

ZONING ORDINANCE
TOWN OF DUMMER, NEW HAMPSHIRE

Originally adopted on April 25, 1974 and amended on the following dates: March 14, 1989; March 11, 1992; March 9, 1993; March 8, 1994; March 14, 1995; March 11, 1997 and March 9, 1999.

ARTICLE I
Preamble and Title

Pursuant to the Authority conferred by the New Hampshire Revised Statutes Annotated (RSA) 674:16-17, 1984, as amended, and for the purpose of preserving the rural character and scenery, protecting the natural resources and promoting the health, safety, morals and general welfare of the Town of Dummer, New Hampshire, the following Ordinance is hereby enacted by the voters of the Town of Dummer, New Hampshire. This Ordinance shall be known and cited as the Town of Dummer Zoning Ordinance - hereinafter referred to as "this Ordinance".

ARTICLE II
Purpose

This Ordinance is designed to promote the health, safety and general welfare of the inhabitants of Dummer, to protect the value of property, to protect against the overcrowding of land, to protect the integrity of the Town's natural resources and scenery, to avoid undue concentration of population and to facilitate the adequate provision of public services.

A number of topographical, climatological, geological, historical, and geographical factors create an environment in the Town of Dummer, which is particularly suited to residential, agricultural and conservation-based land uses. This Ordinance, therefore, is particularly designed to protect and encourage such developments.

ARTICLE III
Definitions

Unless otherwise stated, words shall, for the purpose of this Ordinance, have the meaning indicated in this Article. Words used in the present tense include the future. The singular includes the plural and the plural the singular. The word "person" includes a corporation, partnership or incorporated association of persons. The word "shall" is mandatory, not directory.

3.01 ACCESSORY BUILDING OR USE: A building or use located on the same lot as the principal building or use and use of which is considered customarily incidental to those of the principal building such as, but not limited to, detached garages, swimming pools, equipment sheds, and storage trailers. (3/11/97)

3.02 BUILDING: Any structure having a roof supported by columns or walls designed or built for the support, enclosure, shelter or protection of persons, animals or property of any kind.

3.03 CAMP OR COTTAGE: A building of such nature that it may only be used for recreational and dwelling purposes during seasonal parts of the year.

- 3.04 CAMP GROUND:** An area set aside for seasonal rental of a site to tourists who provide their own tents or trailers and which may be open to the public from May 1 through October 15.
- 3.05 Co-Location:** Locating telecommunication facilities for more than one provider on a single site or tower.
- 3.06 DRIVEWAY:** An access way serving not more than two lots.
- 3.07 DWELLING UNIT:** A room or group of rooms, with its own sanitary and kitchen facilities, forming a habitable unit for one family, used or intended to be used for living, sleeping, eating, cooking and sanitation.
- 3.08 FRONTAGE:** The distance that a front yard borders on a public street or a private street that has been approved by the Planning Board in a subdivision.
- 3.09 FRONT YARD:** An open unoccupied space extending for the full width of a lot between the extreme front line of the building thereon and the nearest existing edge of the public right of way.
- 3.10 HEIGHT:** The vertical distance between the mean finished grade at the structure and the highest point of the structure, even if said highest point is an antenna. (excluding residential antennas).
- 3.11 HOME OCCUPATION:** A home occupation is that accessory use of a dwelling unit that shall constitute either entirely or partly the livelihood of a person living in the dwelling subject to the conditions of section 6.01. The home occupation shall be clearly secondary to the use of the property as a residence and no more than 25% of the floor space of the residence shall be used to operate the home occupation.
- 3.12 JUNKYARD:** Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered motor vehicles no longer intended or in condition for legal use on the public highways are held.
- 3.13 LOT:** A parcel of land of at least sufficient size to meet the minimum requirements of this Ordinance for use, area, setback, frontage and having access on an improved street or right-of-way.
- 3.14 MANUFACTURED HOUSING:** A structure which is transportable in one or more sections and which exceeds 8 feet in width and 40 feet in length and is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities.
- 3.15 NON-CONFORMING LOT:** A lot which does not conform to the requirements of this Ordinance.

