additional land use controls on existing underlying zoning districts. The boundaries of the Wetlands Conservation Overlay District include all wetlands greater than 10,000 square feet in size and wetland buffer areas described as follows:

1. Wetlands, as defined herein, greater than 10,000 square feet in size which include, but are not limited to, swamps, marshes and bogs.
2. The wetland buffers as specified below in Section 4.12 – Wetland Buffers.

The boundary of a wetland on a specific site must be delineated by a certified wetlands scientist. As a general guide, the wetlands to be protected by this Ordinance are delineated on the Springfield Wetlands Protection Map dated August 2005. This map is available for viewing in the Office of the Board of Selectmen. The wetlands delineated on the Springfield Wetlands Protection Map are based on the National Wetlands Inventory Maps of Wetlands. This map shows the general location of wetlands as defined by this Ordinance, but does not necessarily show all wetlands to be protected by this Ordinance.

4.12 Wetland Buffers

Wetland buffers are areas that are designed to remain vegetated in an undisturbed and natural condition to provide and protect habitat and travel corridors for wildlife and to protect adjacent wetland functions and values from upland impacts to water quality. Unless otherwise specified, wetland buffers shall be retained in their natural condition. Where wetland buffer disturbance has occurred during construction, re-vegetation may be required. All wetland buffers are measured from the wetland boundary.

The minimum width of the wetland buffers shall be:

1. 660 feet from the wetland boundary of McDaniel's Marsh; and
2. 100 feet from the wetland boundary of all other wetlands greater than 10,000 square feet in size.

4.13 Overlapping Regulations

In all cases where the Wetlands Conservation Overlay District is superimposed over another zoning district in the Town of Springfield, 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.

4.14 Permitted Uses

Development is not permitted in the Wetlands Conservation Overlay District including the wetland buffers specified in Paragraph D above. 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:

- A. Forestry and tree farming using best management practices in order to protect wetlands from damage and prevent sedimentation.
- B. 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.
- C. Wildlife refuges.
- D. Parks and outdoor recreation uses consistent with the purpose and intent of this Ordinance;
- E. Conservation areas and nature trails.
- F. Open Spaces as permitted or required by the Subdivision Regulations or the Zoning Ordinance.
- G. Dry hydrants or fire ponds which are constructed to permit unobstructed flow of water.
- H. Alteration, expansion or improvement of existing nonconforming structures and buildings, consistent with the provisions of Article VIII – Nonconforming Uses of this Ordinance, and with cutting, clearing and erosion control plans approved by the Planning Board.
- I. Docks, breakwaters, moorings, beach maintenance and wells as permitted by the Wetlands Bureau of the NH Department of Environmental Services.

4.15 Prohibited Uses

Uses prohibited within the Wetlands Conservation Overlay District include, but are not limited to, the following:

- A. The establishment or expansion of salt storage sheds, automobile junk yards, solid waste facilities or hazardous waste facilities.
- B. The bulk storage of chemicals, petroleum products, toxic or hazardous materials.
- C. The dumping or disposal of snow or ice collected from roadways and parking areas located outside the Overlay District.

4.16 Uses Permitted by Special Exceptions

The following uses may be permitted by the Zoning Board of Adjustment provided an application complies with all of the provisions outlined in Section 3.12 – Uses Permitted by Special Exceptions:

- A. Water impoundments which do not substantially alter non-stream wetlands and subject to approval of wetland permits by the Wetlands Bureau of the New Hampshire Department of Environmental Services, if required; and
- B. Road, driveway and utility right of way or easement crossings only if there is no feasible alternative location and subject to approval of wetland permits by the Wetlands Bureau of the New Hampshire Department of Environmental Services, if required.

4.17 Restoration

Any Wetland altered in violation of this Ordinance shall be restored at the expense of the offender.

4.20 FLOODPLAIN CONSERVATION OVERLAY DISTRICT

Areas determined to be within a 100 year flood area by the Federal Emergency Management Agency (FEMA) are subject to the Floodplain Management Ordinance. This ordinance is considered part of this zoning ordinance though it is represented as a separate document available through the Town Offices. Maps of the 100 year flood areas are provided in the Town Offices.

ARTICLE V. HOME OCCUPATIONS & HOME BUSINESSES

It is the intent and purpose of these regulations to provide for opportunities for certain types of limited, home occupation or home business uses within residential districts **where residential use is allowed** while providing safeguards for the residential uses which are the principal uses within the districts.

5.10 HOME OCCUPATION

A home occupation is an accessory use of a dwelling unit for a business use which results in a product or service. It is an occupation which is carried on by a resident or residents who occupy the dwelling unit and which is clearly subordinate to the residential use of the dwelling unit. To qualify as a home occupation, an accessory occupation in the home must meet the following requirements on an ongoing basis.

A home occupation that continuously meets the criteria listed below is a use permitted by right and is *not* subject to the site plan review process by the Planning Board. If a home occupation changes to a home business, then the Planning Board must determine, through the site plan review process that any proposed home business complies with the criteria outlined in Section 5.20 below.

- A. Non-resident employees are not permitted in association with a home occupation.
- B. A home occupation is permitted **to have** one sign, either free-standing or building mounted, that is four square feet or less in size and is not illuminated.
- C. A home occupation shall not generate traffic which is excessive for the road(s) providing access, and, as a guideline, the home occupation will generate no more than an average of four customer/client/delivery/service visits per day over the period of a week.
- D. No more than two company vehicles may be parked outside at the site of a home occupation.
- E. A home occupation shall be conducted within the dwelling unit or in an enclosed accessory structure.
- F. The area within the structure(s) used by the home occupation shall not exceed 25% of the total finished floor area of the dwelling unit or a maximum of 750 square feet, whichever is less.
- G. A home occupation shall not be permitted out-of-doors on the property. There shall be no outside operations, storage, or display of materials or products on an ongoing basis.
- H. A home occupation shall not involve the use and storage of heavy vehicles or equipment used in the business.
- I. The operation of any wholesale or retail business as a home occupation is prohibited unless it is conducted entirely by mail or by other method of communication and the home occupation will generate no more than an average of four customer/client/delivery/service visits per day over the period of a week.
- J. A home occupation shall conform to the obnoxious use provisions outlined in Section 6.10.

