

# **SOUTH HAMPTON**

## **ZONING ORDINANCE CAMPGROUND ORDINANCE**

## **SUBDIVISION CONTROL REGULATIONS SITE PLAN REVIEW REGULATIONS EXCAVATION REGULATIONS**

**March 2024**

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# **ZONING ORDINANCE**

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Amended March 13, 2024**

**South Hampton  
New Hampshire**

# **ZONING ORDINANCE**

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## **TOWN OF SOUTH HAMPTON ZONING ORDINANCE**

The articles of this Ordinance were adopted at Town Meeting held on March 7th, 1972 and revised at Town Meeting held on March 6, 1973.

Amendments adopted at Town Meeting, March 5, 1974; September 10, 1974; March 2, 1976; March 14, 1978; March 10, 1981; March 9, 1982; November 4, 1982; March 12, 1986; and March 11, 1987; March 12, 1991; and March 9, 1993; March 12, 1996; March 11, 1997; March 10, 1999, March 14, 2001, March 12, 2002, March 13, 2003, March 8, 2005, March 13, 2007, March 11, 2008, March 11, 2014, March 8, 2016, March 16, 2017, March 12, 2018, March 13, 2019, March 10, 2020, and March 13, 2024

### **Article I. PURPOSE**

This ordinance is established pursuant to the authority conferred by Chapter 31 of the Revised Statutes Annotated of the State of New Hampshire, as amended; in order to preserve and improve the Town of South Hampton as a rural - residential community and to continue its desirability as a place in which to live and to promote the health, welfare, morals, convenience and safety of its citizens.

### **Article II. DISTRICTS**

- A. For the purpose of this ordinance, the Town of South Hampton is divided into the following districts as shown on the South Hampton Zoning Map which includes a "Wetland Conservation District Overlay" together with all amendments and explanatory matter thereon; said map being filed with the Town Clerk and dated January 20, 1972, and January 1978. (Adopted 3/4/78)
- B. Districts are:
  - 1. Rural Residential District \_ Article IV
  - 2. Wetland Conservation District \_ Article VII
  - 3. Commercial District \_ Article V
  - 4. Industrial District \_ Article VI
  - 5. Aquifer Protection District - Article VIII
  - 6. Steep Slope District \_ Article IX
  - 7. Historic District \_ Article X
  - 8. Flood Plain District \_ Article XIX

### **Article III. GENERAL PROVISIONS**

All land and uses thereof shall be subject to the following regulations, restrictions and conditions.

- 1. No buildings, additions or structures shall be erected or moved without a permit and no structure shall be altered to an extent affecting the total value without the approval of the town Building Inspector to whom adequate plans and specifications of proposed buildings or alterations shall be submitted. (Amended 3/2/76)

After issuance of a permit, construction must be commenced within six months and be substantially completed within two years, except that the Board of Adjustment may extend the time of completion upon application. In the event that, in the opinion of the Building Inspector restrictions are not being met, the Town Selectmen shall revoke the permit. (Amended 3/2/76)

2. The Town Building Inspector shall base his approval or rejection of proposed plans upon the effect such operations are likely to have on the value and use of other property in the vicinity and upon the following schedule of requirements.

- a. All construction and renovation of structures within the Town of South Hampton shall conform to applicable sections of the New Hampshire State Building Code established by RSA 155-A, as amended below

- i. The Town of South Hampton first adopted a Building Code in March 1974

- ii. The Town of South Hampton at that time established the position of Building Inspector, and a Zoning Board of Adjustment. The Zoning Board of Adjustment is designated to act as the Building Code Board of Appeals per RSA 673.

- iii. The Town of South Hampton hereby adopts the following Amendments to the State Building Code in accordance with RSA 674:51 and RSA 674:51-A:

- a. International Plumbing Code 2009 Edition, Section 905.6 Vent for future fixtures is amended to read:

- Within a habitable or occupied space at the lowest level of structure where plumbing fixtures are not installed, there shall be made available an accessible vent connection, not less than 2-inch diameter, which is properly connected to the vent system to provide for future venting.

- b. International Plumbing Code 2009 Edition, Table 909.3 Wet Vent Sizing is amended to delete 1-1/2 inch Wet Vent Pipe Size and 1 Drainage Fixture Unit Load from the table.

- c. International Plumbing Code 2009 Edition, Section 917 "Air Admittance Valves", subsection 917.3 "Where permitted" is amended to read: 917.3 Where permitted. Air admittance valves are not a substitute for a conventional venting system. Air admittance valves shall only be used when structural conditions prevent conventional venting of fixtures. Use of air admittance valves shall be pre-approved by the Code Official on a case-by-case basis. When approved, individual branch and circuit vents shall be permitted to terminate with a connection to an individual or branch type air admittance valve. Stack vents and vent stacks shall be permitted to terminate to stack type air admittance valves. Individual and branch type air admittance valves shall vent only fixtures that are on the same floor level and connect to a horizontal branch drain. The horizontal branch drain having individual and branch type air admittance valves shall conform to Section 917.3.1 or 917.3.2. Stack type air admittance valves shall conform to Section 917.3.3.

(Amended 3/5/74 ,3/12/86 and 3/12/2019)

- b. Every dwelling shall have a minimum ground floor area of 800 square feet. (Adopted 3/5/74)
- c.
  - i. All dwellings and buildings in private or public use shall be equipped with sewage and water systems, which meets or exceeds the specifications of the New Hampshire Water Supply and Pollution Control Commission. All sewage systems must be approved by the New Hampshire Water Supply and Pollution Control Commission. A separate permit for said sewage and/or water system must also be obtained from the Town Health Officer.
  - ii. In accordance with RSA 149-E3-C prior to expanding any structure or occupying an existing seasonal structure on a (full-time) basis, the owner must submit to the NH Department of Environmental Services Water Supply and Pollution Control Division (WSPCD) an application for approval which includes either (a) evidence that the existing sewage disposal system meets current state and local standards or (b) a design for a new system which meets current standards. (Adopted 3/13/90)
- d. Every building shall be set back from the front property lines not less than 40 feet, except that in the case where the setback of an existing line of dwellings of less than 40 feet, a new building may be built at the same setback as those adjoining. All buildings shall be set back at least 25 feet from rear and side lot lines (except for types of buildings listed in Section 13 of Article III), except that in a case where a person loses an existing building by fire or other cause, said person may rebuild on the same location within a period of one year. (Amended 3/12/97)
- e. Every sewage disposal system shall be set back from the front property line not less than 40 feet and shall be set back at least 25 feet from the rear and side lot lines. (Added 3/12/97)
- 3. Butane gas or other gas shall not be stored in any dwelling, nor in any building nearer than 50 feet from said dwelling.
- 4. All gasoline and fuel oil storage shall comply with the New Hampshire State Law regarding storage. (Amended 3/11/87)
- 5. Junk Yards. Places for the storage of discarded machinery, vehicles or other scrap metals shall comply with Chapter 267 and 322 of the New Hampshire RSA concerning the control of junk yards.
- 6. Any uses of property that may be obnoxious, and/or accompanied by the emission of odor, smoke, refuse matter, dust, fumes, or noise shall be prohibited. (Amended 3/11/87)
- 7. Performance Standards:
  - a. Noise. It shall be unlawful for the owner, occupant and any person causing or permit- ting, continuing or causing to be made, any noise which either injures or endangers the comfort, health, peace or safety of others within the limits of Town, that exceed those standards for noise level limits for permitted land use activities that are detailed in Section 9.13, regulating noise, of the South Hampton site plan review regulations.
  - b. Odor. No emission of odorous gas or other odorous matter in such quantity as to be readily detectable without use of instruments at any point along lot lines or beyond shall

- be permitted.
  - c. Toxic or Noxious Matter. No discharge to the air, water, or soil of any toxic or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business, shall be permitted.
  - d. Dust and Fly Ash. No solid or liquid particles shall be emitted in such quantity as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond lot lines.
  - e. Radioactivity. No operation shall be permitted which causes radioactivity detectable at the lot lines or beyond.
  - f. Heat and Glare. No heat or glare shall be caused to the extent that they are detrimental to adjacent properties or the traveling public.
  - g. Smoke. No smoke shall be emitted in such quantity as to become a nuisance or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.
  - h. Exceptions. There may be exceptions granted for warning devices, temporary construction, maintenance work, parades, recreational activates, agricultural activates or other special circumstances.
- 8. No property shall be used for the storage of discarded materials of any kind in a manner that is disorderly, unsightly, noxious or detrimental to the public or prejudicial to the general welfare.
  - 9. Nothing in this ordinance shall prevent the occupant of the property being granted a permit for the erection or alteration of structures to be used for the sale of farm produce.
  - 10. Plot plans shall be filed with the Planning Board and if approved then to be submitted to the Building Inspector before work is commenced upon any development. Every building lot shall have a frontage of not less than 200 continuous feet on an existing town approved road and shall not be less than two acres in area. (Amended 3/5/74 and 3/12/86)
  - 11. No building shall exceed 32 feet in height measured from the finished average grade to the highest peak. (Amended 3/5/74)
  - 12. Permit fees for any structure of 5001 square feet or over shall be determined by the Selectmen.
  - 13. Restrictions shall not apply in the case of dairy rooms, root cellars, poultry houses, farm storage structures and other similar structures having one story with a maximum of 200 square feet of floor space. Structures to be so located on the owner's property so as not to menace the property of another and such buildings shall not become the permanent dwelling of any family unit. Structures and buildings of these types shall be set back at least 10 feet from the side and rear property lines.
  - 14. Ordinary repairs or normal maintenance of existing structures in kind shall not be considered alterations.
  - 15. The extraction of, for export and sale of, the natural water resources of the Town of South Hampton is not permitted. The Planning Board will regulate the extraction of other natural mineral resources under its site plan review authority. (Adopted 3/14/78 and amended 3/12/86 and 3/12/91)



16. Occupancy Permit: (Adopted 3/14/78)
- a. No new or additional dwelling unit or other building shall be occupied as a residence or place of employment until an occupancy permit is issued by the building inspector upon finding that the structure in question meets all applicable requirements of the building code. Except in dwellings, such permit should be permanently posted inside near the entrance and shall indicate any limitation on floor loading or number of people to be permitted inside at any one time.
  - b. Prior to the issuance of an occupancy permit; the building inspector may require at his/her discretion, an inspection by a licensed plumber, electrician, or engineer, who will provide a written report of the inspection, prior to issuing the permit. Payment for each required inspection will be the burden of the owner of the inspected property. (Adopted 3/12/86)
17. Test Pits and Percolation Tests: Only soil scientists and septic system designers who are licensed or certified by the State of New Hampshire shall perform percolation tests and analyze test pits. The Town's Health Officer or his agent shall observe the tests.
18. Yard, garage, barn or lawn sales may be permitted in the Town of South Hampton from April 15 to October 15 subject to the following restrictions.
- a. Any residence may have up to three (3) yard, garage, barn or lawn sale(s) within the permitted time frame, provided that such occasions be at least thirty (30) days apart and not more than two (2) days duration.
  - b. Any sign(s) associated with any yard, garage, barn or lawn sale may be put up one (1) day prior to the sale and must be removed one day after the sale. Any sign associated with the sale must not be over four (4) square feet in size.
  - c. No yard, garage, barn or lawn sale shall interfere with the normal traffic pattern on any roadway within the Town of South Hampton. (Adopted 1999)
19. Manufactured Storage Containers:
- a. Manufactured Storage Containers are any structure, such as a cargo container, "POD" container or truck trailer, that is reusable and transportable, designed to be rented, leased or purchased for the storage of residential, commercial or industrial goods.
  - b. Any property owner or lessee may have one (1) manufactured storage container. Use is limited to a period not to exceed 180 days per calendar year and must meet all wetland, front, rear and side setbacks.
  - c. For use exceeding 180 days, a property owner or lessee shall apply for and receive a Special Exception from the Zoning Board of Adjustment.
  - d. A manufactured storage container shall not be considered living quarters for any period of time." (Adopted March 12, 2019)