3.16 NON-CONFORMING USE: The use of any building, structure, or land which does not conform to the provisions of this Ordinance.

3.17 PERMITTED USE: A use of property which is allowed by right in Dummer.

3.18 PRIVATE ROAD: A roadway providing access to three or more lots but which is not maintained by the Town. New private roads requesting subdivision approval must meet established Town standards.

3.19 PUBLIC ACCOMMODATION: A building or group of buildings in which lodging or lodging and meals are provided for transient guests for compensation. Public accommodations include, but are not limited to, motels, hotels and bed and breakfasts.

3.20 PUBLIC RIGHT-OF-WAY: Any town, state, or federal highway or road and the land on either side of the same, as covered by statutes to determine the width of right of ways. Roads and streets are public right-of-ways.

3.21 SETBACKS:

FRONT: The depth of the front yard as measured from the street right-of-way to the front line of the closest building.

SIDE: The depth between the side lot lines and the sides of the closest building.

REAR: The depth of the rear yard as measured from the rear lot line to the rear line of the closest building.

3.22 SIGN: Any medium, including its structure and component parts, which is used or intended to be used to attract attention to its subject matter. Neither court and government notices nor the flag, emblem or insignia of a nation, political unit, school or religion are considered signs.

3.23 SPECIAL EXCEPTION: A special exception is the specific use of a building or lot which may be permitted under this Ordinance only upon formal application to the Zoning Board of Adjustment. Special exceptions are designed to permit certain types of uses when such a use would not be detrimental to the public health, safety, character and welfare of Dummer and only in cases where the word "special exception" appears in this Ordinance. A special exception will be allowed if the following conditions are met:

- A. The specific site is an appropriate location for such a use,
- B. Property values in Dummer will not be reduced by such a use and the use will not cause undue financial burden to the Town,

- C. No nuisance or unreasonable hazard to the natural or built environment will occur,
- D. Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.

E.

3.24 STRUCTURE: A structure shall be any combination of materials, constructed, erected, installed, or located above, below, or upon the ground. Structures include, but are not limited to buildings, swimming pools, barns, manufactured housing and garages. Minor installations such as, but not limited to fences less than four feet high, mail boxes and flag poles shall not be considered structures. (3/11/97)

3.25 TELECOMMUNICATION FACILITIES: Any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR) and personal communications service (PCS) and common carrier wireless exchange access services.

3.26 VARIANCE: A permit authorizing a use of property which is contrary to the Zoning Ordinance. Variances may be granted by the Zoning Board of Adjustment in accordance with RSA 674:33 in cases where, owing to the specific conditions, a literal enforcement of the provisions of the Ordinance would result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial justice done.

ARTICLE IV Permitted Uses

For the purposes of this Ordinance, the Town of Dummer shall have three zoning districts the boundaries of which shall be defined on the official zoning map of the Town of Dummer, New Hampshire, dated March 9, 1999 hereby adopted by reference as part of this ordinance. Said map shall be located in the town office and available for view during regular office hours. The regulations established by this Ordinance shall apply throughout the zones as follows:

4.01 Rural/Agricultural Zone

4.01.1 The following uses are permitted in the Rural/Agricultural Zone:

1. Single and two-family dwellings
2. Farm dwellings
3. Single family manufactured housing
4. Church, parish house, or other religious use

5. Schools
6. Community center, hall, lodge, park or playground
7. Agricultural uses including dairy farming, greenhouses, animal and poultry husbandry, horticultural and silvicultural uses and pasturage and fish hatcheries.
8. Home occupations as provided in Article 6.01
9. Professional offices
10. Outdoor recreational uses
11. Accessory buildings and uses

4.01.2 The following uses are permitted within the Rural/Agricultural Zone by Special Exception by the Zoning Board of Adjustment:

1. Bed & Breakfast accommodations
2. Single dwelling rental camps or cottages
3. Nursery schools and day care facilities
4. Animal kennels
5. Restaurants
6. Sawmills, chip mills, and other woods products operations incidental to forestry activities and in volumes not to exceed 1,500 cords per year.
7. Private and/or commercial removal of gravel, loam, rocks, clay and sand in accordance with RSA 155:E (3/11/92)
8. Indoor recreation facilities
9. Temporary buildings incidental to construction and building operations
10. Campgrounds which may be open to the public from May 1 through Oct. 15
11. Commercial Garages (3/11/97)
12. Retail establishments

4.02 Commercial/Industrial

4.02.1 The following uses are permitted within the Commercial/Industrial Zone:

1. Public Accommodations including Bed & Breakfast & Motel/Hotel facilities.
2. Nursery/Day Care Incidental to other permitted uses in this zone.
2. Animal Kennels
3. Restaurants
4. Retail facilities
5. Mills, such as wood products
6. Hospitals and other medical facilities/offices
7. Funeral homes
8. Manufacturing Operations
9. Warehouse operation
10. Commercial Garages
11. Indoor Recreation

13. Private and/or commercial removal of gravel, loam, rocks, clay and sand in accordance with RSA 155:E (3/11/92) and gravel processing facilities
14. Utilities
15. Accessory buildings and uses

4.02.2 The following uses are permitted within the Commercial/Industrial Zone by Special Exception by the Zoning Board of Adjustment:

1. Telecommunications facilities.

4.03 Conservation Zone

4.03.1 The following uses are permitted within the Conservation Zone:

1. Forestry
2. Agriculture
3. Single Family residences
4. Home occupations as provided in Article 6.01
5. Low intensity outdoor recreational activities (hunt, fish, trap, hike, boat, ski, snowmobile, swim, picnic, etc.)

4.03.2 The following uses are permitted within the Conservation Zone by Special Exception by the Zoning Board of Adjustment:

1. Campgrounds which may be open to the public from May 1 through Oct. 15
2. Bed & Breakfast accommodations within homes existing as of the date of this ordinance, including those homes within the Overlay Zone. (3/9/99).

4.03.3 Conservation Overlay Zone: There is a Conservation Overlay Zone within which only the following activities are permitted. In the event of a conflict of interpretation between the Conservation Zone and the Conservation Overlay Zone, the Overlay shall control:

1. Forestry
2. Agriculture
3. Low intensity, outdoor recreation

4.04 Special Conditions: Conditions may be attached to special exception permits by the Zoning Board of Adjustment consistent with the intent and purpose of this Ordinance in order to protect the health, safety and welfare of the Town's current and future residents.

ARTICLE V
Area Regulations

5.01.1 Rural/Agricultural Zone:

5.01.1 Lot Size To protect the Town of Dummer from danger to health and safety caused by the lack of municipal water and septic systems and to avoid the necessity of providing such services, each lot shall have a minimum area of 2 acres or more as determined by the "Minimum Lot Size By Soil Classification" in the Town of Dummer Subdivision Regulations. The principal building and accessory buildings may occupy no more than thirty (30) percent of the lot on which they are located.

5.01.2 Frontage: Each lot shall have at least one hundred fifty (150) contiguous feet on a public or town-approved private road. Any existing lot of record not conforming with these frontage requirements shall be allowed to be accessed by a driveway as defined by this Ordinance.

5.01.3 Setbacks: Every primary and accessory structure placed on a lot shall have a setback of at least thirty-five (35) feet from the nearest public right-of-way and shall be set back twenty-five (25) feet from the side and rear lot lines. (3/11/97)

5.01.4 Height: No structure erected on any lot shall exceed thirty (30) feet in height except that this restriction shall not apply to farm buildings or church steeples.

5.01.5 Water Setbacks: No structure, septic system, leach field or paved area, excluding roadways, shall be located within one hundred (100) feet of the near bank of a year-round stream or body of water.

5.01.6 Slope: No structure shall be erected on a portion of a lot having a slope of twenty-five (25) percent or more.

5.02 Commercial/Industrial Zone

5.02.1 Lot Size To protect the Town of Dummer from danger to health and safety caused by the lack of municipal water and septic systems and to avoid the necessity of providing such services, each lot shall have a minimum area of 2 acres or more as determined by the "Minimum Lot Size By Soil Classification" in the Town of Dummer Subdivision Regulations. The principal building and accessory buildings may occupy no more than thirty (30) percent of the lot on which they are located.