- K. No activity shall be allowed which would interfere with radio or television reception in the area.
- L. A home occupation shall be compatible with residential uses and shall not detract from the residential character of the neighborhood.

5.20 HOME BUSINESS

A home business is an accessory use of a dwelling unit for a business use which results in a product or service. It is a business which is carried on by a resident or residents who occupy the dwelling unit and which is clearly subordinate to the residential use of the dwelling unit **and meets the criteria below**. ~~The Planning Board must determine, through the site plan review process, whether any proposed home business complies with the criteria outlined below.~~ **All home businesses must obtain Site Plan Review approval from the Planning Board.**

If the Planning Board determines that **the proposed use is not a home business, but another business, commercial, or industrial use**, ~~an application for site plan review for a proposed home business does not~~ **comply with the criteria outlined below**, then the applicant must ~~have an application~~ **apply** for a Special Exception for a business, commercial or industrial use to be approved by the Zoning Board of Adjustment and then return to the Planning Board for approval of a site plan review application **as a business, commercial, or industrial use**.

To qualify ~~to be defined~~ as a home business, ~~an accessory business in the home~~ **the proposed use** must meet the following requirements on an ongoing basis:

- A. No more than two non-resident employees or subcontractors who use the site of the home business as their base of operations are permitted in association with the business. Non-resident employees or subcontractors who do not come and go from the site are permitted.
- B. A home business is permitted **to have** one sign, either free-standing or building mounted, that is four square feet or less in size and is not illuminated.
- C. A home business shall not generate customer or client traffic which is excessive for the road(s) providing access, and, as a guideline, the home business will generate no more than an average of 12 customer/client/delivery/service visits per day over the period of a week.
- D. Adequate off-~~street road~~ parking shall be provided for a home business as determined by the Planning Board. As a guideline, a permissible home business should need no more than three parking spaces in excess of parking for the residential use.
- E. No more than three company vehicles may be parked outside at the site of the home business.
- F. A home business shall be conducted within the dwelling unit or in an enclosed accessory structure.
- G. The area within the structure(s) used by a home business shall not exceed 35% of the total finished floor area of the dwelling unit or a maximum of 1,000 square feet, whichever is less.
- H. A home business shall not be permitted out-of-doors on the property. There shall be no outside operations, storage or display of materials or products.

- I. A home business shall not involve the use and/or storage of heavy vehicles or equipment used in the business such as back-hoes, graders, dump trucks, etc.
- J. A home business shall conform to the “nuisance” provisions outlined in Section 6.10.
- K. A home business shall conform to the “obnoxious use” provisions outlined in Section 6.10.
- L. If a home business is the type in which classes are held or instruction is given, there shall be no more than eight students or pupils at any one time.
- M. A home business shall be compatible with residential uses and shall not detract from the residential character of the neighborhood.
- N. If there is a change of ownership of the property where a home business has been approved by the Planning Board and the new property owner proposes to continue the same home business, then the new property owner must conduct the home business in the same manner and under the same conditions as originally approved by the Planning Board or must reapply to the Planning Board for a new site plan review approval.
- O. If a final site plan review application for a home business is approved by the Planning Board, then the home business approval is limited to the application as submitted and approved. If the terms of the approval are exceeded, then the applicant must return to the Planning Board for approval of an amended final site plan review.

ARTICLE VI. GENERAL PROVISIONS

The following provisions shall apply to this District and all uses within the Town except where listed:

6.10 OBNOXIOUS USE

Any use that may be obnoxious or injurious by reason of production, emission of odor, dust, smoke, refuse matter, fumes, noise, vibration or similar conditions, or that is dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited. This does not pertain to smoke from the burning of wood for heating of buildings or maple syrup evaporators or burning of brush or smoke or odors related to routine farm practices. Quality standards shall be at least as stringent as those established by the State of New Hampshire. **Specific restrictions to lighting and noise are as follows.**

A. Lighting (from NH Office of Energy and Planning Outdoor Lighting fact sheet 2007)

This section is provided in the interest of maintaining the Town's historic character, and preventing further reduction of visibility of the night sky, insuring efficient use of lighting, and reducing unsafe or annoying lighting conditions.

Any new outside lighting whether for illumination, sign illumination, building illumination, or other purpose, will project no more than 3 percent of its light rays above the horizon from the lamp, its lens structure or any associated reflector. Exceptions are as follows.

- 1. All temporary lighting required for construction projects, related to road construction and repair, installation of sewer and water facilities, and other public infrastructure.**
- 2. All temporary emergency lighting needed by the police or fire departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.**
- 3. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.**
- 4. Seasonal/decorative lighting displays using multiple low wattage bulbs (around 5-7 watts or less per bulb) are exempted from this ordinance.**

New signs or newly lit signs may be illuminated only by continuous indirect white light, with illumination from above, and with light sources shielded so that they will not constitute a nuisance or hazard caused by glare to neighbors, pedestrians, or drivers. An exception to overhead sign lighting can be made if the illumination is confined to the area of the sign.

B. Noise

This section defines when noise produced may be considered objectionable and prohibited so as to protect and preserve the environment within Springfield. This Section prohibits dangerous, noxious, or other objectionable noise.

1. **Objectionable Noise: Excessive noise adjacent to the property line of the noise source at or above levels provided in Table 1.**

2. **Exemptions: This restriction shall not apply to sounds associated with:**
 - a. Emergency vehicles and signals;
 - b. Domestic equipment such as mowers and saws.
 - c. Farm equipment such as tractors and other farm implements;
 - d. Church bells;
 - e. Aircraft, trains, and motor vehicles on public ways;
 - f. Brief and intermittent operation of emergency devices; and
 - g. Construction sites.