**Article IV. RURAL - RESIDENTIAL DISTRICT**

**A. Permitted Uses:**

1. Any residential, agricultural, business, commercial or industrial buildings or uses existing at the time of the enactment of this ordinance.
2. One single family dwelling per lot including manufactured housing that meets all of the other provisions of this ordinance. (Amended 3/11/87)
3. Farming and related agricultural uses including the roadside sale of products grown or produced on the premises.
4. Churches, schools and public buildings.
5. Home Occupations: Customary home occupations may be permitted in this district by special exception of the Board of Adjustment where the use: (Amended 3/14/78 & 2/1/99)
  - a. does not display or create outside the building any evidence of the home occupation except a single unlighted sign which shall not exceed four square feet in area
  - b. does not involve substantial increase in daily traffic flow and hazard due to increased turning movements and that no parking will be required in the public right-of-way
  - c. does not use more than 25% of the gross living area of the dwelling unit
  - d. is in a single dwelling unit or in a building accessory to a dwelling unit and only, the person or persons maintaining a dwelling therein and not more than one additional person is employed in the home occupation. If there is more than one employee, site plan review by the planning board will be required
6. A single family residence subject to the time limitations specified in RSA 674:39, may be constructed on a lot of record at the time this ordinance or any subsequent amendments become effective, regardless of the area or width of the lot, provided that the owner owns or has an interest in no adjacent land which could be combined with such lot to meet the minimum requirement of this ordinance, and provided that necessary approvals for on site water supply and sewerage disposal systems have been obtained. (Adopted 3/5/74 and Amended 3/11/87)
7. Golf courses may be permitted in this district by special exception of the Board of Adjustment. (Adopted 3/96)
8. Short-Term (less than 30 days) Rentals may be permitted in this district by Special Exception of the Zoning Board of Adjustment, provided:
  - a. The property is an Owner-Occupied Single Family Residence,
  - b. The property contains no more than two (2) individual sleeping rooms to be rented to the general public for lodging,

c. The property is approved under NFPA 101 by the South Hampton Fire Department, and

d. The Short-Term Rental complies with RSA 78-A, 'Meals & Rooms Tax Law'.  
(Adopted 3/12/2019)

- B. Dimensions and acreage requirements of a building lot shall be those set forth in Article III, Paragraph (10).
- C. All other uses are prohibited, including but not limited to Apartments, Condominiums, and Multifamily units. (Adopted 3/5/74)

**Article V. COMMERCIAL DISTRICT**

This district shall be all land within 1000 feet of the center line of Route 150 on both sides thereof.

**A. Permitted Uses:**

- 1. Any use permitted in the Rural Residential District.
- 2. Commercial business -- wholesale and retail.
- 3. Mobile Home Parks and retail sales of mobile homes.
- 4. Golf courses.
- 5. Commercial greenhouses.
- 6. Commercial boarding and riding stables. (Amended 3/5/74)
- 7. Telecommunications facilities:
  - a. Maximum height of 180 feet for towers.
  - b. Set back from a residence shall be at least 300% of the height.
  - c. Towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent property.
  - d. This ordinance shall not govern any tower or antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas. (Adopted 3/10/99)
- 8. Storage Facilities
  - a. Permanent Storage Facilities on a permanent foundation for the purpose of storing non-hazardous materials are allowed and shall be considered structures.
  - b. Temporary Storage Facilities for the purpose of storing non-hazardous materials are allowed and shall be considered structures, are limited to two (2) storage boxes, spare trailers or tents and shall be no larger then (300) three hundred square feet.
  - c. If any of these facilities becomes unsafe or the public, health, welfare of safety is endangered, the building inspector shall immediately revoke the permit. The unsafe structure will then be removed from the site or the unsafe conditions eliminated and/or repaired. A new permit will be issued for the remainder of the time limitation.
- 9. Upon determination by the Planning Board, a proposed business not listed above, which is found to conform in character of operation and would be in harmony with the permitted uses as described in this zone, may be allowed subject to appropriate conditions and safeguards as may be deemed necessary, by the Planning Board. (Adopted 3/8/05)

- B. Dimension and acreage requirements of a building lot shall be those set forth in Article III, Paragraph (10).
- C. The plans for all commercial structures and uses shall first be submitted to the Planning Board for its approval in accordance with esthetics and design standards consistent with the existing character of the community.
- D. All other uses are prohibited.

**Article VI. INDUSTRIAL DISTRICT**

Recognizing the possible need for industrial usage, the Planning Board shall consider any requests for such use, seek suitable areas, which will not be detrimental to residential and commercial areas, and shall make recommendations for or against the rezoning of such areas for industrial use together with regulations applicable thereto.

Any request for rezoning any particular plot from one district classification to another shall be referred to the Town Planning Board which shall hold at least two public hearings on the question; the same to be advertised at least fifteen days in advance by posting notice of same in at least three public places in the town, and by publication in a paper in general circulation in the town. Upon hearing the evidence, the Board shall decide whether or not the change should be made, and accordingly, shall submit its recommendation to the voters in the manner required by New Hampshire Revised Statutes, as amended.

**Article VII. WETLAND CONSERVATION DISTRICT** (Amended 3/13/90)

**A. Purpose and Intent**

The purpose of this article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be saturated or subjected to high water tables for extended periods of time including established and seasonal wetlands.

It is intended that this article shall:

1. Prevent the development of structures and land uses on naturally occurring wetlands, which will contribute to pollution of surface and ground water by sewage or toxic substances or sedimentation;
2. Prevent the destruction of, or significant changes to natural wetlands, which provide flood protection; provide filtration of water flowing into ponds and streams, augment stream flow during dry periods and are connected to the ground or surface water supply;
3. Protect unique and unusual natural areas;
4. Protect wildlife habitats, maintain ecological balance and enhance ecological values such as those cited in RSA 483-A:1-b;

5. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
6. Prevent unnecessary or excessive expense to the Town 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;
8. Preserve and enhance the aesthetic values associated with wetlands in the Town of South Hampton;
9. Prevent damage to structures and properties caused by inappropriate development in wetlands.

**B. Definitions**

1. Wetlands: In accordance with RSA 482-A:2, X, Wetlands means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
2. Poorly Drained Soil: A soil classification defined by the National Cooperative Soil Survey or further defined by High Intensity Soil Maps for New Hampshire. These definitions are on file with the RCCD.
3. Very Poorly Drained Soil: A soil classification defined by the National Cooperative Soil Survey or further defined by High Intensity Soil Maps for New Hampshire. These definitions are on file with the Rockingham County Conservation District (RCCD).
4. HIS Map: A soil survey prepared in accordance with the High Intensity Soil Maps of New Hampshire at a scale of at least 1" = 50' by a qualified soil scientist.
5. Qualified Soil Scientist: A person qualified in soil classification and mapping who is a member of the Society of Soil Scientists of Northern New England and is licensed by the State of New Hampshire.
6. Wetlands Conservation District: All wetlands located in South Hampton. As a guide only, wetlands are shown on an aerial photo designated as the "Town of South Hampton Wetlands Conservation District Map." Land located within the aerial photomap may not be wetlands. Similarly, land located outside the aerial photomap may be wetlands.

**C. Administration**

1. Before erecting a structure or altering the surface configuration of land in Wetlands Conservation District by dredging or filling, landowners shall obtain required permits from the New Hampshire Water Supply and Pollution Control Division under RSA 149\_E, the New Hampshire Wetlands Board under RSA 483\_A, or the United States Army Corps of Engineers.

2. The building inspector shall not issue any permit for construction within the Wetlands Conservation District unless such activity conforms with the provisions of this Article.
3. If the building inspector, owner or abutter of a specific parcel of land questions whether wetlands exists on the land, each may petition the Planning Board in writing for a wetlands determination.

In making its determination, the Planning Board will ask the Conservation Commission to examine said area and report its findings to the Planning Board. If an owner or abutter disputes the findings, each may submit a HIS map at their own expense to the Planning Board.

At its own discretion and at its own expense, the Planning Board may have a HIS Map prepared for the land in question. In addition, the Planning Board may consult with the Rockingham County Soil Conservation District, NH Wetlands Board, NH Water Supply and Pollution Control Division, U.S. Army Corps of Engineers, or similar organizations with wetlands expertise.

4. Pursuant to RSA 674:1 and this article, the Planning Board may authorize a qualified soil scientist to enter upon an owner's land to make such examinations and surveys as are reasonably necessary to construct a HIS Map for the Planning Board's wetlands determination.
5. The Planning Board's wetlands determinations may be appealed to the Zoning Board of Adjustment within 20 days of the determinations.
6. Any wetlands altered in violation of this ordinance shall be restored at the expense of the violator(s) as provided by RSA 483\_A.5.
7. The Board of Selectmen shall have the power to enforce this Article and violations may be punishable by fines as provided by RSA 676:17.

**D. Relation to Other Districts and Lot Size Determinations**

1. Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.
2. Areas designated as having poorly drained soils may be used to fulfill no more than 25% of the minimum lot size required by Town Ordinance and Subdivision Regulations. In addition, the non-wetlands area where the dwelling is to be located must be:
  - a. at least 30,000 contiguous square feet, and
  - b. sufficient in size and configuration to adequately accommodate all required utilities such as water supply and sewage disposal, including primary and auxiliary leach field locations.
3. No part of area designated as having very poorly drained soils, or bodies of water, may be used to satisfy minimum lot size requirements.

**E. Permitted Wetlands Uses**

1. Poorly Drained Soils: Permitted uses in areas of poorly drained soils are as follows:
  - a. Any use otherwise permitted by the Zoning Ordinance, and state and federal laws that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or by dredging.
  - b. Erecting structures, dredging and filling that are common treatments associated with the following non-residential uses:
    - (1) Agriculture, including grazing, hay production, truck gardening and silage production provided that such use is shown not to cause significant increases in surface or ground water and contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion.
    - (2) Forestry and tree farming to include the construction of access roads for said purpose.
    - (3) Wildlife habitat development and management.
    - (4) Recreational uses consistent with the purpose and intent of this Article as defined in Section A.
    - (5) Conservation areas and nature trails.
    - (6) Water impoundment and the construction of well water supplies.
    - (7) Drainage ways to include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.
2. Very Poorly Drained Soils: Permitted use in areas containing very poorly drained soils, swamps, bogs, marshes, ponds, lakes, major streams and other open water are as follows:
  - a. Uses specified under Section E.1.a. and E.1.b(1)-(7) shall be permitted except no use which results in the erection of a structure and no alteration of the surface configuration of the land by filling or dredging shall be permitted.
  - b. The construction of fences, footbridges, catwalks and wharves only, provided:
    - (1) said structures are constructed on posts or pilings so as to permit unobstructed flow of water;
    - (2) the natural contour of the wetlands is preserved;
    - and, (3) the Conservation Commission has reviewed and recommended the proposed construction.
3. Conditional Wetlands Uses
  - a. Pursuant to RSA 674:21 II, the Planning Board may grant a conditional use permit to erect a structure or alter the surface configuration of the land by dredging or filling for:

- (1) the construction of roads, driveways, and other access ways, or
  - (2) for pipelines, power lines, and other transmission lines,
  - (3) the construction of fire ponds for public safety  
provided that all of the following conditions are found to exist:
    - (a) The proposed construction is essential to the productive use of land not within the Wetlands Conservation District.
    - (b) Design and construction and maintenance methods will be such as to minimize detrimental impact upon the wetlands and will include restoration of the site as nearly as possible to its original grade and condition.
    - (c) No alternative route that does not cross-wetlands or has less detrimental impact on the wetlands is feasible.
    - (d) Economic advantage alone is not reason for the proposed construction.
- b. Before receiving a conditional use permit, the applicant shall agree to submit a performance security to ensure that all construction is carried out in accordance with an approved design. The Security shall be submitted in a form and amount, with surety and conditions satisfactory to 1) the Planning Board for site plan and subdivision applications and 2) the Board of Selectmen in all other cases. In addition, Town Counsel approval must be acquired. The Security shall be submitted and approved prior to issuance of any permit authorizing construction.
- c. The Planning Board, with the concurrence of the Conservation Commission, may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

**F. Buffer Provisions**

1. No septic systems, leach field or other waste disposal facility shall be installed within 100 feet of the edge of any wetlands.
2. No building activity shall be permitted within 50 feet of any poorly drained soil and within 100 feet of any very poorly drained soil.
3. All construction, forestry and agriculture activities within 100 feet of any wetlands shall be undertaken with special care to avoid erosion and siltation into the wetlands.
4. Pursuant to its site plan review authority, the Planning Board may require an erosion control plan approved by the Rockingham County Conservation District for any project undertaken up-gradient (i.e. higher than) of any wetlands.



**G. Filled Lands**

1. Lands, which may have been wetlands but were filled under properly issued state and town permits granted prior to the adoption of this ordinance, shall be judged according to the soils and flora existing at the site at the time application for building permit or subdivision is made.

**H. Nonconforming Residential Structures**

Notwithstanding other provisions of this Article, the construction of additions and extensions to one and two-family dwellings shall be permitted within the Wetlands Conservation District provided that: (1) the dwelling lawfully existed prior to the effective date of this Article; and (2) that the proposed construction conforms with all other applicable ordinances and regulations of the Town of South Hampton.