5.02.2 Frontage: Each lot shall have at least one hundred fifty (150) contiguous feet on a public or town-approved private road. Any existing lot of record not conforming with these

frontage requirements shall be allowed to be accessed by a driveway as defined by this Ordinance.

5.02.3 Setbacks: Every primary and accessory structure placed on a lot shall have a setback of at least five hundred (500) feet from the nearest state highway and shall be set back twenty-five (25) feet from the side and rear lot lines. The setback from the public right-of-way shall be deemed a view screen and shall be maintained in a forested or vegetated state for the purpose of screening structures from the view from the state highway. In addition, telecommunications facilities shall be set back 125% of the height of the tower from the nearest lot line or nearest off-site structure.

5.02.4 Height: The height of telecommunications facilities shall not exceed one hundred fifty (150) feet. No other structure erected on any lot shall exceed thirty (30) feet in height except that this restriction shall not apply to farm buildings. A dimensional special exception for structures up to a height of seventy five (75) feet may be granted by the Zoning Board of Adjustment.

5.02.5 Water Setbacks: No structure, septic system, leach field or paved area, excluding roadways, shall be located within one hundred (100) feet of the near bank of a year-round stream or body of water.

5.02.6 Slope: No structure shall be erected on a portion of a lot having a slope of twenty-five (25) percent or more.

5.03 Conservation Zone

5.03.1 Lot Size To protect the Town of Dummer from danger to health and safety caused by the lack of municipal water and septic systems and to avoid the necessity of providing such services, and to protect the viewsheds and maintain the rural character and open space associated with the Pontook Reservoir and the Androscoggin River corridor, each lot shall have a minimum area of ten (10) acres or more. The principal building and accessory buildings may occupy no more than five (5) percent of the lot on which they are located.

5.03.2 Frontage: Each lot shall have at least three hundred (300) contiguous feet on a public or town-approved private road. Any existing lot of record not conforming with these frontage requirements shall be allowed to be accessed by a driveway as defined by this Ordinance.

5.03.3 Setbacks: Every primary and accessory structure placed on a lot shall have a setback of at least thirty five (35) feet from the nearest public right-of-way and shall be set back twenty-five (25) feet from the side and rear lot lines (3/11/97)

5.03.4 Height: No structure erected on any lot shall exceed thirty (30) feet in height except that this restriction shall not apply to farm buildings.

5.03.5 Water Setbacks: No structure, septic system, leach field or paved area, excluding roadways, shall be located within one hundred (100) feet of the near bank of a year-round stream or body of water.

5.03.6 Slope: No structure shall be erected on a portion of a lot having a slope of twenty five (25) percent or more.

ARTICLE VI General Regulations

6.01 Home Occupations: Home occupations such as, but not limited to, dressmaking, home crafts, computer programming, tutoring and/or professional services, are permitted in Dummer provided that the home occupation is carried on wholly within the principal or accessory structure and that objectionable noise, vibrations, smoke, dust, odors, heat or glare shall not be produced. The home occupation shall be clearly secondary to the use of the property as a residence and no more than 25% of the floor space of the residence shall be used to operate the home occupation.

6.02 Signs:

- A. All signs must be constructed of durable materials and shall be maintained in good condition at all times. A building permit must be obtained for each sign erected.
- B. Signs shall refer only to an establishment located in Dummer. Each establishment shall be restricted to four signs.
- C. All signs shall be properly maintained to the satisfaction of the Selectmen. Any sign which is damaged in excess of 25 percent of its value must be repaired or removed within 90 days or it shall be removed at the owner's expense.
- D. The area of one side of a sign shall be regarded as the total area of the sign. This includes the advertising surface and any framing or molding, but excludes the supporting structure. A maximum size of twenty (20) square feet per sign is allowed on all roads except Class I highways where thirty-two (32) square feet per sign is allowed. (3/14/95)
- E. Signs shall not extend above the roof line of any building. The maximum height of a free-standing sign shall be twenty-five (25) feet.
- F. All free-standing signs shall be set back a minimum of five feet from any public right-of-way and shall not be allowed to interfere with the line of sight for vehicular or pedestrian traffic.