3. **Acoustical Engineer May be Required: Prior to construction or a change in operation of any building or facility within Springfield that might reasonably be expected to produce objectionable noise, the developer or owner may be required to retain the services of an experienced acoustical engineer approved by the Town. The acoustical engineer shall provide to the Town for review and approval by Town officials the facility information and maximum potential noise data plus whatever additional information is requested by the Town to ensure compliance with the noise requirements. The developer or owner shall provide to the Town written notification confirming their intent to take all necessary steps to avoid producing objectionable noise. Buildings or facilities that produce objectionable noise are subject to the enforcement provisions of the Zoning Ordinance.**

Specific Environment	Critical Health Effect (s)	LAeq (dB)	Time base (hours)	LAm _{ax} , fast (dB)
Outdoor living area	Moderate annoyance, daytime and evening	50	16	-
Dwelling, indoors	Moderate annoyance, daytime and evening	35	16	-
Inside Bedrooms	Sleep disturbance, night-time	30	8	45
Outside Bedrooms	Sleep disturbance, window open	45	8	60
School, indoors	Disturbance	35	During class	-
Pre-school bedrooms	Sleep disturbance	30	Sleep time	45
School playground	Annoyance (external source)	55	During play	-
Hospital, ward rooms, indoors	Sleep disturbance, night-time	30	8	40
	Sleep disturbance, day/evening	30	16	-
Hospital, treatment rooms, indoors	Interference with rest and recovery	See footnote #1		
Industrial, commercial, shopping, and traffic areas (indoors and outdoors)	Hearing impairment	70	24	110
Ceremonies, festivals, and entertainment events	Hearing impairments (patrons attending more than 5 times a year)	100	4	110
Public address (indoors and outdoors)	Hearing impairment	85	1	110

Impulse sounds from toys, fireworks, and firearms	Hearing impairment (adults)	-	-	140 ²
	Hearing impairment (children)	-	-	120 ²
Outdoors in parkland and conservation areas	Disruption of tranquility	See footnote #3		

1 – as low as possible

2 – peak sound pressure (not LAmax, fast) measured 100 mm from the ear

3 – existing quiet outdoor areas should be preserved and the ratio of intruding noise to natural background sound should be kept low

Note: LAeq means the decibels as an accurate approximation of what is heard by the human ear.

Source: World Health Organization

6.20 DRIVEWAYS

Permitted Design. Driveways which do not cross the Overlay Districts are allowed if they meet the following standards:

1. The driveway shall have a maximum 4% grade from the road travelled way to a point 25 feet beyond the property line. The remainder of the driveway shall have a maximum 10% grade for any 100 foot segment;
2. If the total length of the driveway exceeds 1,000 feet, the width shall allow emergency vehicles to pass at a maximum of 1,000 foot intervals;
3. The design shall prevent drainage from entering the road right-of-way beyond the ditch line. In addition, Low-Impact Development (LID) design shall be encouraged for any project to mimic the natural landscape with small and distributed infiltration, storage, and retention and detention measures.
4. Where a reasonable alternative exists, driveways should not be constructed in the side or rear setbacks. When a driveway must be built within the setbacks, there shall be suitable area for snow storage; and
5. Driveway permits must be obtained from the Town or the State prior to receiving a building permit.

6.30 OFF-STREET ROAD LOADING AND PARKING

Adequate off-street road loading and parking shall be provided whenever any new use is established or any existing use is enlarged in accordance with the standards and specifications used by the State of New Hampshire.

6.40 SIGNS

No signs, the type commonly described as commercial billboards, leased for the display of promotional material, shall be permitted in Springfield.

6.50 REMOVAL OF NATURAL MATERIAL

If clay, sod, loam, sand or gravel is removed within 100 feet of any public road highway, street or roadway, the area shall be regraded and redressed to assure that the premises will be left in a sightly

condition and protected against erosion and washouts within 90 days of the finish of operation and/or unsightly materials removed. All ~~other~~ earth excavation for commercial purposes shall be governed in accordance with New Hampshire RSA Chapter 155-E.

All grading slopes and embankments shall be maintained against ordinary erosion which might otherwise occur as a result of the construction of roads, driveways or structures. All construction operations shall be controlled by the owner to prevent erosion debris and other loose materials from washing into any drainage course **or road street**, or **onto** abutting property.

6.60 JUNK YARDS

No person, firm or corporation shall keep or maintain within the limits of the Town, any junk yard, dump or any other matter upon his or its premises, or permit or allow the same to be so kept, used or maintained, so near to any highway, park, **road street** or alley or other public place, or adjoining or abutting any land owned or occupied by another person, firm or corporation so as to be offensive to the use and enjoyment of the public of said highway, park, **street road** or alley or any other public place; or a menace to public health; or so as to be offensive to the use, occupation and enjoyment of said adjoining or abutting premises by its owners or occupants or in such a manner that the contents of said junk yard, dump or other offensively used premises are discharged upon any highway, park, **street road** or alley or other public place, or upon the land of any person, firm or corporation. Any junk yard or dump shall conform to the State standards at a minimum.

A short term variance of 90 days may be obtained from the Board of Adjustment in order to alleviate demonstrable hardship.

6.70 SLUDGE APPLICATION

Sludge may be applied to fields in the Town of Springfield as fertilizer for agricultural purposes under the following conditions:

1. All Federal and State requirements for such applications are met including, but not limited to, requirements for permits, amount per acre, times, and method of incorporation into soils.
2. One application of sludge only is permitted during the time specified in State and Federal regulations each year.
3. The ~~Zoning Board~~ **Select Board** is notified in writing at least 30 days before proposed application of sludge and an announcement of the proposed application of sludge and its date is posted by at least an eight by eleven inch placard on each of the property boundaries which are within 400 feet of the area to be fertilized.