**Article VIII. AQUIFER PROTECTION DISTRICT**

**A. Authority and Purpose**

Pursuant to RSA 674:16-21, the Town of South Hampton adopts an Aquifer Protection District and accompanying regulations in order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within the Town. The objectives of the aquifer protection district are:

1. To protect the public health and general welfare of the citizens of South Hampton.
2. To prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifers.
3. To provide for future growth and development of the Town, in accordance with the Master Plan, by insuring the future availability of public and private water supplies.
4. To encourage uses that can appropriately and safely be located in the aquifer recharge areas.

**B. Definitions**

1. Animal Feedlot: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) adult animals are raised simultaneously.
2. Aquifer: For the purpose of this ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies.
3. Bulk Storage: Storage of materials intended for wholesale distribution or for use in a manufacturing or repair facility.

4. Contact Waste: Water that has been used in a manufacturing or cleaning process that has contacted industrial waste.
5. Dwelling Unit: A building or that portion of a building consisting of one or more rooms designed for living and sleeping purposes, including kitchen and sanitary facilities and intended for occupancy by not more than one family or household.
6. Groundwater: All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.
7. Groundwater Recharge: The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.
8. Leachable Wastes: Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.
9. Mining of Land: The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.
10. Non-Conforming Use: Any lawful use of buildings, structures, premises, land or parts thereof existing as of the effective date of this Ordinance, or amendment thereto, and not conforming with the provisions of this Ordinance, shall be considered to be a non-conforming use.
11. Non-Municipal Well: Any well not owned and operated by the Town of South Hampton or its agent.
12. Recharge Area: The land surface area from which groundwater recharge occurs.
13. Sludge: Residual materials produced by the sewage treatment process.
14. Solid Waste: Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid, or gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations.
15. Split Spoon Sampling Technique: A sampling technique associated with the taking of soil samples by the use of a drill rig that has a split tube to take soil samples at various levels in the ground.
16. Structure: Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.
17. Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical, or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of the Town. Toxic or hazardous materials include, without limitation, volatile organic wastes, acids and alkalis, and include products such as pesticides, herbicides, solvents and thinners, and such other substances as defined in New Hampshire Water Supply and Pollution Control Rules, Section Ws410.04 (1), in New Hampshire Solid Waste Rules He-P 1901.03 (v), and in the Code of Federal Regulations

40 CFR 261 as amended. Wastes generated by the following commercial activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Planning Board:

- a. Airplane, boat and motor vehicle service and repair.
- b. Chemical and bacteriological laboratory operation.
- c. Dry cleaning.
- d. Electronic circuit manufacturing.
- e. Metal plating, finishing and polishing.
- f. Motor and machinery service and assembly.
- g. Painting, wood preserving and furniture stripping.
- h. Pesticide and herbicide application.
- i. Photographic processing.
- j. Printing.

**C. Administration and Enforcement**

- 1. General: The Planning Board shall administer the provisions of the Aquifer Protection District. All development proposals and residential construction not involving the subdivision of land shall be subject to subdivision and/or site plan review and approval in accordance with Planning Board rules and regulations. Such review and approval shall precede the issuance of any building permit by the Town.
- 2. Enforcement and Fines: The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District. Violations are punishable by fines as provided by RSA 676:17.

**D. District Boundaries**

- 1. Location: The Aquifer Protection District is defined as the area shown on the map entitled, "Aquifer Protection District," and is hereby adopted as part of the official Zoning Map of the Town of South Hampton. The Aquifer Protection district includes the area delineated by the U.S.G.S., aquifer delineation studies, engineering studies, or master plan map used to delineate the aquifer.
- 2. Overlay: The Aquifer Protection District is a zoning overlay district, which imposes additional requirement and restrictions to those of the underlying district. In all cases, the more restrictive requirement(s) shall apply.

3. Appeals: When the bounds of an identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of a written appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydro geologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. The aquifer delineation, as it pertains to the property in question, shall be modified by such determination subject to review and approval by the Planning Board.

E. Hydro geologic Study

1. Requirement: Within the Aquifer Protection District, a hydro geologic study shall be required for the following:
  - a. developments involving the subdivision of four (4) lots or greater.
  - b. developments resulting in the installation of a septic system, or series of septic systems, designed to dispose 2,400 gallons (ore more) of wastewater per day (gpd).
2. Small subdivisions: For residential subdivisions of fewer than four (4) lots, and for commercial, industrial and institutional uses which produce less than 2,400 gpd of wastewater, the Planning Board shall determine the needs for a hydro geologic study on a case by case basis. Their determination shall consider potential threats of the use proposed and characteristics of the site.
3. Standards: A qualified hydro geologist shall perform Hydro geologic studies. These studies shall be sufficiently detailed to evaluate the development's impacts to groundwater within the parcel to be developed and the surrounding land. All hydro geologic studies shall include at least the following:
  - a. An adequate number of subsurface borings in order to determine the site geology and stratigraphy. Boring requirements are as follows:
    - (1) For sites up to 30 acres, the parcel shall contain a minimum of one boring per three acres, with a minimum of three borings for a site. For sites greater than 30 acres, additional borings of at least one per 10 acres are required.
    - (2) At least twenty percent (20%) of the borings shall be sampled utilizing the "split spoon" sampling technique.
    - (3) At least one boring shall be dug to bedrock.
  - b. Identification of water table contours and groundwater flow directions, with water table measurements using a series of shallow observation wells screened at the water table. The number of observation wells required shall be the same as the number of borings required.

- c. Water quality sampling and analysis to determine existing conditions, measuring the following parameters: nitrate-nitrogen (NO<sub>3</sub>-N), ammonia-nitrogen (NH<sub>3</sub>-N), pH, and specific conductance.
- d. An analysis of cumulative impact nitrogen loading employing a saturation build-out model. The analysis shall include verification that the development will not cause the nitrate-nitrogen (NO<sub>3</sub>-N) concentration to exceed 5 mg/1 in the groundwater at the down-gradient property boundary.

**F. Design and Performance Standards**

- 1. Nitrate loading: No development shall cause the nitrate-nitrogen (NO<sub>3</sub>-N) concentration to exceed 5 mg/1 in the groundwater beyond the site.
- 2. Safeguards: Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations, which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.
- 3. Location: Where the premises are partially outside the Aquifer-Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside and down gradient of the zone to the extent feasible.
- 4. Drainage: All runoff from impervious surfaces shall be recharged on the site, and diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.
- 5. Septic System Design and Installation: Septic systems shall be constructed in accordance with the "Subdivision and Individual Sewage Disposal System Design Rules" (NH Code of Administrative Rules, Chapter Ws 1000). However, any town ordinance or regulation that is more restrictive shall apply. A Sanitary Engineer licensed in New Hampshire shall design all new or reconstructed on-lot wastewater disposal systems constructed in the Aquifer Protection district. These systems shall be installed under the supervision of said engineer.

The designated Town engineer or septic system inspector of the Town shall inspect the installation of each new system prior to covering and shall certify that the system has been installed as designed. A fee for inspector shall be charged to the owner according to a fee schedule determined by the Selectmen.

The following site requirements shall apply to all septic system construction in the Aquifer Protection District:

- a. At least 24 inches of natural permeable soil shall exist above the seasonal high-water table.

- b. At least four feet of natural soil shall exist above bedrock.
- c. At least three feet of natural permeable soil shall exist above any impermeable subsoil.
- d. No filling of wetlands shall be allowed to provide the minimum distance of septic systems to wetlands.
- e. Fill material used for septic system construction shall be generally homogeneous and shall not contain:
  - more than 15% organic soil by volume;
  - more than 25% cobbles (6 in. diameter) by volume;
  - more than 15% of clay (0.002 mm particles or smaller) by weight;
  - tree stumps, mulch, bark or other large organic matter.

**G. Use Regulations**

- 1. Minimum lot size: The minimum lot size within the Aquifer Protection for each dwelling unit if a residential use, or each principal building if a non-residential use, shall be 3 acres, or 130,680 square feet.
- 2. Maximum Lot Coverage: Within the Aquifer Protection District, no more than ten percent (10%) of a single lot, may be rendered impervious to groundwater infiltration for residential uses. Up to 25% of a single lot may be made impervious for commercial, industrial and institutional uses provided that on-site recharge of runoff from roofed and paved areas is provided for.
- 3. Prohibited Uses: The following uses are prohibited in the Aquifer Protection Zone except where permitted to continue as non-conforming uses. Prohibited uses shall include, but not be limited to:
  - a. Disposal of solid waste (as defined by NH RSA 149-M) other than brush or stumps generated on the property on which they are to be disposed.
  - b. On-site disposal, bulk storage, processing or recycling of toxic or hazardous materials or wastes.
  - c. Disposal of liquid or leachable wastes except that from one or two-family residential subsurface disposal systems, or as otherwise permitted as a conditional use.
  - d. Buried storage of petroleum fuel and other refined petroleum products except as regulated by the NH Water Supply and Pollution Control Commission (Ws 411 Control of Non-residential Underground Storage and Handling of Oil and Petroleum Liquids). Storage tanks for petroleum products, if contained within basements, are permitted.
  - e. Outdoor unenclosed or uncovered storage of road salt and other de-icing chemicals.

- f. Dumping of snow containing road salt or other de-icing chemicals.
- g. Animal feedlots.
- h. Automotive service and repair shops, junk and salvage yards.
- i. Dry cleaning establishments.
- j. Laundry and car wash establishments not served by a central municipal sewer system.
- k. Industrial uses which discharge contact type wastes on site.
- l. Waste injection wells.

**H. Conditional Uses**

The following uses, if allowed in the underlying zoning district, are permitted only after the South Hampton Planning Board grants a Conditional Use permit:

- 1. Industrial and commercial uses not otherwise prohibited in Section G.3 of this Article.
- 2. Sand and gravel excavation and other mining provided that such excavation or mining is not carried out within eight (8) vertical feet of the seasonal high water table and that periodic inspections are made by the Planning Board or its agent to determine compliance.
- 3. The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made which certify that all of the following are true:
  - a. The proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by introducing toxic and hazardous materials to the aquifer or by causing the average concentration of nitrate-nitrogen (NO<sub>3</sub>-N) to exceed 5 mg/l beyond the affected property boundaries.
  - b. The proposed use will not cause a significant long-term reduction in the volume of water contained in the aquifer or in the storage capacity of the aquifer.
    - (1) the proposed use will discharge no wastewater on site other than that typically discharged by domestic waste water disposal systems and will not involve on-site storage or disposal of toxic or hazardous materials as herein defined;
    - (2) the proposed use complies with all other applicable sections of this Article.
- 4. All Conditional Uses shall be subject to twice-annual inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals

were granted. A fee for inspection shall be charged to the owner according to a fee schedule adopted by the Selectmen.

**I. Permitted Uses**

The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance.

1. Any use permitted by the underlying district of the Zoning Ordinance, except as prohibited in Section G.3 or regulated by conditional Use in Section H of this Article.
2. Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section G.2 of this Article.
3. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, pesticides, manure and other leachables are used according to best management practices as prescribed by the Rockingham County Conservation District, if applicable, and at levels that will not cause groundwater contamination. All said leachables must be stored under shelter.

**J. Special Exception for Lots of Record**

Upon application to the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Aquifer Protection District on a non-conforming lot provided that all of the following conditions are found to exist.

1. The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town.
2. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lots which are outside the Aquifer Protection District.
3. Due to the provisions of the Aquifer Protection District, no reasonable and economically viable use of the lot can be made without the exception.
4. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.

**K. Non-Conforming Uses**

Any non-conforming use may continue and may be maintained, repaired and improved, unless such use is determined to be an imminent hazard to the groundwater or recharge areas. No non-conforming use may be expanded, changed to another non-conforming use, or renewed after it has been discontinued for a period of 12 months or more.



**Article IX. STEEP SLOPE DISTRICT**

The Steep Slope District is an overlay to the regular districts in South Hampton describing areas of slopes exceeding 8% and is established for the purpose of avoiding unnecessary or excessive expense to the town and in the interest of the health, safety, convenience, and welfare of the present and future residents of South Hampton.