G. Signs may be illuminated only by externally located, steady burning lights. Internally lit signs are specifically prohibited.

6.03 **Ruins:** Fire or other ruins must be removed to ground level or rebuilt within one year of occurrence of the damage.

6.04 **Septage disposal:** No subsurface septic system shall be constructed or maintained in such a way that it affects a public body of water, a spring, a well, or a dwelling from the point of health or as an offensive nuisance. No waste waters shall be permitted to run free into a public body of water or to be discharged in any way that may be offensive or detrimental to health.

6.05 **Telecommunications Facilities:** Co-Location of telecommunications facilities shall be thoroughly studied and determined to be infeasible before the construction of any new tower is approved.

ARTICLE VII Floodplain Development Ordinance (3/9/93)

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Dummer Floodplain Management Ordinance and shall be considered part of the Zoning Ordinance for the purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling. The regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) on its "Flood Hazard Boundary Map" (FHBM) dated January 17, 1975, which is declared to be a part of this ordinance and is hereby incorporated by reference.

Item I: Definition of Terms

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Dummer, NH.

"**Area of Special Flood Hazard**" is the land in the floodplain within the Town of Dummer, NH subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the Flood Hazard Boundary Map (FHBM) and is designated on the FIRM as Zones A and AE.

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

"**Basement**" means any area of a building having its floor sub-grade on all sides.

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

"FEMA" means the Federal Emergency Management Agency.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land area from:

- A. The overflow of inland or tidal waters, or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Elevation Study" means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood related erosion hazards.

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

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

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

"Floodway" means "Regulatory Floodway".

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

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

"Historic Structure" means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained

- by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) by an approved state program as determined by the Secretary of the Interior, or (2) directly by the Secretary of the Interior in states without approved programs.

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

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.

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

"100-year flood" means "base flood".

"Recreation vehicle" means 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. (March 8, 1994)

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land

areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

"Special Flood Hazard Area" means an area having flood, mudslide, and/or flood related erosion hazards, and shown on the FIRM as Zones A and AE.

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

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

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

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

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum

(NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

Item II: Permitted Development

All proposed development in any special flood hazard areas shall require a permit.

Item III: Construction Requirements: Substantial Improvements

The Board of Selectmen shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- A. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- B. Be constructed with materials resistant to flood damage,
- C. Be constructed by methods and practices that minimize flood damages,
- D. Be designed and/or located so as to prevent water from entering or accumulating within the components of electrical, heating, ventilation, plumbing and/or air conditioning equipment, and other service facilities during conditions of flooding.

Item IV: Construction Requirements: Water and Sewer Systems

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen) with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Item V: Permit Requirements: Substantial Improvements

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Board of Selectmen:

- A. The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- B. If the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- C. Any certification of floodproofing.

The Board of Selectmen shall maintain for public inspection, and shall furnish, such information upon request.

Item VI: Other Permits Required

The Board of Selectmen shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Item VII: Submission Requirements

- A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Board of Selectmen, in addition to the copies required by the RSA 483-A:1-b. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Board.
- B. The applicant shall submit to the Board of Selectmen certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- C. The Board of Selectmen shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

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

Item VIII: Permit Review Requirements

- A. In unnumbered A zones the Board of Selectmen shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

- B. The Board of Selectmen 100-year flood elevation determination will be used as criteria for requiring in Zone A that:
 - 1. All substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;

 - 2. All substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
 - (a) be floodproofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

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

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

- C. Recreational vehicles placed on sites within Zones A1 - 30, AH, and AE shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3. (March 8, 1994)

- D. All manufactured homes to be substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; and be securely anchored to resist flotation, 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.

E. In all substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

1. The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;

2. The area is not a basement;

3. The area shall be designed to automatically equalize hydrostatic flood forces or exterior walls by allowing for the entry/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 per 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 devices provided they permit the automatic entry/exit of floodwater.