6.80 SEPTAGE APPLICATION

Septage may be spread in the Town of Springfield only in area or areas designated by the Town for this purpose. Access to this area(s) shall be controlled and supervised by the appropriate Town or State authorities who may promulgate further rules and regulations.

1. All such septage shall be from households or facilities within the Town. A written and signed assurance of local origin of the septage by the householder must be received by the **Town Agent**.
2. The septage shall be treated and spread as specified in State and Federal regulations.

ARTICLE VII. SPECIAL PROVISIONS

7.10 WATERFRONT DEVELOPMENTS

The purpose of this provision is to provide guidelines for the development of land with access to the lakes, ponds, and streams in Springfield.

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

Waterfront Area: The minimum area of any waterfront lot shall not be less than 1.5 acres for each dwelling unit in accordance with Section 3.13 A. – Lot Size.

Water Frontage: Said lot shall have not fewer than 150 linear feet of shore frontage, with an additional 8 linear feet of shore frontage for each additional dwelling unit over 12 units; or for a group development, the provision of two additional linear feet per person for whom the facility is proposed.

Building Setback from Ponds and Lakes, and Permanent Streams: Structures shall be set back 100 feet from the normal high water mark of **ponds, lakes, and permanent streams** ~~lakes and ponds~~. Existing natural vegetation should be maintained as a buffer where possible. In the case of commercial and/or multi-unit buildings and clusters **of buildings**, they shall be set back a minimum of 150 feet from the normal high water mark.

Parking: An area of 400 square feet for parking shall be reserved for each dwelling unit; or for each four persons in the case of a group development or beach use that is planned. For other uses, the provisions of Section 6.20 - Off-~~Street~~ **Road** Loading and Parking apply. Paved parking areas larger than 400 square feet shall be located at least 500 feet from the high water mark.

Septic Systems: ~~No septic system leach field shall be permitted within one hundred twenty five (125) feet of any surface water. All replacement septic systems that do not involve increasing the design capacity of present systems on land bordering on or within one hundred twenty five (125) feet of any surface water shall conform at a minimum without exception or exemption to the~~ **All new and replacement septic systems shall conform to the** written rules and regulations of the Department of Environmental Services of the State of New Hampshire as published in **the most current** *Subdivision and Individual Sewage Disposal System Design Rules, August 1999, or as amended.*

7.20 MANUFACTURED HOUSING PARK STANDARDS

The following standards shall apply to all manufactured housing parks and to all manufactured housing in such parks.

1. The density requirement for such parks shall be those set forth in Section 3.13 A. – Lot Size. No manufactured housing park shall be constructed on less than five acres of land.

2. Within the minimum five-acre manufactured housing park requirement, but in addition to all common areas, an attractive 50 foot buffer strip shall be provided and maintained along all boundary lines and public roads. Such space shall not be built upon, paved or used for parking. The buffer strip shall consist of natural trees and bushes or landscaping along all boundaries of the site including the road frontage.
3. Each manufactured housing lot shall be provided with at least two off-~~street~~ **road** automobile parking spaces, each of 200 square feet.
4. All manufactured housing shall have access to a private well-drained roadway with a minimum width of 20 feet, to be maintained by the manufactured housing park owner **or owners' association** in accordance with any Town regulations.
5. Utilities including water, sewage disposal and electricity shall be made available by the manufactured housing park owner **or owners' association**. The water and sewer facilities shall be designed by a Sanitary or Civil Engineer in conformance with all local and State regulations.
6. A manufactured home shall be located on the manufactured housing space so that it is at least 20 feet from the right-of-way of the interior road and 15 feet from any other interior lot line of the manufactured housing space.

ARTICLE VIII. NON-CONFORMING STRUCTURES AND USES

A non-conforming structure or use of land is a structure or use which legally existed prior to the adoption of the provision in this zoning ordinance which now prohibits it. This Zoning Ordinance shall not apply to **a non-conforming structure or use** ~~existing structures or to the existing use of any buildings and/or land.~~ It shall apply to any alteration of a **structure building for or use** for a purpose or in a manner which is substantially different from the **structure or use** to which it was put before alteration (RSA 674:19).

If a use, other than a dwelling, is ~~discontinued or~~ abandoned for one year, it shall thereafter conform to the regulations for the District and the non-conforming use may not thereafter be resumed without approval of the Zoning Board of Adjustment.

Any and all non-conforming property may be altered and expanded as the business and conditions warrant, providing, however, that any such expansion does not make any existing non-conforming structure a more non-conforming structure within the terms of the Ordinance and that all other standards of this Ordinance are met.

Non-conforming buildings which are destroyed by fire or other natural disaster may be rebuilt or replaced within two years if the degree of non-conformity is not increased. The time may be extended if demonstrable undertaking to rebuild is underway.

ARTICLE IX. NONCONFORMING LOTS

Lots in existence at the time of passage of this Ordinance with less frontage and/or area than otherwise required by this Ordinance may be built upon provided that the building or structure is in compliance with all other provisions of this Ordinance including setback requirements.

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

- A. Administration The Board of Selectmen or its agent is hereby given the power and authority to enforce the provisions of this Ordinance and control issuance of permits required under the regulations set forth.
- B. Permits Permits shall be required from the Board of Selectmen before use of land and/or buildings in Springfield, NH, for any use purpose not listed in Section 3.11 – Permitted Uses. These permits will be issued only if the ~~proposed use~~ **proposal** conforms to the zoning restrictions under the present Ordinance. Variance or **special** exceptions **or waivers** from these provisions may only be granted on appeal to the Zoning Board of Adjustment as set forth in this article.

The Selectmen shall set a fee for the permit adequate to cover administrative costs of such permit.