- A. All uses, which are allowed by the provisions of this ordinance, are allowed.
- B. Lot dimensions shall be at least three acres per lot with 250 feet frontage when 25% or more of the property falls within the steep slope district.  
(Adopted 3/12/86)

**Article X. HISTORIC DISTRICT (Rewritten 2/1/99)**

- A. Historic District:

An historic district shall be superimposed upon the other districts established in this zoning ordinance. The regulations and procedures of Section B, Historic District Regulations, shall apply in addition to the regulations of the underlying districts and other applicable ordinance. Procedures for designation of local historic districts, shall be in conformance with RSA 674:46, and other applicable statutory requirements. There shall be no exemption of these regulations for municipal, school and religious structure located within an historic district.

- 1. Boundaries:

An historic district shall be shown on the Zoning Map as from time to time adopted and amended by the Town of South Hampton. It may coincide with, cross, or include all or part of one or more of the underlying districts.

- 2. Verbal Boundary Description:

**Hilltop:**

Starting at a point off Jewell Street at the southeasterly corner of Marsh property, extending northerly along property lines to Main Avenue, across Main Avenue to the southeasterly corner of what is now Spear property, continuing to the northeasterly corner of this property; turning westerly following property lines or at a distance of 200 feet from Main Avenue, whichever is less, to a point which meets an extended line which is the westerly line of the Old Cemetery including the Old Pond; turning southerly to Main Avenue, across Main Avenue, continuing along the rear line of the Old Cemetery and Pound, across Hildale Avenue, continuing to a point which meets a line extended from the rear line of the Center Cemetery; turning easterly across property of Buxton and Fraser, along the rear line of the Center Cemetery, across property of the Baptist Church to Jewell Street, across Jewell Street to the corner of Marsh property and continuing along this property line to the starting point. Tax map reference; Page 2-20, 21,23,24,25,45,46,47,48,71,72, and 73. (Adopted March 5, 1974 and Amended 3/11/87)

**Highland Road Area:**

Starting at a point on the Old Exeter Road, formerly Route 150, four hundred feet northerly from Highland Road westerly four hundred feet from Highland Road or the Kensington Line whichever is less, continuing southwesterly across Highland Road to a point four hundred feet south then running easterly 400 feet from Highland Road to Route 150 or to the starting point. Tax map reference; Page 6-7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 36, 37, 39 and 40. (Adopted September 10, 1974 and Amended March 11, 1987)

**Jewell Town:**

Starting on Jewell Street at the northwest boundary of Amsler, thence along a line following the northerly and easterly Amsler boundaries to the Powwow River easterly shore water line, thence southerly along this water line to the New Hampshire/Massachusetts state boundary to its point of intersection with Capp property on the southerly side of Whitehall Road, thence northerly along a line drawn from this intersection point to the southwest corner of Capp property lying on the northerly side of Whitehall Road, thence northerly following the westerly, northerly and easterly Capp boundaries to the intersection with Coffin boundaries, thence easterly along Coffin northerly boundaries to Jewell Street and crossing Jewell Street to the original starting point. The land and buildings described above shall be known as the Jewell town Historic District. This District includes the properties of Amsler, Oldak, Rice, Miller, Morse, Capp, Merrill, Parkman and Coffin. Tax map reference: Map 2; Lots 11, 12, 13, 14, 75, 76, 77, 78, 79, 80 and a portion of 81). (Adopted March 8, 1994)

**Currierville:**

Starting at the southwesterly corner of Dodge property and following a line along the easterly, northerly and westerly boundary of Riecks to Currier Street, thence westerly along Currier Street to the Newton/South Hampton town line, thence along town line through the Currierville cemetery to Riecks boundary, thence along Riecks boundary to intersection with properties of the Benj. Currier heirs, thence along Currier heirs property boundaries on the Newton side to Lone Goose Road, thence southerly along westerly boundary of Lone Goose Road to a point directly opposite the southernmost point of Currier heirs property on easterly side of the road and following the southerly boundaries of Currier heirs and Verge to the easterly boundary of Verge, thence along Verge easterly boundary to a mulberry tree and thence along a line crossing Hilldale Avenue to the original starting point. The land and building enclosed within these boundaries excluding the Bartley property on Lone Goose Road, to be known as the Currierville Historic District. This District includes the properties of Dodge, Riecks, Currier heirs, Strickland, and Verge. The bounds as described include Map 1; Lots 3, 4, 6, 44, and 45. The last sentence adds in addition Map 4; Lot 56. (Adopted March 8, 1994)  
(Adopted 3/10/81 and Amended 3/11/87)

3. Use:

Use permitted in the underlying zoning districts are permitted in the historic district.

4. Certificate of Approval Not Required:

Within the historic district a Certificate of Approval from the historic district commission is not required for routine maintenance work, repairs, and exterior alterations, which do not

change the architecture normally, found in that type of facade whether it be Federal, Georgian, or Greek revival.

5. Certificate of Approval Required:

Within the historic district a building permit for significant change, alteration, construction, demolition, or relocation (into, out of, or within the district) shall not be issued until and unless the historic district commission in accordance with the provisions of Section B.15 issues a Certificate of Approval.

B. Historical District Regulations:

1. Grant of Power:

Pursuant to RSA 673:1, the Town of South Hampton established in 1975 an historic district commission, and pursuant to RSA 674:46, the Town at Town Meeting has [with] this ordinance established 4 (four) historic districts within the boundaries of the Town of South Hampton.

2. Definitions:

Routine maintenance is repairing/preserving original work with like materials or colors to match what is original so that the repair is virtually invisible.

Significant change is substituting a different feature, material or adding or subtracting from the original fabric or structure.

3. Purposes:

- (a) Enhance the visual character of South Hampton by encouraging and regulating the compatibility of new construction within the historic district to reflect and respect established architectural traditions.
- (b) To preserve for generations to come the unique collections of historically, architecturally and culturally significant buildings and structures which characterize the town of South Hampton, to encourage their maintenance and restoration, and to insure that new buildings and structures, and alterations to existing buildings and structures, and uses of buildings and structures within the Districts are in visual harmony with their neighbors in order that districts be preserved which will reflect the cultural, social, economic, political and architectural history of the town of South Hampton, conserve and maintain property values in such Districts, foster civic beauty, strengthen the local economy, and annually provide an opportunity to benefit the education, pleasure and welfare of all the citizens of the municipality.

4. Membership:

- (a) The historic district commission shall consist of five members and up to three alternatives. All members and alternatives:

(1) Must be residents of South Hampton; and

(2) Must have demonstrated interest and ability to understand, appreciate, and promote the purposes of this Article.

- (b) One member shall be a member of the board of selectmen, and at least two members shall be residents of a historic district.
- (c) Whenever a regular member of the Commission is absent or whenever a regular member disqualifies himself or herself, the chairperson shall designate an alternative to act in the place of the absent members as provided by RSA 673:13.

5. Terms of Office, Vacancies, and Removal:

- (a) Members shall be appointed by the selectmen.
- (b) The selectmen shall act within sixty days to fill a vacancy, including expired terms. Vacancies shall be filled as provided by RSA 673:13.
- (c) Members may be removed for cause in a manner as provided by RSA 673:13.
- (d) The chairperson may request the resignation of any member who fails to attend three consecutive meetings without just cause.

6. Officers/Quorum:

The commission shall annually elect a chairperson from the appointed members and may create other officers, as it deems necessary. The term of every officer and chairperson elected by the historic district commission shall be one year. Both the chairperson and officers shall be eligible for re-election. Three members of the commission shall constitute a quorum for the conduct of business.

7. Disqualification:

Disqualification of a member of the South Hampton Historic District commission shall be per RSA 673:14.

8. Meetings:

Meetings of the historic district commission shall be held at the call of the chairperson and at such other times as the commission members may determine, but not less than once a year. Public notification of meetings and of the commission's actions shall be in conformance with RSA 91-A and other applicable statutory requirements.

9. Powers and Duties of the Commission:

In accordance with RSA 674:46-a: the historic district commission shall have the powers and duties to:

- (a) Establish rules and regulations for the conduct of business, which are consistent with the purposes of this Article, and in conformance with RSA 674, RSA 676, RSA 677, and RSA 91-A.
  - (b) In accordance with the provisions of Section A.5, of this ordinance, establish, adopt and make available, to applicants and the public, Guidelines to be used by the commission in reviewing and passing on applications for a Certificate of Approval to construct, alter, repair, or move or demolish any building or structure within the historic district.
  - (c) Approve or disapprove, in whole or in part, applications for Certificates of Approval for which a permit is required under Section B.11, and files said Certificate of Approval or Notice of Disapproval with the building inspector following the commission's findings.
  - (d) Request reports and recommendations from town departments and from other organizations and sources, which may have information or can provide advice pertinent to the application or the proposal's impact on the district.
  - (e) Retain professional consultants as may be necessary to carry out the purposes of this Article, subject to the availability of funds for this purpose.
  - (f) Act in an advisory role to other officials, departments, boards, commissions, and committees of the town, regarding the identification, protection and preservation of local historical resources.
  - (g) Act as a liaison between the local government and individuals and organizations concerned with historic preservation.
  - (h) Work toward continuing education of citizens regarding historic preservation issues and concerns.
  - (i) Recommend and propose amendments and/or revisions of this article and of the boundaries and limits of any historic district to the planning board.
  - (j) Keep or cause to be kept accurate and complete records of each application, all of which shall be a part of the public record.
10. Scope of Review and Certificate of Approval:
- It is unlawful for any person to construct, alter, repair, move or demolish any building, structure which lies within the South Hampton Historic District without first obtaining a Certificate of Approval from the historic district commission in the manner prescribed in this Article. Exceptions are declared in Section B.12.
11. Activities Requiring Review:
- For the purpose of this article, the historic district commission shall review the following activities:

- (a) Significant change, erection, alteration, demolition, or relocation (into, out of, or within the district) of a building or structure, and construction on any site;
- (b) Construction or reconstruction of any stonewall or fencing;
- (c) The use of “nontraditional” building materials may be utilized within the district provided the outward appearance of said materials meets the approval of a majority of the commissioners.

12. Exceptions:

The historic district commission is not required to review the following activities:

- (a) Routine maintenance and repair of any building, structure, stonewall or fencing.
- (b) Painting or repairing of buildings, structures, or fences in the same color.
- (c) Installation of replacement windows of the same size and panes. Snap-in grills are not permitted.
- (d) Changes in buildings or structures not visible from any public road.

13. Application Procedures:

The following procedures shall be used in processing applications for approval of work covered by this Article:

- (a) Application forms are available from the Building Inspector, Chairman of the Historic District Commission, or Town Clerk, completed applications shall be sent to the Chairman of the Historic District Commission or the Town Clerk.
- (b) The applicant shall submit a written application for a Certificate of Approval to the Chairperson at any time or to the commission at a meeting.
- (c) Upon receipt of an application, the Chairperson of the Historic District Commission shall schedule a meeting to be held within 15 days, to review the application. The meeting shall be posted at least 24 hours in advance. The application will be reviewed and if complete will be deemed, by the commission to be filed effective that date. If the application is incomplete, the applicant will be informed of the specific deficiencies, and a new meeting will be scheduled as soon as these are corrected. The application shall include:
  - Completed building permit form, if applicable.
  - Narrative description of the project.
  - Graphic materials of sufficient clarity and detail to give the commission a clear and certain understanding of the applicant’s intention regarding the work contemplated.
- (d) The commission may request, and the applicant shall supply, site plans, building plans, elevation, perspective sketches, photographs, building material samples or other information reasonably required by the Commission to make its determination of approval or disapproval.

- (e) There shall be no application fee. Applicant will pay in accordance with fee schedule (Appendix A).

14. Review Criteria:

In making a determination on an application, the historic district commission shall be guided by the following:

- (a) South Hampton is an historic town with its character reflected in the architecture of the structures that lie within the historic districts. The architectural styles of the buildings within the districts include Federal, Georgian, and Greek Revival. New construction should reflect, and respect established architectural traditions. Contemporary architecture is not allowed in the historic district.
- (b) It is not the purpose of this ordinance to deny a citizen the right to erect, alter, relocate, or demolish a building or structure within the historic district so long as the result will not affect the character of the historic district.

15. Findings:

At the conclusion of its review of the completed application the historic district commission may determine that the application:

- (a) has little or no impact on the district and that the application is approved. The applicant will be issued a Certificate of Approval and he may proceed.
- (b) Is in conformity with the Guidelines and intent of the Historic District Commission and that the application is approved. The applicant will be issued a Certificate of Approval and he may proceed.
- (c) will have significant impact on the district or it represents a new residence. The chairman of the Historic District Commission shall schedule a public hearing, which shall be held within 30 days of the application's deemed filed date.
- (d) Is clearly out of conformity with the Guidelines of the Historic District Commission. If, after further study and attempts to bring the plan into conformity with the guidelines, a reasonable compromise cannot be reached, the Historic District Commission shall issue a Notice of Disapproval, which will include the reasons why it was disapproved.