Item IX: Variances

A variance is a relaxation or setting aside in a specific case, of certain specified terms of this ordinance. In accordance with RSA 674:33 I(b), the Board of Adjustment may grant in specific cases such variances as will not be contrary to the public interest 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.

The Board of Adjustment may authorize a variance where it finds that all of the following conditions apply:

A. The proposed use will not diminish surrounding property values;

B. Granting the variance will be in the public interest;

1. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense,
2. 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,
3. That the variance is necessary, considering the flood hazard, to afford relief.

C. The use will not be contrary to the spirit of the ordinance;

D. By granting the variance substantial justice will be done;

E. Denial of a variance would result in unnecessary hardship to the owner.

The Zoning Board of Adjustment shall notify the applicant in writing that (1) 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 (2) 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.

The community shall (1) maintain a record of all variance actions, including their justification for their issuance, and (2) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

The Zoning Board of Adjustment may approve, approve with conditions, or deny applications for variances following the procedures in this Ordinance.

Item X: Appeals

All appeals and applications made to the Board of Adjustment shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the Ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

Public hearings and notice shall be held in compliance with RSA 676:7.

Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Zoning Board of Adjustment in the particular case.

When an application is submitted, the files should be reviewed to determine if a previous application was denied for the same situation. If so, the Board should determine if circumstances have changed sufficiently to warrant acceptance of a reapplication.

Item XI: Rehearings

Within twenty (20) days after any decision or order of the Zoning Board of Adjustment, any party to the action or proceeding, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding or covered or included in the order in accord with RSA 677:2. A Motion for Rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the Zoning Board of Adjustment shall be taken unless the applicant shall have made application for rehearing as provided in RSA 677:2 and no ground not set forth in the application shall be urged, relied on, or given any consideration by a court except as provided in RSA 677:3. The Board of Adjustment shall, within 10 days after a Motion for Rehearing is filed, either grant or deny the motion or suspend the order or decision complained of pending further consideration.

Item XII: Miscellaneous Legal Provisions

Amendments to regulations and district boundaries set forth in this Ordinance proposed by the Planning Board, County Commissioners or petition of voters shall be acted upon in accordance with the procedures set forth in RSA 675.

Should any provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any other section or provision thereof.

Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or higher standards shall apply.

The Ordinance and Map shall become effective immediately upon its passage on March 9, 1993.

ARTICLE VIII
Non-Conforming Use

8.01 If, at any time after the Adoption of the Ordinance any land, building or structure is being used in a lawful manner, except that such use is not in conformity with the provisions of this Ordinance, such non-conforming use of said land, building or structure may be continued. No interruption of such a prior non-conforming use shall prevent its continuance except as stated in section 8.02. (3/14/95) (3/11/97)

8.02 Whenever a prior non-conforming use has been discontinued for more than one year for any reason such prior non-conforming use shall not be in conformity with the provisions of this Ordinance. (3/14/95)

8.03 Any prior non-conforming use permitted by section 8.01 may be expanded upon only by the approval of the Board of Adjustment, which shall first ascertain that A) such an expansion does not create a greater nuisance or detriment and B) the expanded use meets the requirements in Article V of this Ordinance. (3/14/95)

8.04 A lot which does not conform to the area and frontage requirements of this Ordinance and which is recorded and taxed as a lot of record at the time of the passage of this Ordinance, may be used for a single-family dwelling conforming with the area requirements as closely as possible provided that the lot conforms with Water Supply and Pollution Control standards.

ARTICLE IX
Enforcement and Administration

9.01 It shall be the duty of the Board of Selectmen to enforce the provisions of this Ordinance and the Board is hereby given the authority to develop the forms and fees necessary to enforce this Ordinance. After passage of this Ordinance, it shall be unlawful to construct a new building, make exterior dimensional additions or any renovations or repair in excess of \$1,000.00 to a building without first obtaining a permit from the Board of Selectmen or their designee. Permits must be posted on site and be easily visible. (3/14/95) (3/11/97)

ARTICLE X
Board of Adjustment

10.01 Within thirty days after the adoption of this Ordinance, the Board of Selectmen shall make an appointment to the Board of Adjustment of five members conforming in duties to the provisions of RSA 674:33. The Board of Selectmen shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment shall conform in membership and term of office to the provisions of RSA 673:3 and RSA 673:5-6.