- C. Issuing Permits The Board of Selectmen shall issue any and all building permits required in accordance with the Town Regulations. No permit shall be issued for the erection of any structure and the use of land unless the proposal complies with the provisions of this Ordinance and is consistent with the Town Plan.
- D. Enforcement The Selectmen upon receiving any credible information that this Ordinance is being violated, and upon an affirmative vote that a violation probably is being committed, are authorized hereby to enforce the provisions of the Ordinance by application for appropriate relief in the Superior Court, or by taking any other legal action.
- E. Penalties Any violation of the provisions of the Ordinance shall subject the violator to a fine of not more than 100 dollars for each day such violations are found by a court to continue after the conviction date or after the date on which the violator receives written notice from the Town that he is in violation of the Ordinance.

ARTICLE XI. ZONING BOARD OF ADJUSTMENT

11.10 ORGANIZATION

11.11 Zoning Board of Adjustment

This Board shall consist of five members and three alternate members (RSA 673:3, 5, 6). The term of a Zoning Board of Adjustment member or alternate member shall be three years (RSA 673:5, 6). Terms shall be staggered so that no more than two members and one alternate member are selected each year (RSA 673:5). Terms of ex-officio members shall coincide with the term of their other office (RSA 673:5). Vacancies shall be filled for the vacant term (RSA 673:12).

11.12 Removal

After public hearing, members and alternate members may be removed by the Selectmen upon written findings of inefficiency, neglect of duty, or malfeasance in office. In such cases the Selectmen shall file with the Town Clerk a written statement of reasons for removal under this section and provide a copy of the statement to the member or alternate member who has been removed (RSA 673:13).

11.13 Disqualification of Member

No member of the Zoning Board of Adjustment shall sit upon the hearing of any question which the Board is to decide in a judicial capacity if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law (RSA 673:14). If a member is disqualified or unable to act in any particular case pending before the Board, the Chairman shall designate an alternate to act in his/her place, as provided in RSA 673:11.

11.14 Meetings

Meetings of the Zoning Board of Adjustment shall be held at the call of the Chairman and at such time as the Board may determine (RSA 673:10). Hearings must be scheduled by the Zoning Board of Adjustment within 30 days of receipt of notice of appeal (RSA 676:7 II). All meetings of the Board shall be properly posted and shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the Town Office and shall be a public record as provided in RSA 91-A.

11.15 Officers

The Board shall elect its own Chairman and the officers it deems necessary (RSA 673:8).

11.16 Powers and Duties

The Zoning Board of Adjustment is hereby authorized and empowered to adopt such rules of organization and procedure as are necessary for the efficient administration and enforcement of the Ordinance and which are consistent with State law **including those provided in RSA 674:33**. The Board has the

authority to act on the following: ~~In addition, the Zoning Board of Adjustment shall have the powers as provided in RSA 674:33 to:~~

Administrative Appeal: Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by any administrative official in the enforcement thereof or any ordinance adopted pursuant to RSA 674:16;

Variance: Authorize upon appeal in specific cases such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done; and

Special Exception: In appropriate cases and subject to appropriate conditions and safeguards, permit special exceptions to the terms of the Ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the Zoning Ordinance and the Town Plan and shall be in accordance with the general and specific rules contained in this Ordinance.

***Equitable Waiver:* The Zoning Board of Adjustment can provide relief under RSA 674:33-a. when a lot or other division of land, or a structure is discovered to be in violation of a physical layout or dimensional requirement that is imposed under the Zoning Ordinance.**

***Waiver to Accommodate Disability.* The Zoning Board of Adjustment may grant a waiver from the terms of this zoning ordinance without finding hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises. The waiver may provide that the waiver shall survive only so long as the particular person has a continuing need to use the premises per RSA 674:33 V.**

***Waiver for Existing Agricultural Use:* Any agricultural use which exists pursuant to RSA 674:32-a may without restriction be expanded, altered to meet changing technology or markets, or changed to another agricultural use, as set forth in RSA 21:34-a, so long as any such expansion, alteration, or change complies with all federal and state laws, regulations, and rules. Any new establishment, re-establishment after disuse or significant expansion may be made subject to applicable local restrictions as provided by RSA 674:32-b.**

***Developments of Regional Impact Determination:* Upon receipt of an application for a variance or special exception, the ZBA shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.**

Upon determination that a proposed development has a potential regional impact, the ZBA shall afford the Upper Valley Lake Sunapee Regional Planning Commission and the affected municipalities the status of abutters for the limited purpose of providing notice and giving testimony.

Within 144 hours of reaching a decision regarding a development of regional impact, the ZBA shall by certified mail, furnish the Regional Planning Commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. At that time, the ZBA shall also submit a set of plans to the Regional Planning Commission, the cost of which shall be born by the applicant. At least 14 days prior to public hearing, the ZBA shall notify, by certified mail, all affected municipalities and the Regional Planning Commission of the time, date, and place of the hearing and their right to testify concerning the development.

11.20 APPEALS TO THE ZONING BOARD OF ADJUSTMENT

Any person aggrieved or any officer, department, board or bureau of the Town affected by any decision of the administrative authority under this Zoning Ordinance may appeal to the Board. Such appeals must occur within 15 days of the granting or refusal of a zoning permit, by filing with the administrative authority or Board from whom the appeal is taken and with the Zoning Board of Adjustment a notice of appeal specifying the grounds thereof (RSA 676:5).

An appeal stays all proceedings under the action appealed from unless the administrative authority from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or the Superior Court on notice to the administrative authority from whom the appeal is taken and cause shown (RSA 676:6).

11.30 PUBLIC NOTICE REQUIREMENTS

Prior to exercising its power to grant an administrative appeal, special exception or variance **or waiver**, the Zoning Board of Adjustment shall hold a public hearing. The public hearing shall be held within 30 days of the receipt of the application requesting consideration by the Board (RSA 676:7 II).