After the issuance of the Certificate of Approval, the building inspector may issue a building, demolition, or other permit for the approved project. The issuance of a Notice of Disapproval shall prohibit the building inspector from issuing a building, demolition, or other permit.

16. Hearing and Notices for those cases that the Historic District Commission deems to require a hearing:

- (a) The historic district commission shall conduct a hearing on the application.
- (b) The commission shall issue a Certificate of Approval or Notice of Disapproval in conformance with RSA 676:9.
- (c) Failure to render a decision within the specified time shall be deemed to constitute approval by the commission in conformance with RSA 676:9.
- (d) Public notice of the commission hearing shall be given in accordance with RSA 676:7.

All decisions of the Commission shall be made available for public inspection per RSA 91-A:2.

17. Appeals:

Any person or persons jointly or severally aggrieved by a decision of the historic district commission shall have the right to appeal that decision to the zoning board of adjustment in accordance with the provisions of RSA 677:17

18. Enforcement:

In case of the violation of any ordinance or regulation made under the authority conferred by RSA 676, the historic district commission, in addition to other remedies may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent or enjoin or abate or remove such violation.

19. Penalties:

Violation of this historic district ordinance may be made punishable as provided by RSA 676:17.

20. Validity:

If any section, clause, provision, portion or phrase of these Articles shall be held to be valid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this Article.

**Article XI. ADMINISTRATION**

- 1. A building inspector may be appointed annually by the Board of Selectmen and he shall be the administrative officer under this ordinance; if the Selectmen do not appoint a building inspector, his administrative powers and duties shall be vested in the Board of Selectmen.
- 2. The Building Inspector shall require that the application for a building permit include a plot plan and contain all necessary information to enable him to ascertain whether proposed building or structure and its intended use comply with the provisions of this ordinance.



3. The Building Inspector shall make known his decision in writing within 15 days from the date he received the application, and he shall make inspections of all buildings in the process of construction and report any or all violations to the Selectmen.
4. It shall be unlawful for any person to commence work for erection or alteration of any building or structure until a permit has been duly granted.

**Article XII. BOARD OF ADJUSTMENT**

Within thirty (30) days after adoption of this ordinance and thereafter as terms expire or vacancies occur, the Board of Selectmen shall make appointments to a Board of Adjustment of five members conforming in duties, membership, and term of office to the provisions of Chapter 31 of the New Hampshire Revised Statutes Annotated as amended. Thereafter, as terms expire or vacancies and maintaining full membership on the Board of Adjustment.

**Article XIII. NON CONFORMING USE (Amended March 1990)**

This Ordinance shall not apply to existing structures or to the existing use of any building. A nonconforming structure or use shall not be:

- A. Altered for use for a purpose or in a manner substantially different from the use to which it was put before alteration;
- B. Once changed to a conforming use, never returned to a nonconforming use;
- C. Re-established after abandonment of land for one year and structure for two years, except to a use and/or structure conforming to this ordinance;
- D. Rebuilt after damage exceeding 75% of its gross physical valuation as determined by the local assessors, except in accordance with this ordinance. Any such ruined structure or foundation shall be removed to ground level and left in a safe condition within one year.

**Article XIV. VALIDITY**

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

**Article XV. HIGHER STANDARD**

When the regulations of this ordinance and those of another statute, ordinance, code, regulation, or restriction govern the same situation, the one imposing the higher standard shall prevail.

**Article XVI. PENALTIES** (Amended 2/1/99)

Whoever violates any provision of this ordinance shall be punished by a fine as provided in RSA 676:17. Enforcement shall be the responsibility of the Selectmen.

**Article XVII. EFFECTIVE**

This ordinance or any subsequent amendments shall take effect immediately upon its passage.

**Article XVIII. GROWTH MANAGEMENT** (Adopted 3/8/94) (Revised and Adopted 3/11/2008)  
(Revised and Adopted 3/10/2020)

The following restrictions are established to regulate the growth of the town in a manner such that its capacity to provide services to its residents is not exceeded.

A. Authority

This Growth Management Ordinance is adopted as an ordinance to regulate and control the timing of development in accord with NH RSA 674:16(III), 674:22, and RSA 674:35(III) and supersedes the previous Growth Management Ordinance adopted at Town Meeting on March 8, 1994, the Interim Growth Management Ordinance adopted in September 2006 and the Growth Management Ordinance adopted March 2008.

B. Purpose

The purpose of this ordinance is to regulate and control the timing of development in the Town of South Hampton based on a growth management process which assesses, and balances community development needs and which considers the growth rate of the Town of South Hampton in relation to regional development needs. This ordinance recognizes the state statutory protection afforded agricultural uses in RSA 672:1(III-b) and the duty that the Town of South Hampton has to preserve and continue to permit agricultural and rural uses in the Southeastern region of New Hampshire while allowing for sustainable residential growth.

The Town of South Hampton seeks to manage growth in a manner consistent and compatible with its Master Plan, adopted in 1990 (revised in 2008 & 2020) and its Capital Improvements Program adopted in 2008 (revised 2020). By adopting this ordinance, the Town is permitting its citizens to be actively involved in directing the growth of their community in accord with NH RSA 672:1(IV).

The purpose of this ordinance is to mitigate the adverse impact of uncontrolled growth on a small, rural town, while ensuring that the following goals are achieved:

1. Growth occurs in a manner consistent with the Master Plan and CIP;
2. Growth occurs at a rate that can be absorbed by the Town while still providing adequate municipal services and resources, including police, fire and rescue, infrastructure, school services, library, recreation, and park services while accommodating new development.
3. Growth occurs in a manner which considers regional development needs.

**C. Findings**

The Planning Board, after careful and diligent study, has reached the following findings and determinations:

1. The Town of South Hampton is one of the smallest rural towns in Southeast New Hampshire with a population of 821 citizens and 328 dwelling units as of 2017. The total land area is only 8.04 square miles.
2. The Town lacks any significant commercial or industrial tax base.
3. The Town provides a secondary education to its students through a long-term tuition agreement with the Amesbury Massachusetts School District, paying a per pupil annual tuition rate of \$12,553.40 for the 2018-2019 school year.
4. The Town has experienced an actual population growth rate of one tenth of a (0.1%) percent per year during the period from 2010 to 2017.
5. Although the property tax burden has increased each year for its citizens, the Town has been able to sustain this rate of growth.
6. The Town's Capital Improvements Program is consistent with this rate of growth.
7. Other towns in the region failed to timely regulate growth and suffered adverse impact to their rural character, their infrastructure, the quality of their municipal services and their ability to plan for land use and stewardship. There is every indication that economic trends in real estate development are such that South Hampton will suffer the same or greater harm if it does not timely manage growth.
8. The Town is on the cusp of substantial residential growth which threatens the rural character of the Town and will grossly overburden the infrastructure of the Town. There are several large undeveloped parcels of residentially zoned land in South Hampton that could possibly be developed in the next five (5) to ten (10) years.
9. There is an increased interest on the part of developers in acquiring large tracts in South Hampton for residential development and it is more probable than not that the Town will be presented with a number of large-scale residential subdivision applications. The Town faces the risk of unbalanced growth throughout the Town in a manner which will threaten the ability of the Town to equitably distribute capital projects, road maintenance and Town services.
10. Many of the towns around South Hampton have adopted growth management ordinances, which have begun to constrain and reduce their growth rates. While the Town first adopted a growth management ordinance in 1994, it did not have a formal Capital Improvements Program in place at the time of adoption. The Town has since remedied that by adopting a Capital Improvements Program.
11. As the towns around South Hampton are developed at a slower pace due to growth controls, there will be increased and rapid growth pressures placed on the Town, which if unregulated as to timing will have the following adverse impacts:

- a) Real property taxes will become untenable for those citizens on a fixed income;
- b) The rural New England character and identity of the Town will be supplanted by suburban sprawl;
- c) Valuable Wetlands and Wildlife Habitats will be lost;
- d) Ground water aquifers will be drawn down and compromised;
- e) Population growth will drastically exceed historic rates and will be proportional to the unbridled and harmful growth experienced by the towns surrounding South Hampton prior to their implementation of growth controls;
- f) A reduced ability on the part of the Town to encourage elderly and low-income housing;
- g) The Town will be unable to absorb the demands of increased education costs;
- h) The Town will be required to construct capital improvements at a rate far greater than that anticipated by the CIP;
- i) Open space will be lost;
- j) Pressure on the Town's Public Works budget as the Town is required to accept new roads and older roads are subjected to increased use; and
- k) Valuable agricultural uses will be lost.

**D. Primary Conclusion**

The study conducted by the Planning Board yields the conclusion that the Town is about to experience growth which will be unsustainable and harmful to the Town. The Town should not wait for unsustainable growth and its concomitant injuries to occur before it implements reasonable controls on growth.

The Town should manage growth at a rate and pace which is sustainable, and which allows appropriate land use planning and budgetary planning while considering the growth needs and rates of the region. In order for the Town to properly manage growth it needs to manage both overall growth, as well as the pace at which multi-unit developments are completed.

The maximum growth of new dwelling units that can be absorbed by the Town in a single calendar year, while still maintaining the current level of infrastructure and municipal service, is currently five (5) percent of the total number of units as of the end of the preceding year. This represents substantially greater growth than the Town has experienced in the past and is specifically adjusted upward to align with the growth rates experienced by the region. The Town further finds that in order to properly balance community development needs throughout the Town that it is necessary to limit the number of building permits issued in a calendar year for an approved site plan or subdivision plan to no more than twenty-five (25) percent of the total permits available in a given year.

Therefore, it is necessary for the Town to adopt, maintain and regulate a managed rate of growth which responds to this conclusion in the manner set forth herein.

**E. Building Permits**

1. This ordinance shall apply to building permits for new dwellings. This ordinance shall not apply to:
  - a. Construction of structures other than dwellings; or
  - b. Expansion, renovation, repair, alteration or replacement of existing dwellings.
2. This ordinance shall be based on a calendar year running from January 1, to December

31 of each given year. As of December 31, 2019, there were 331 dwelling units in the Town. The number of building permits issued for new dwellings in a calendar year shall not exceed five (5) percent of the total number of dwelling units in the Town during the preceding year. A residential structure shall not be considered a dwelling unit for purposes of this formula until such time as it has been issued a certificate of occupancy.

(Total number of dwelling units in the Town during the preceding year) X (.05) = maximum number of available building permits.

3. In order to ensure equitable distribution of the available building permits, no more than twenty-five (25) percent of the total number of permits available in a year shall be issued to the same individual, corporation or entity. Similarly, the number of building permits issued in a calendar year for an approved site plan or subdivision plan shall be limited to no more than twenty-five (25) percent of the total permits available in a given year in order to ensure that growth occurs at an even pace throughout the Town.
4. Permits shall be issued on a first come, first served basis as of January 1 of each year, and shall only be issued after the Building Inspector has received a fully completed application, plus all applicable fees. Completed applications received after all available permits have been issued shall be placed first on the list for the following year.
5. In event that fewer than the maximum number of available permits are issued during a calendar year, twenty-five (25) percent of the remainder shall be available for issue in the following year, at the end of which they shall expire. The Building Inspector shall identify permits by the year in which they were authorized. Both of the equitable limitations referenced in paragraph three (3) above shall be based on the total number of available permits in a given year.

#### **F. Regular Monitoring and Review**

The Planning Board shall evaluate this ordinance at least annually. The Planning Board shall review the rate of annual growth in the Town and the region. It shall also review the findings of fact set forth in Section C. above and make a determination as to the ongoing validity of the findings. The Planning Board shall also determine whether there is a continued need to manage growth, and whether the five (5) percent growth limitation remains appropriate. In the event the Planning Board determines that the ordinance requires amendment in order to properly balance community development needs or more accurately consider the growth rate of the Town of South Hampton in relation to regional development needs, it shall propose such at the next Town Meeting. In the event the Planning Board determines that growth management is no longer necessary it shall propose that this ordinance be rescinded at the ensuing Town Meeting.

This ordinance shall expire at the close of year 2028, unless the Planning Board proposes re-adoption of this ordinance or amendment prior to the expiration of that year.