ARTICLE XI
Amendments

11.01 This Ordinance may be amended by a majority vote of any legal Town Meeting as provided by RSA 674:16.

ARTICLE XII
Penalty

12.01 Any person, firm, or corporation violating any of the provisions of this Ordinance shall be fined not more than one hundred (\$100) dollars nor less than ten (\$10) a day for each day such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the Town. (3/11/97)

ARTICLE XIII
Separability Clause

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

ARTICLE XIV
Effective Date

14.01 This Ordinance shall become effective immediately upon its passage.

ZONE BOUNDARY DESCRIPTIONS

Agricultural/Residential:

All land in Dummer not otherwise included in the Commercial/Industrial or the conservation zone.

Commercial/Industrial:

All land bounded on the east and the north by the easterly and northerly edge of the Portland Natural Gas Transmission System pipeline right-of-way, on the west by the Cedar Brook road and on the south by the town of Milan.

Conservation:

All land inside a line described as follows: Beginning at the intersection of the Cambridge town line with the southerly/easterly edge of NH 16 and following NH 16 in a southerly direction to its intersection with the height of land between Newell Brook and Island Brook; then following the height of land over Cow Mountain to the Millsfield town line; then westerly along the Millsfield town line to the Dummer Pond road; then southerly along the westerly edge of the Dummer Pond road to the westerly edge of NH 16; then southerly along NH 16 a short distance to the point of intersection of the westerly edge of NH 16 with the easterly projection of the northerly boundary of the commercial/industrial zone; then westerly along that line to the northeasterly corner of the commercial/industrial zone; then southerly along the easterly boundary of the commercial/industrial zone to the northerly edge of NH 110A; then easterly along NH 110A to the easterly edge of NH 16; then southerly along NH 16 to the Milan town line; then easterly along the Milan town line to the westerly edge of the East Side River Road; then northerly along the East Side River Road, the Hill Road and the Ferry Road to the end of the Ferry Road and projecting beyond and along the Ferry Road bearing to a point five hundred (500) feet from the normal high water mark of the easterly/southerly bank of the Androscoggin River; then following in an easterly direction a line parallel to and five hundred (500) feet from the normal-high water mark of the easterly/southerly bank of the Androscoggin River to the Cambridge town line; then northerly along the Cambridge town line to the point of beginning.

Conservation Overlay:

Land inside the conservation zone and within a line as described as follows:
Beginning at the intersection of the Cambridge town line with the southerly/easterly edge of NH 16 and following NH 16 in a southerly direction to the southwesterly corner of the Paul O. Bofinger wayside property (NH Department of Fish & Game); then easterly along the southern boundary of the Paul O. Bofinger wayside property to the normal high water mark on the westerly bank of the Androscoggin River; then southerly along the normal high water mark of the westerly bank of the Androscoggin River to the Milan town line; then easterly along the Milan town line to the high water mark on the easterly bank of the Androscoggin River; then northerly along the high water mark on the easterly bank of the Androscoggin River to the westerly edge of the Pontook Hydroelectric facility; then northerly along the westerly edge of the Pontook Hydroelectric facility canal to the point of intersection with a line parallel to and five hundred (500) feet from the easterly edge of the Conservation Zone; then following that line, five hundred (500) feet from and parallel to the easterly edge of the Conservation Zone to the point five hundred (500) feet from the normal high water mark of the easterly/southerly bank of the Androscoggin River; then following in an easterly direction for five hundred (500) feet, a line parallel to and five hundred (500) feet from the normal high water mark of the easterly/southerly bank of the Androscoggin River, to the corner of the Conservation Zone; then in an easterly and northerly direction along the boundary of the Conservation Zone to the point of beginning.