In the case of Special Exceptions, the Zoning Board of Adjustment shall notify the Planning Board immediately so that Site Plan Review, which is required for development of land or buildings for non-residential uses or for multi-family dwelling units as defined in the Site Plan Review Regulations of Springfield, NH, may be conducted before or at the before-mentioned hearing. If the opinion of the Planning Board is desired by the Zoning Board on other matters, the timing shall be the same.

Notice must be sent by certified, ~~return receipt~~ mail to all ~~abutters~~ **interest holders** not fewer than five days before the date of the hearing. Notice shall be published in a newspaper of general circulation not fewer than five days before the date of the hearing and shall indicate time and place of meeting and shall indicate what relief is being sought. Where possible, there should be reference to the Ordinance sections under which a special ~~condition~~ **exception** is being sought or from which a variance **or waiver** is being sought or under which an administrative appeal is being taken (RSA 676:7 I).

The cost of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration and to deny the appeal without public hearing (RSA 676:7 IV).

11.40 APPEAL CONDITIONS TO BE MET

11.41 Administrative Appeals

To grant an administrative appeal, the Zoning Board of Adjustment must apply the strict letter of the law. It must find that the administrative authority correctly or incorrectly interpreted a particular provision of the Ordinance. If it finds that the Ordinance was properly interpreted, it cannot grant relief (unless a request has been made for a variance or special condition), even if it feels relief might be in order.

11.42 Special Exceptions

In order for the Board to grant a special exception it must find that the special exception being sought by the applicant is in fact permitted and specified in the Zoning Ordinance and that all of the conditions for the special exception are met and that the action is in harmony with the Town Plan and its policies, goals, objectives, standards, and recommendations.

For the purpose of this Ordinance, the following are established as general conditions for the granting of all special exceptions, subject to further conditions as may be defined elsewhere herein as to the uses concerned, namely:

- A. That the use will not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the character or appearance of the neighborhood;
- B. That the use will not be injurious, noxious, or offensive, and thus detrimental to the neighborhood;
- C. That the use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life and property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions.
- D. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use and the location of the site with respect to the existing or future ~~street~~ **road** giving access to it shall be such that it will be in harmony with the orderly development of the District. The location, nature and height of buildings, walls, and fences shall not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof. In this regard the Board may impose safeguards in addition to the applicable requirements of this Ordinance, including but not limited to the following:
 - 1. Front side or rear setbacks greater than the minimum requirements of the Ordinance.
 - 2. Screening of parking areas or other parts of the premises from adjoining premises or from the ~~street~~ **road** by walls, fences, planting, or other devices.
 - 3. Modification of the exterior features or appearance of the building or structure.
 - 4. Limitation of size, number of occupants, method or time or operation or extent of facilities.
 - 5. Regulation of number, design, and location of drives or other traffic features;
 - 6. Off-~~street~~ **road** parking or loading spaces beyond the minimum requirements of this Ordinance;
 - 7. Control of the number, location, and size of lighting and signs.
- E. Operations in connection with such a use shall not be more objectionable to nearby properties by reason of noise, fumes, odor, or vibration, than would be the operation of any permitted uses in this District which are not subject to special exception procedures.

11.43 Variances

The Board of Adjustment may, on an appeal, grant a variance from the provisions of this Ordinance, if all the following facts are found by the Zoning Board of Adjustment and such finding is specified in its decision:

- ~~A. That there are unique physical circumstances or conditions including irregularity, narrowness or shallowness of lot, size or shape; or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such condition and not the circumstances or conditions generally created by the provisions of the Ordinance in the neighborhood or district in which the property is located.~~
- ~~B. That because of such physical circumstances or conditions there is no possibility that the property can be used in strict conformity with the provisions of this Ordinance for a permitted use of the applicant's choice and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.~~
- ~~C. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property not be detrimental to the public welfare.~~
- ~~D. That the variance, if authorized, will represent the minimum variance that will afford reasonable relief.~~16.50.
- A. The variance will not be contrary to the public interest;**
- B. The spirit of the ordinance is observed;**
- C. Substantial justice is done;**
- D. The values of surrounding properties are not diminished; and**
- E. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**
 - 1. For purposes of this section, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and**
 - b. The proposed use is a reasonable one.****
 - 2. If the criteria in subsection "1." Are not established, an unnecessary hardship will be deemed to exist, if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

The definition of "unnecessary hardship" set forth in subsection "E." shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

11.44 Equitable Waiver:

When a lot or other division of land or a structure is discovered to be in violation of a physical layout or dimensional requirement that is imposed under the Zoning Ordinance, the owner may apply to the Zoning Board of Adjustment for an equitable waiver of the requirement, which the Board shall grant if each of the following facts exists:

- A. That the violation was not discovered by an owner, owner's agent, or municipal officer until after any structure that is in violation was substantially completed or until after a lot or other division of land in violation had been sold to an innocent buyer;**
- B. That the violation was caused by either**
 - 1. A good faith error in measurement or calculation made by an owner or owner's agent, or**
 - 2. By an error in applying the ordinance made by a municipal official who issued the permit that should not have been issued.**
- C. That the physical or dimensional violation does not constitute a public or private nuisance, does not diminish the value of other property in the area, and does not interfere with any present or permissible future uses of other property; and**
- D. That due to the investment made in ignorance of the violation, the cost of correcting it so far outweighs any public benefit to be gained that it would be inequitable to require the violation to be corrected.**

Notwithstanding, in lieu of the findings required in A through D above, the equitable waiver shall be granted if the owner demonstrates to the satisfaction of the Board that:

- A. The violation has existed for ten years or more, and**
- B. No enforcement action, including a written notice of violation, has been commenced against the violation by the municipality or by any person directly affected.**

11.50 DECISION OF THE BOARD

The concurring vote of three members of the Zoning Board of Adjustment shall be necessary to reverse any action of the administrative authority or to decide in favor of the applicant on a request for a special exception or variance **or waiver** (RSA 674:33 III).