**Article XIX. FLOOD PLAIN DISTRICT**

This ordinance adopted pursuant to the authority of RSA 674:26, shall be known as the Town of South Hampton Flood Plain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations of the Town of South Hampton Zoning Ordinance and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under State law. If any provision of this ordinance differs or appears to be in conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction of more stringent standard shall be controlling. The following regulations in this ordinance shall apply to all lands designated as Special Flood Hazard Areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Rockingham County, New Hampshire" dated January 29, 2021 or as amended, together with the associated Flood Insurance Rate Map Panels numbered 33015C0420F, 33015C0395E, 0413E, 0420F, 0585E, 0601E and 0602E for the Town of South Hampton. (Amended 2021, 2024)

**A. Definition of Terms:**

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This area is designated as Zone A and AE on the Town of South Hampton's Flood Insurance Rate Map.

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

"Base Flood Elevation" (BFE) means the elevation of surface water resulting from the "base flood." (Added 3/12/24)

"Basement" means any area of the building having its floor sub grade (below ground level) on all sides.

"Building" see "Structure".

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

"FEMA" means the Federal Emergency Management Agency. (Added 3/12/97)

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

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

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

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium

zones applicable to the community.

"Flood Opening" means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."

"Flood plain" 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 nonstructural additions, changes, or adjustments, to structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" \_ see "regulatory floodway".

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

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered Historic District or a district preliminarily determined by the Secretary to qualify as a registered Historic District.
3. 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
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) by an approved state program as determined by the Secretary of the Interior, or
  - (ii) 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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

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

subdivision.

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

"New construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"Recreational 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 tow able by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel; or seasonal use.

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

"Riverine" means relating to, formed by, or resembling a river (including tributaries) stream, brook, etc.

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

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

"Start of Construction" includes substantial improvement, 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 a site, such as the pouring of slab or footings, the installation of piles, or construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; or 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 shed not occupied as dwelling units or not 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 before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or



b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

- B. All proposed development in any special flood hazard areas shall require a permit.
- C. The Building Inspector 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 in a flood prone area, all new construction and substantial improvements shall (i) 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, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. Where new and replacement water and sewer systems (including onsite systems) are proposed in flood prone areas the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and onsite waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.
- E. The Building Inspector shall maintain for public inspection, and furnish upon request, any certification of flood proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and include whether or not such structures contain a basement. If the structure has been flood proofed, the as built elevation (in relation to mean sea level) to which the structure was flood proofed. The applicant must furnish this information.
- F. The Building Inspector shall review proposed developments to assure 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. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.
- G. In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector in addition to the copies required by RSA 482-A: 3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector including notice of all scheduled hearings before the Wetlands Bureau.  
Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory Floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the floodway requirements of this section.

Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1\_30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

- H.
1. In special flood hazard areas, the Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:
    - a. In Zone AE refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM.
    - b. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from Federal, state, development proposals submitted to the community (example subdivisions, site approvals, etc.) or other source. Where the base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.
  2. The Building Inspector's base flood elevation determination will be used as criteria for requiring in Zones A and AE that:
    - a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level;
    - b. That all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the base flood level; or together with attendant utility and sanitary facilities, shall:
      - (i) be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
      - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
      - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
    - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; 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;

- d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements: 1) the enclosed area is unfinished or flood resistant, usable solely for parking of vehicles, building access or storage; 2) the area is not a basement; 3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two flood openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all flood openings shall be no higher than one foot above grade. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- e. Recreational vehicles placed on sites within Zones A and AE shall either 1) be on the site for fewer than 180 consecutive days, 2) be fully licensed and ready for highway use on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or 3) meet all applicable standards of this ordinance and the elevation and anchoring requirements for "manufactured homes" of this ordinance. (Adopted 3/8/94)

I. Variances and Appeals

1. Any order, requirement, decision or determination of the Building Inspector made under this Ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I, the applicant shall have the burden of showing in addition to the usual variance standards under State law:
  - a. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - b. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - c. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall:
  - a. maintain a record of all variance actions, including their justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator. (Amended 3/12/24)

**Article XX. SIGNS** (Adopted 3/13/90, amended March 8, 2016)

- A. Purpose: The purpose of this ordinance is to permit signs that will not by reason of size, location, construction, or manner of display, endanger public health and safety.
- B. Definitions:
1. Area: The area of one side of a not more than two-sided sign, or one half of the total area of more than two sides.
  2. Sign: Any surface, fabric, device or display which bears lettered, pictorial, or sculptured material designed to convey information visually and which is exposed to public view.
- C. Enforcement:
1. The Building Inspector shall be the administrative officer of this ordinance.
  2. No sign shall be erected, moved, or altered until a permit therefore is issued under the terms of this ordinance.
  3. All unused sign permits shall expire one (1) year from the date of issuance.
  4. All applications for sign permits shall be accompanied by an acceptable sketch of the proposed sign, and an indication of the location and dimensions of all existing signs located on the lot or tract.
- D. General Provisions:
1. No sign in a Residential District shall be illuminated.
  2. No sign in a Commercial or Industrial District shall be internally illuminated, flashing, or animated, nor shall any illuminated sign or advertising outline any part of a building such as a gable, roof, sidewalk or corner.
  3. The maximum height of all signs shall not exceed fifteen (15) feet above grade, as determined by the average ground level around the sign.
  4. There shall be permitted in the following zones no permanent signs larger than:
    - a. Four (4) square feet in any Residential District.
    - b. Thirty-two (32) square feet in any Commercial District.
    - c. Thirty-two (32) square feet in any Industrial District.
  5. Every sign shall be constructed of durable material and shall be maintained in good condition and repair at all times.
  6. Illuminated roadside signs shall not remain lit after 9:30 p.m.
  7. No sign shall be located within the right-of-way of any town road, nor shall it obstruct driving sight distance.
  8. Any sign in the Historic Districts shall require approval of the Historic District Commission prior to being erected.

**E. Number of Signs:**

1. No more than one (1) freestanding sign shall be permitted on any lot.
2. A single freestanding sign is permitted for each business in the Commercial and Industrial Districts except:
  - a. Where two or more businesses share a lot or tract, a single freestanding sign is permitted for the entire lot or parcel.

**F. Exceptions:**

1. In the Rural Residential District, the Zoning Board of Appeals may allow a business two additional non-illuminated seasonal signs, each not to exceed eight (8) square feet in area, for a period not to exceed eight (8) months a year.
2. One temporary sign is permitted on any lot or parcel, provided it is unlit, is located ten(10) feet away from the right-of-way, does not exceed eight (8) square feet in area, and is removed within six (6) months. No lot or parcel may display a temporary sign for more than six (6) months per year.
3. In the Commercial and Industrial Districts, the Zoning Board of Appeals may allow a South Hampton business to place two (2) signs located off the site of the business. These signs must not exceed four (4) square feet in area and meet all the other provisions of this ordinance.

**Article XXI Accessory Dwelling Units Ordinance**

(Adopted 3/13/01) (Amended 3/17/2007) (Amended 3/16/2017)

**A. Authority:**

This section is enacted in accordance with the provisions of RSA 674:71-73

**B. Purpose, Intent and Objectives**

The purpose of the accessory dwelling unit provision is to provide increased flexibility with respect to housing alternatives for families in South Hampton while maintaining the health, safety, aesthetics and quality of the Town's neighborhoods.

The objectives of this section are to:

1. Provide for the construction of accessory dwelling units in existing single-family dwellings, thereby lessening fluctuations in the demand for Town services, e.g. education and elderly care.
2. Expand the housing stock to meet the needs of smaller households, both young and old;
3. Protect stability and property values, in the Rural Residential, Historic and Commercial/Industrial Districts by ensuring that accessory dwelling units are installed only in owner-occupied houses and under such additional conditions as to protect the health, safety and welfare of the public.

**C. Definitions:**

"Accessory Dwelling Unit" (hereinafter "ADU") means a residential living unit that is within or shares a common wall with a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation

on the same parcel of land as the principal dwelling unit it accompanies.

**D. Special Exception**

A special exception allowing the installation of one (1) ADU within a detached single-family dwelling shall be issued by the Zoning Board of Adjustment provided that the following conditions are met:

- (a) The proposed use must conform to the dimensional requirements of a single-family house lot and meet all building requirements.
- (b) The ADU shall be designed so that the appearance of the Structure remains that of a one family dwelling. The front door shall be an egress to the primary living area. The ADU's egress shall be located on the side or in the rear of the building. There shall be at least one door connecting the ADU with the primary living area.
  - i. The size of the ADU shall be a minimum of 250 square feet. The size of the ADU shall not exceed a maximum of 1,000 square feet.
  - ii. The structure in which an ADU is to be added must be, and continue to be, owner occupied.
  - iii. No more than two (2) bedrooms are permitted in the ADU.
  - iv. Off street paved or gravel parking shall be provided for at least four (4) vehicles.
  - v. The Structure and Lot shall not be converted to a condominium or any other form of legal ownership that separates the ownership of the ADU from that of the remainder of the Structure and Lot.
- (c) Prior to granting a special exception by the ZBA the owner shall provide, as part of the ZBA case file, the following:
  - (1) evidence to the Town Health Officer that septic facilities are adequate for both units according to the standards of the Town and RSA 485-A:38. If deemed necessary by said Health Officer, such evidence shall be in the form of certification by a State of NH licensed septic system designer. Also, the owner shall provide evidence that there is adequate potable water according to the standards of the State of NH. The Health Officer then shall indicate his/her approval in writing to the ZBA.
  - (2) a floor plan, in 1/4" scale (1/4" equals 12"), showing the proposed changes to the building.
  - (3) a sketch plan (drawn to scale) of the lot, with existing and proposed structure and parking.
  - (4) evidence shall be submitted to the Building Inspector that all building requirements can be met. The Building Inspector shall then indicate his/her approval in writing to the ZBA.
- (d) The accessory apartment shall be subject to the standards and conditions for a special exception as set forth in this Ordinance.
- (e) The owner of the Structure and Lot must maintain one or the other unit as their principal place of residence. If residence, as demonstrated by vehicle registration, voter registration or affidavit, is discontinued or interrupted for more than six months, the Special Exception permitting the ADU shall be void.

**Article XXII. Outdoor Lighting (Luminaires) (Adopted 3/13/2007)**

**A. Purpose:**

This ordinance is intended to preserve and enhance the nighttime rural character and dark sky of South Hampton, the property rights and privacy of abutters, and the health, safety and welfare of the residents by reducing or eliminating such problems as glare, over lighting, light trespass, sky glow, and inefficiency caused by inappropriately designed, installed, or operated outdoor lighting.

Natural dark sky, open spaces, woods, water bodies, and generally low ambient lighting levels near dwellings are the nighttime aspect of rural character. This valued and unique rural character will only be maintained in the long term by establishing limits for the area that certain kinds of outdoor-lighting fixtures can illuminate and by controlling the total allowable illumination in the Town of South Hampton.

Outdoor accent, sign and area lighting shall be minimized to accomplish the above goals; illumination should be related to task lighting.

**B. General Provisions:**

1. Light Projection and Output: luminaires shall be fully shielded to control light projection. Outdoor lighting in excess of the minimum required to illuminate any outdoor area for the purpose or task intended, as well as light trespass, shall be prohibited.
2. Location and Height: luminaires shall be mounted so that direct light emits at a height equal to or less than the value  $((D/3) + 3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 20 feet.
3. Parking areas and walkways may be illuminated only by fully shielded luminaires; direct light from such luminaires shall not extend substantially (50 ft) beyond parking and walkway areas.

**C. Exceptions:**

1. Temporary lighting installed or used for emergency purposes.
2. Lighting required by State or Federal laws or regulations.
3. Decorative holiday lighting, provided that no individual luminaire emits more than 900 lumens, and that the amount of lighting at any one time does not create a nuisance.
4. Existing permitted luminaires not conforming to this article that do not cause direct light from the luminaire to be projected toward residential buildings on adjacent or nearby properties, or to create glare perceptible to persons operating motor vehicles on public ways; existing luminaire shall be redirected, or its light projection and output controlled as necessary to eliminate such problem conditions. Any luminaire that replaces a non-conforming, pre-existing luminaire, or any luminaire that is moved, shall meet the standards of this Ordinance.
5. Residential low intensity lighting
  - a. Any luminaire may be operated for residential use only, without restriction to light projection or mounting height location under the maximum height, if its lamp or lamps lumens total:
    - (1) 1800 initial lumens or less if not a flood or spot luminaire or
    - (2) 900 initial lumens or less if a flood or spot luminaire.