The Board shall issue a final written decision which either approves or disapproves an application. This decision shall be filed in the Town Office within 144 hours after the decision has been made (RSA 676:3). If the application is approved, the decision should state that the ~~conditions~~ **requirements** of the special exception or variance were ~~met found to exist~~ **met** and indicate any conditions attached to the

approval. If the application is denied, all reasons for denial shall be indicated in the denial letter to the applicant and placed on the record.

11.60 REHEARINGS

A rehearing of a decision of the Zoning Board of Adjustment may be sought if the petitioner wishes to call to 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 30 days of the decision of the Board (RSA 677:2). 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 motion for a rehearing, the Board shall within 30 days either grant the order of the original application or suspend that order or decision pending further consideration. (RSA 677:3)

ARTICLE XII. MISCELLANEOUS PROVISIONS

Saving Clause

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

Effective Date

This Ordinance shall take effect immediately upon its adoption.

Amendments

This Ordinance may be amended by majority vote of any Town Meeting, in accordance with the provisions of RSA Chapter 675, as amended.

Validity

Whenever the provisions of this Ordinance or rulings made under the authority hereof differs from those of other ordinances or regulations of the Town, that provision or ruling which imposes greater restriction or higher standard shall govern.

ARTICLE XIII. DEFINITIONS

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

Abandoned

The discontinued use of a structure or use for a continuous period of at least two years which occurs when the owner (a) intends to abandon or relinquish the use, and (b) takes some overt act, or fails to act, in some way that implies that the owner neither claims nor retains any interest in that use.

Abutter

Any person whose property adjoins or is directly across the ~~street~~ **road** or stream from the land under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For the purpose of receipt of notification in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means those officers of the collective or association as defined in RSA 356 –B:3)XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A: 1:II, then term “abutter” includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the ~~street~~ **road** or stream from the land under consideration by the local land use board. (RSA 672:3)

Accessory Building

A subordinate building incidental to and on the same lot occupied by the main building or use. The term “accessory building”, when used in connection with a farm, shall include all buildings customarily used for farm purposes.

Accessory Use

A use incidental to, and on the same lot as, a principal use. For clarification, in residential districts, private recreational facilities, such as a tennis court or swimming pool, are accessory uses.

Accessory Use of Structure

A use of structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Bog

Bog means a wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil and/or water conditions.

Building

Any structure whether portable, movable or fixed, built to form a shelter for persons, animals or property of any kind.

Certified Wetland Scientist

Certified wetland scientist means a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience as specified by RSA 310-A:84,II-a and II-b, is qualified to delineate wetland boundaries and prepare wetland maps in accordance with standards for identification of wetlands adopted by the New

Hampshire Department of Environmental Services or the United States Army Corps of Engineers or its successor, and who has been duly certified by the New Hampshire Board of Certification for Natural Scientists.

Cluster Development

A form of residential subdivision that permits building units to be grouped on lots with reduced dimensions and frontages provided that the density of the **original lot tract** as a whole shall not be greater than the density allowed under existing regulation and that remaining land area is devoted too privately or commonly owned or dedicated open space.

Company Vehicle

Any motor vehicle used primarily for business purposes, except any heavy vehicle or equipment as defined herein.

Development

Any human-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

Driveway

An area built for access to a garage or off-road parking space, serving not more than two lots. The driveway entrance is that area running from the property line abutting the road to a distance of 25' into the property and the width of the driveway.

Dwelling, Single-Family Unit

A detached residential building designed for and occupied by one ~~family~~ **household** only.

Dwelling, Two-Family Unit

A residential building designed for or occupied by two ~~families~~ **households** living independently of each other in individual dwelling units.

Dwelling, Multi-Family Unit

A residential building designed for or occupied by three or more ~~families~~ **households**, with the number of ~~families~~ **households** in residence not exceeding the number of dwelling units provided or permitted.

Dwelling Unit

One room, or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure. For the purpose of this definition, an independent housekeeping establishment includes the following minimum attributes: space devoted to kitchen facilities for the storage, preparation and consumption of food (including counters, cabinets, appliances, and a sink for washing dishes), space for one or more bedrooms for sleeping, and a bathroom with a tub and/or shower. (A bar equipped with a bar-sink and an under-the-counter refrigerator shall not constitute kitchen facilities.)

Essential Services

The erection, construction, alteration or maintenance by public utilities or municipal or governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes conduit, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, ~~street~~ **road** signs, and similar equipment and accessories in

connection there-with, *but not including buildings*, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

Equipment, Heavy

Includes backhoes, bucket loaders, excavators, skid-steers, bulldozers, graders, self-propelled compaction devices, cranes, booms, scrapers and pans used in site preparation and road construction, as well as skidders, shears, whole-tree chippers, firewood processors and portable sawmills used in logging operations. Farm or agricultural implements are excluded from this definition.

Frontage, Road

The width of a lot measured along its common boundary with the ~~street~~ **road** line. Lots will be provided access from a common boundary with the ~~street~~ **road** line where this common boundary meets the minimum length required by the Zoning Ordinance. **Lots fronting more than one road shall count only the length of the road where the lot access is located as their frontage.**

Glare

Intense and blinding light causing visual discomfort or disability.

Group Development

The residence of a group of six or more persons, not related by blood, marriage, adoption, or guardianship and living together as a single unit.

Guest Facilities

Bed and Breakfasts, inns, campgrounds, boarding houses, and camps.

Heavy Vehicle

Any vehicle having more than two axles.

Interest Holder

Shall mean the applicant; abutters of any portion of the subject property; and holders of conservation, preservation, or agricultural restrictions on the subject property(ies).

Junk Yard

Any business or any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts or motor vehicle or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts or material shall be equal in bulk to two or more motor vehicles. Junk yard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof (RSA 236:112).