However, any spot or flood luminaire excepted under this section shall not be aimed, di-

rected, or focused to cause direct light from the luminaire to be projected toward residential buildings on adjacent or nearby properties, or to create glare perceptible to persons operating motor vehicles on public ways; luminaires shall be directed, or the light projection controlled as necessary to prevent such conditions.

b. Luminaires under this section shall be:

4. if building mounted at least 4 feet from any other luminaire
5. if non-building mounted and (a) 900-1800 lumens at least 15 feet from any other luminaire (b) under 900 but greater than 450 lumens at least 6 feet from any other luminaire (c) 450 lumens and under at least 3 feet from any other luminaire.

**6. Nonconforming temporary outdoor lighting with temporary permit**

Nonconforming temporary outdoor lighting may be approved for a temporary permit by the Building Inspector after considering: (1) the public and/or private benefits that will result from the temporary lighting; (2) any annoyance, safety, or other problems that may result from the use of the temporary lighting; and (3) the purpose of this ordinance. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Building Inspector. The Building Inspector shall render decision on the temporary lighting request within one week of the date of the request. If approved, the temporary permit shall be for the shortest period required for the temporary purpose and shall be valid for not more than 15 days from the date of issuance. The temporary permit may restrict the design, installation, or time and nature of operation and may be renewed once at the discretion of the Building Inspector upon a consideration of all the circumstances, with attention given to any complaints regarding the permitted nonconforming temporary lighting. The temporary permit and any subsequent renewal may not be granted for more than 30 days total with at least 180 days passing before being permitted again. A failure by the Building Inspector to act on a request within the time allowed shall constitute a denial of the request.

**D. Applicability:**

This ordinance is in addition to and does not replace the outdoor illumination aspects of Article XX Signs of the South Hampton Zoning Ordinance. If more than one article of the ordinance governs the same situation, the one imposing the higher standard shall prevail.

**E. Definitions:**

**Accent lighting:** directional lighting to emphasize a particular object or to draw attention to a part of the field of view.

**Ambient lighting:** lighting throughout an area that produces general illumination.

**Building mounted:** mounted on a building side, eve, or underside of an overhang and not at or above the roofline.

**Cut-off angle (of a luminaire):** the angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the horizontal, beyond which no direct light is emitted.

**Direct light:** light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**Fixture:** the assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.



**Flood or spot (luminaire):** any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

**Fully shielded:** a full-cutoff luminaire constructed or shielded in such a manner that all direct light emitted by the luminaire is projected below an angle of 10 degrees (or greater) below the horizontal plane (through the luminaire's lowest light emitting part) as determined by photometric (visible light) test or certified by the manufacturer. Such luminaire would have a "cut-off angle" of 10 degrees or greater.

**Glare:** light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see or cause discomfort, and in extreme cases causing momentary blindness.

**Height of luminaire:** the height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

**Illuminance:** the amount of light falling on a surface, expressed in footcandles or lux.

**Illumination:** the act of illuminating or state of being illuminated. This term has been used for density of luminous flux on a surface (illuminance).

**Indirect light:** direct light that has been reflected or has scattered off of other surfaces.

**Lamp:** the component of a luminaire that produces the actual light.

**Light:** radiant energy that is capable of exciting the retina and producing a visual sensation.

**Light trespass:** the shining of direct light produced by a luminaire beyond the boundaries of the property on which it is located.

**Lumen:** a unit of luminous flux (luminous power) which is a measure of light energy generated by a light source. One foot-candle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

**Luminaire:** this is a complete lighting system, and includes a lamp or lamps and a fixture.

**Non-building mounted:** not mounted on a building or mounted on a building at or above the roof-line or mounted so that the actual luminaire is physically more than 2 feet from the building.

**Outdoor lighting:** the night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**Overlighting:** high levels of ambient light from one property compared to other properties nearby that result in an illumination imbalance that may make it more difficult for the eye to adapt to light levels and see clearly.

**Sky glow:** direct light from a luminaire that is emitted above the horizontal plane (usually passing through the lowest part of the luminaire) or high levels of indirect light emitted above the luminaire's horizontal plane.

**Task lighting:** lighting directed to a specific surface or area that provides illumination for specific visual tasks.

**Temporary outdoor lighting:** the specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of 30 days or less, with at least 180 days passing before being permitted again.

## **TOWN OF SOUTH HAMPTON CAMPGROUND ORDINANCE**

### **CAMPGROUNDS**

~~The area shown on the South Hampton Tax Map as parcels 1-31 and 1-32 that are North of the State Line, East and South of Tuxbury Pond and west of land formerly of Woodsom shall be designated as a campground zone for the use of recreation and family camping from April 30 to October 31 and not to be used as a mobile home park and to be governed pursuant to the laws of the State of New Hampshire pertaining to Campgrounds. (Adopted March 14, 1978, Amended March 14, 2002).~~

### **CAMPGROUND ORDINANCE Amended March 11, 2014**

A) **DEFINITIONS:** For purposes of this ordinance the following terms are defined:

**Camping Site**

any area in a campground that will be used for the purpose of accommodating a tent or camper unit.

**Camper Unit**

any recreational vehicle, trailer, tent trailer, van, pickup camper, etc. (but not including mobile homes) which can be used to sleep in.

**Mobile Home**

any trailer unit exceeding 40 feet in length.

**Campground**

a recreational camping park on which 10 or more tents or camper units are used as temporary living quarters for recreational use and a fee is charged for such land use.

B) The area shown on the South Hampton Tax Map as parcels 1-31 and 1-32, bounded Southerly by the State Line, Northerly and Westerly by the shoreline of Tuxbury Pond at a pool elevation of 99 feet above sea level and Easterly by land formerly of Woodsom shall be designated as a Campground Zone.

C) The camping season shall be from April 15 through October 15. No campground may be occupied during off- season.

D) Camping shall be restricted to tents and camper units.

E) Adequate community bathrooms shall be provided for all tent sites.

F) No camper unit shall be installed on a camping site in such a way as to consider it permanent. This shall include but is not limited to the following methods.

1. No removal of tires.

2. No removal of towing arms, hitches etc.

3. No mounting on blocks or foundations, except for the purpose of leveling.

4. No skirting around the base of any camper unit.

G) No porches or enclosed areas shall be attached to any camper unit unless the porch or enclosed area has been designed to be removed and packed for travel.

H) All water, electric, telephone and sewage disposal systems shall be disconnected from all camper units remaining in campgrounds during the off-season.

I) Should any provision of this Ordinance be declared invalid by a Court of competent jurisdiction, this will not invalidate any other provisions of this Ordinance.

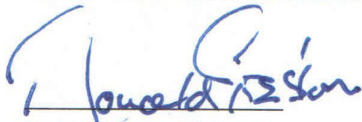
J) Any person who violates any provision of this Ordinance shall be subject to a fine of \$100.00 per day for each day the violation is found to exist.

**TOWN of SOUTH HAMPTON**  
**3 HILLDALE AVE SOUTH HAMPTON NEW HAMPSHIRE 03827**

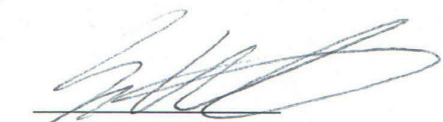
**SCHEDULE OF FEES - June 2024**

<u>Type of Permit</u>	<u>Fee</u>	<u>Issued by</u>
Building Permits		
All New Construction	\$14 per thousand minimum \$ 100 fee	Building Inspector
Renovation/ Remodel	\$2.00 per sq. ft	Building Inspector
Electrical permits	\$85.00 per inspection, \$170 new	Electrical Inspector
Plumbing permits	\$85.00 per inspection initial & final	
	\$85.00 per inspection plus fixture fee	Plumbing Inspector
	(first 5 fixtures included in above fee;	
	\$5.00 per each additional fixture)	
Demolition permits	\$100.00	Building Inspector
Occupancy permits	\$100.00	Building Inspector
Reissue of expired pennit	\$100.00	Building Inspector
Sign permit	\$ 100.00	Building Inspector
Driveway permits	\$100.00	Planning Board
Percolation tests	\$ 100.00 per test pit	Health Officer
Heating permits	\$85.00	Fire Chief
Gas outside	\$85.00	Fire Chief
Gas inside	\$85.00	Plumbing Inspector
Smoke detector inspection	\$85.00	Fire Chief
Subdivisions		
Application fee	\$25.00 per lot	Planning Board
Public Hearing fees	\$150.00+\$15.00 per abutter	Planning Board
Engineering review	Actual cost	Planning Board
Soil scientist review	Actual cost	Planning Board
Document legal review	Actual cost	Planning Board
Filing fees - Mylar	\$40.00 per page	Planning Board
Appeals public hearing	\$150.00 + \$15.00 per abutter	Zoning Board of Appeals
Historic district public hearing	\$150.00 +\$15.00 per abutter	Historic Commission
Commercial excavation permits	\$400.00 +\$1 5.00 per abutter	Planning Board
	+ RCCD review fee	
Heavy hauling permits	\$100.00	Road Agent
Lumber yield	see DRA fee schedule	Selectmen
Junkyard permits	\$100.00	Selectmen
Current use filing fee	\$40.00	Selectmen

**NOTE: Permit fees to be doubled if work is started without obtaining a permit**

  
Ronald Preston, Chairman

  
Lee Knapp

  
Eric Worthen

**SUBDIVISION REGULATIONS**  
***Approved May 4, 1998***

**South Hampton  
New Hampshire**

# **Subdivision Regulations**

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**Subdivision Regulations  
Town of South Hampton, NH**

**SECTION I. AUTHORITY AND TITLE**

Pursuant to the authority vested in the South Hampton Planning Board (hereinafter referred to as the "Planning Board" or "Board") by the voters of the Town of South Hampton at the Annual Town Meeting of March 12, 1962, and to the authority granted to the Planning Board under Chapter 674:35-39 of the Revised Statutes Annotated of New Hampshire 1996, as amended (hereinafter referred to as the "RSA's"), the Planning Board hereby adopts the following regulations governing the subdivision of land in the Town of South Hampton.

These regulations shall be known, and may be cited as, the "Town of South Hampton Subdivision Regulations" (hereinafter referred to as "Subdivision Regulations"). The current set of Subdivision Regulations revise and replace the Subdivision Regulations of March 13, 1962, as amended, and take effect upon adoption by the Board and filing with the Town Clerk in accordance with RSA 675:6. A copy shall be filed with the New Hampshire Office of State Planning in accordance with RSA 675:9.

**SECTION II. PURPOSE AND INTENT**

The purpose of the Subdivision Regulations is to provide for Planning Board review and approval or disapproval of all subdivision, consolidation, lot line adjustment and easement plans (and subsequent revisions thereto). It is the intent of the Planning Board to provide for the orderly present and future development of the Town of South Hampton, therein promoting the public health, safety, convenience, and welfare of the residents. The Planning Board specifically adopts the provisions of RSA 674:36 (as amended), and it is the stated purpose of these Regulations to provide against such scattered or premature subdivision of land as would create danger of injury to health, safety, or welfare by reason of lack of water supply, drainage, transportation, schools, fire department or other public services, or necessitate an excessive expenditure of public funds for the supply of such services. It is the intent of the Planning Board to promote the utilization of sound planning practice and development standards.

**SECTION III. CONFLICTING PROVISIONS AND VALIDITY**

Whenever the Regulations made under the authority hereof differ from those prescribed by any other regulation, ordinance, or law, the provision, which imposes the greater restriction, or the higher standard shall govern.

If any section, clause, provision, portion, or phrase of these Regulations shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of these Regulations.

## **SECTION IV. JURISDICTION**

The provisions of these Regulations shall apply to all land within the boundaries of the Town of South Hampton.

- 4.1. Subdivisions: Any person proposing to subdivide land in the Town of South Hampton must apply to the Planning Board for approval of such subdivision.

A subdivision application must be made and approved before any offer to sell, rent or lease a proposed subdivision or part thereof, before any construction, land clearing or building development is begun, before any permit for the erection of any building may be granted, and before a subdivision plan may be filed with the Rockingham County Registry of Deeds.

- 4.2 Permits: No building permit may be issued for the construction or alteration of any structure within the purview of these Regulations until a copy of an approved subdivision plan has been presented by the applicant to the Building Inspector.

## **SECTION V. DEFINITIONS**

**Abutter**: For the Town of South Hampton, an abutter shall be any property owner whose property is located in New Hampshire or Massachusetts and adjoins or is directly across the street or stream from the land under consideration by the local land use board. 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 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 condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, xxiii, as amended.

**Certified Soil Scientist**: A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

**Commercial Uses**: As defined by the Town of South Hampton Zoning Ordinance, Article V.

**Community Wastewater System**: A non-municipal wastewater disposal system that serves more than one lot. When this type of system is proposed, the design and specifications for the same shall be submitted and shall have been certified by a professional engineer qualified and registered under applicable New Hampshire statutes.