Lot

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

Lot Frontage

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

Lot Size Averaging

A method of subdivision allowed in the Forest Conservation District to allow a greater density of development while increasing preserved open space and providing greater flexibility to land owners.

Luminaire (light fixture)

A complete lighting unit consisting of one or more electric lamps, the lamp holder, any reflector or lens, ballast (if any), and any other components or accessories.

Manufactured Home

Any structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and is designed to be used as a dwelling with ~~or without~~ a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein (RSA 674:31). A manufactured home as defined in this section shall *not* include pre-site housing or recreational vehicles

Manufactured Housing Park

Any ~~lot tract~~ of land on which two or more manufactured houses are parked and occupied for living purposes. A manufactured house occupied as the principal residence of the land owner shall not be counted in this definition as long as density requirements are met.

Marsh

Marsh means a wetland that is distinguished by the absence of trees and shrubs; is dominated by soft-stemmed herbaceous plants such as grasses, reeds, and sedges; and where the water table is at or above the surface throughout the year, but can fluctuate seasonally.

Non-conforming Structure, Use, or Lot

A structure, use, or lot that ~~does not conform to the regulations of the zoning district in which it is located or carried on~~ **existed legally prior to the adoption of the provision in the zoning ordinance which now prohibits or restricts it.**

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.

Outdoor, Passive Recreation Uses

Outdoor activities that involve relatively inactive or less energetic activities, such as walking, bird watching and picnicking.

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~~ **zoning** 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.

Parking Space

An off ~~street~~ **road** space available and sufficient for parking of one motor vehicle.

Pre-site Built Housing

Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed, or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. Pre-site built housing shall not include manufactured housing as defined in RSA 674:31.

Recreation Facilities

An area and appurtenances designed for the purpose of leisure time activities such as:

- a. Publicly-owned recreational facilities: town, county or state areas; ponds and lakes; also forest areas where timber is privately owned, but which are open to the public through permanent easement.
- b. Privately-owned tax exempt recreational facilities that are available to the public; example: civic organizations that have a tax exempt status. Privately-owned, noncommercial recreation facilities that are not generally available to the public (example: veterans' organizations).

Recreational Vehicle

A vehicle which is

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

Right-of-way

Includes all town, state and federal highways, ~~and rights of way (public or private)~~ and the land on either side of same, as covered by the Statutes, to determine the widths of the right-of-way. **It shall also include any private access documented by deed or approved plan.**

RSA

Revised Statutes Annotated, State of New Hampshire.

Septage

This means septage as defined by RSA 485-A:2, IX-a, namely” material removed from septic tanks, cesspools, holding tanks or other sewage treatment storage units, excluding sewage sludge from public treatment works and industrial waste”. Septage includes domestic septage as well as septage from industrial and commercial sources.

Septic System

An underground system used for the decomposition of domestic wastes including a septic tank, connection lines, a distribution box, distribution lines and a disposal or leach field.

Sign

Any combination of letters, numerals, lines, symbols, shapes or designs, in any medium, on any surface, intended to convey the identity of, or information about, any person, place, thing, product, or service.

Sludge

This means sludge as defined by RSA 485-A:2,XI-a, namely “the solid or semisolid material produced by water and wastewater treatment processes”.

Special Exception

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

Steep Slopes

~~Land area where the inclination of the land’s surface from the horizontal is fifteen (15) percent or greater. Slope is measured and expressed as a percentage that represents the relationship between elevation and horizontal distance; for example, if the land rises 10 feet in elevation over a horizontal distance of 100 feet, the slope of the land is 10/100 or 10 percent.~~

Street, Road or Public Way

The public rights-of-way which the Town or State has the duty to maintain regularly or a right-of-way shown on a subdivision plat which provides the principal means of access to abutting property approved by the Planning Board and recorded with the County Register of Deeds. The word **street road** shall include the entire right-of-way. A discontinued **street road** shall not constitute an existing approved **street road** for the measurement of frontage along the **street road** lot line.

Stream, Permanent

A stream that flows year-round because its bed lies below the water table, or because more water is supplied from upstream than can infiltrate the ground.

Structure

Anything constructed, placed, or erected on the ground, or attached to something already existing on the ground, with or without durable foundation, whether temporary or permanent. Among other things, structures including buildings, manufactured homes, pre-site built housing, walls, decks or platforms, temporary carports and storage structures, sheds, greenhouses and other accessory structures (including Dish Antennas or satellite earth stations that are over 3 feet in diameter). **The following are excluded from the definition of “structure:” fences, stone walls, animal shelters under 15 square feet, children’s swing sets, dumpsters, flagpoles, sand boxes, playhouses and other playground equipment, signs and sign installation devices, tents for camping and temporary tent structures used for functions and gatherings are excluded from the definition of a structure.**

Surface Waters

Surface waters to include lakes, ponds, permanent streams, wetlands, and vernal pools.

Swamp

Swamp means a wetland that is dominated by trees and shrubs.

Town

The entire Town of Springfield extending to the boundaries with the surrounding towns.

Town Plan

The Master Plan as defined in RSA 674:2-4, to be implemented by the appropriate administration of the Springfield Subdivision Regulations and Zoning Ordinance.

Tract

A relatively large land area to which density standards can be applied in considering potential subdivision into lots or possible use for multiple building units without subdivision.

Variance

A relaxation of the terms of this Ordinance, where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. **Variations can only be granted by the Zoning Board of Adjustment.**

Wetland

Wetland means “wetlands”, as defined by RSA 482-A:2,X, namely “an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions”. Wetlands include swamps, marshes, bogs and similar areas. See the specific definitions for bog, marsh and swamp

Originally Passed August 5, 1987
Amended March 9, 1993
Amended March 11, 1997
Amended March 14, 2006
Amended March 13, 2007
Amended March 10, 2009
Amended March __, 2010