**Community Water Supply**: A non-municipal water supply system that serves more than one lot. When this type of system is proposed, the design and specifications for the same shall be submitted and shall have been certified by a professional engineer qualified and registered under applicable New Hampshire statutes.

**Completed Application:** A final plan and application form submitted with all information, materials and fees required by the Planning Board, as stated within these Regulations.

**Critical Areas:** Disturbed areas of any size within 100 feet of a stream, water body, or poorly or very poorly drained soils; disturbed areas exceeding 2,000 square feet in highly erodible soils; or disturbed areas containing slope lengths exceeding 25 feet on slopes greater than 15 percent.

**Developer:** Any individual, corporation, or other entity, proposing development or subdivision of land within the Town of South Hampton.

**Development:** Any construction or grading activities on real estate for other than those for purely agricultural or silvicultural (tree care and harvesting) purposes.

**Disturbed Area:** An area where the natural vegetation has been removed exposing the underlying soil.

**Erosion:** The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

**Highly Erodible Soils:** Any soil with an erodibility class of "high" or "very high", in any horizon, as found in the table entitled "Erodibility (K) Values of B and C Horizons for Soils of New Hampshire" in the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" (copy available at Planning Board office for review only).

**Industrial Uses:** As defined by the Town of South Hampton Zoning Ordinance, Article VI, as amended.

**Lot of Record:** A parcel, the plat or description of which has been properly recorded at the Rockingham County Registry of Deeds.

**Lot Line Adjustment:** The minor change of boundary line between two abutting parcels that does not result in the creation of any new building lots. (Note: Requirements for completing a lot line adjustment are found in Addendum B of these Regulations.)

**Municipal Water Supply:** A water supply system that serves an average of at least twenty-five (25) individuals' daily year-round or that has at least fifteen (15) service connections and that is owned and operated by a municipal or regional government.

**Planning Board Agent:** The planning consultant, official, recording agent or other person(s) assigned by the Planning Board to perform reviews and other such duties.

**Plan:** The final map, drawing or chart on which the developer's plat of site development is presented to the Planning Board for approval, and which, if approved, will be submitted to the Rockingham County Registry of Deeds for recording.



Note: Plans must be drawn in ink on Mylar for recording purposes. A margin of at least one inch shall be provided outside ruled boundaries on three sides, and at least two inches along the left side for binding. Only the following sizes are currently accepted at the Registry for recording: 8 1/2" x 11", 11" x 17", 17" x 22", 22" x 34". Plans must carry the seal of licensed land surveyor, soil scientist, professional engineer, or other professional contributing to the data.

**Project Area:** The area within the subdivision or site plans boundaries.

**Public Meeting:** Any meeting open to the public held in accordance with RSA 91-A.

**Public Hearing:** Any meeting held in accordance with the procedures of these regulations and RSA 676:4, which requires formal notification of abutters.

**Recording Agent:** The agent chosen by the Town to record the approved final plan with the Rockingham County Registry of Deeds. This person shall affix their signature to the plan on a line provided in the endorsement block.

**Rural Residential Uses:** As defined by the Town of South Hampton Zoning Ordinance, Article IV, as amended.

**Road Agent:** Town representative appointed by the Board of Selectmen. The Road Agent shall inspect the construction of new roads or streets and act on the Town's behalf in other matters dealing with roads or streets in South Hampton. (revised 2018)

**Sediment:** Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site by erosion.

**Slope:** The average steepness of the land surface under consideration. For the purpose of determining lot size categories, slope shall be determined by slope factors used by the National Cooperative Soil Survey soil classification (where A + B = 0 - 8%; C = 8 - 15%; D = 15 - 25% and E = > 25%).

**Soil Type:** As defined by High Intensity Soil Maps for New Hampshire prepared by a certified soil scientist.

**Stream:** A stream that flows for sufficient time of the year to develop and maintain defined channels but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on U.S. Geological Survey Maps.

**Street:** A state highway, highway, boulevard, avenue, lane or road which is lawfully existing in the Town for vehicular travel. Streets also include the entire right of way.

**Sub divider:** An individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity or agent thereof that undertakes the subdivision of land in the Town of South Hampton.

**Subdivision:** As defined in RSA 672:14, as amended.

**Town Engineer:** The registered professional engineer or consulting firm duly designated by the Planning Board.

**Voluntary Merger:** As defined by RSA 674:39.A

**Wetlands:** Areas of poorly drained soils and very poorly drained soils, and other areas that are saturated or inundated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, bogs, marshes, ponds, lakes, major streams and other open water.

Note: When wetlands are involved in any subdivision in the Town of South Hampton, refer to the Town Of South Hampton Zoning Ordinance section on the Wetland Conservation District, Article VII, as amended.

## **SECTION VI. PROCEDURE FOR SUBDIVISION OF LAND**

6.1. Pre-Application Review (optional): The Planning Board may provide for pre-application review of plans in accordance with RSA 676:4, 11, a-c, as follows:

6.1.1 Preliminary Consultation Phase: A Preliminary consultation with the Planning Board shall enable a developer to review basic concepts of the proposal, and request suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the Planning Board and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any subsequent action. The Planning Board and the applicant may discuss proposals in conceptual form only and in general, not specific, terms. Such discussion may occur without giving formal public notice. Such discussions shall take place at formal public meetings of the Planning Board.

6.1.1.1 It is recommended that the applicant submit the following information for the preliminary consultation with the Planning Board: Correct names, mailing addresses and Zip Codes of owner(s) of record (and applicant, if different) and a brief description of the proposal, including in all cases, the Tax Map Page(s) and Lot Number(s).

6.1.2 Design Review Phase (optional): The Planning Board or its designees may engage in non-binding discussions with the applicant concerning specific design and engineering details provided to the Board or its agents. Such discussions

shall take place at formal public meetings of the Planning Board, after proper notice to abutters and the general public.

Statements made by Planning Board members shall not be binding nor be the basis for disqualifying said members or invalidating any subsequent action.

6.1.2.1 When meeting with the Planning board under the Design Review Phase option, the information required in 6.1.1.1, and a rough sketch of the site should be provided showing the following:

- (1) Location of lot lines.
- (2) Lot measurements.
- (3) Streets in proximity to the site sufficient to show resulting traffic patterns.
- (4) Significant natural resources and topography.

6.1.3 The applicant may elect or forego to engage in the Pre-Application Review or either phase thereof and proceed directly to the formal application process.

6.1.3.1 Pre-Application Review shall be separate and apart from formal consideration as described under "6.2. Formal Application Process" and the time limits as described under Section 6.4 shall not apply until a formal application is submitted, deemed complete by the Planning Board and formally accepted.

## **6.2 Formal Application Process**

Whenever any subdivision is proposed to be made, and before any offer to sell, rent, or lease occurs or application for a permit for the erection of a structure thereon shall be made, the owner thereof or his agent (agent to be designated in writing to the Planning Board) shall apply, in writing, to the Planning Board for approval of such subdivision. The applicant shall file the completed application with the Board or its agent at least 21 days prior to the meeting at which the application may be accepted. A completed application shall be submitted to and accepted by the Board at a public meeting. In order to be considered complete, all applications must contain the information and documents required by Sections 7 and 8 of these regulations, as well as the following:

6.2.1 Five (5) copies of the Plan showing all of the information required in Sections 7 and 8 of these Regulations.

6.2.2 A list of names and mailing addresses of the present owners of all of the property abutting the land to be subdivided including those across any street or stream. In addition, the names and business addresses of every engineer, architect, land surveyors, or soil scientist whose professional seal appears on any plan submitted to the board, neighboring towns where the plan shows land in such neighbor-

ing town, and all holders of conservation easements or restrictions of any type on the property.

### 6.3 Fees

The Sub divider shall bear the following costs at the time of application:

- 6.3.1 A fee assigned to each lot to cover the costs incurred by the Board for professional plan review is required upon application. Those funds collected but not used by the Board to cover the Board's costs for plan review will be returned to the applicant.
- 6.3.2 An application and secretarial fee to cover reasonable administrative expenses necessary to the processing of the application.
- 6.3.3 Cost of certified mailings to each abutting landowner, owner, all professionals whose seals are affixed to the final plan, and any other party notified in accordance with these regulations or state law. Notice to abutters shall be made by the Planning Board 10 days prior to the date of formal submission of application by certified mail, return receipt requested.
- 6.3.4 A fee to cover the costs of publication of a legal notice in a paper of general circulation.
- 6.3.5 In the event that the abutters hearing is defaulted for any reason, or additional hearings are required, all fees except those for the tax map changes shall be repaid by the applicant for the new hearing. If a plan is withdrawn prior to hearing notification, no further action is necessary by the Board. One copy of any such plan shall be retained for Board files.
- 6.3.6 The Sub divider shall bear the following costs to be paid before the subdivision Mylar is signed by the Planning Board: (Copies of the current fee schedule are available in the Board office.)
  - 6.3.6.1 A fee to cover the costs of making appropriate changes to the South Hampton tax maps.
  - 6.3.6.2 The costs incurred as a result of review by the Town's consultants in accordance with § 6.3.7.
  - 6.3.6.3 The costs of recording the original Mylar and securing two copies of said plan at the Rockingham County Registry of Deeds.
  - 6.3.6.4 Any and all costs deemed necessary by the Road Agent, Town Engineer and/or the Planning Board in excess of the above shall be

paid by the applicant before the final approval.

6.3.7 In accordance with NH RSA 676:4, I (g) the applicant shall be required to pay all reasonable costs or fees for special investigative studies and the review of documents, which are particular to the application, in addition to administrative and notification fees as required by the Board. Such studies shall include but not be limited to traffic impact analysis, environmental impact studies, and fiscal impact studies.

6.3.8 A fee schedule is included in Addendum C.

#### 6.4 90-Day Review Period, Application Acceptance and Hearings

6.4.1 The planning Board will accept the application as complete and will begin the review process if the application includes:

1. The plan for the proposed subdivision of land incorporating the requirements of Sections 7 and 8 of these Regulations,
2. The list of current abutters,
3. Letter of intent (the application form may serve as this document),
4. Letter of authorization (if required),
5. A copy of the deed, and
6. The money to cover all fees as required in 6.3.1 through 6.3.4.

The 90-day review period called for in RSA 676:4 I(c) shall begin upon receipt by the Board of a completed application as described in section 1-6 above. Acceptance of the completed application must occur at a properly noticed public hearing. The minutes of the meeting shall indicate which, if any, applications are accepted for review. Should an application be found incomplete, the Board shall notify the applicant, in writing, requesting that the necessary documentation be submitted and informing the applicant that no further consideration of the application can be made until the application is complete. Furthermore, this notification shall be considered a written formal Denial in accordance with RSA 676:4, 676:3, and this section, unless otherwise noted.

#### 6.4.2 Public Hearing and Notice Requirements

Before making any decision to approve or disapprove the plat, unless such disapproval is for failure to submit a completed application, the Board will hold a public hearing at which all of the abutters and other interested parties will be allowed to speak. All land-owners that are direct abutters will be notified of the hearing by certified mail, return receipt requested, at least 10 days before the hearing (in accordance with RSA 676:4, I, (d)). During the public hearing, the Planning Board will take testimony from the applicant, questions by members of the Board, questions from any abutters present,

and any members of the public present with an interest in the proceedings.

#### 6.4.3 Zoning Conformity

The Planning Board shall only have the authority to finally approve an application, which conforms to the South Hampton Zoning Ordinance or has received proper variances from the South Hampton Zoning Ordinance. It is within the power of the Zoning Board of Adjustment to authorize, upon appeal, in specific cases, variances or exceptions from the terms of the zoning ordinances (see RSA 674:33 and any amendment thereto).

#### 6.4.4 Board Action on Accepted Applications

Within 90 days of receipt of a completed plan, or any proper extension, the Planning Board will make a decision on the subdivision proposal as follows:

- 6.4.4.1 Approval. At a duly noticed public hearing, the board shall act to approve, conditionally approve, or disapprove the application. The ninety (90) day time limit shall be subject to extension or waiver as provided below in Section 6.4.8 (RSA 676:4, I(c)).
- 6.4.4.2 Conditional Approval. The Planning Board may grant conditional approval of a plan or application, which approval shall become final without further public hearing, upon certification to the Board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Final approval of a plan or application may occur in the foregoing manner only when the conditions are:
  - A. Changes, whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
  - 2. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or
  - 3. Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies, provided said permits and approvals themselves have not required a change to the Plan submitted to the board or to any other conditions imposed by the Board. All other conditions shall require a hearing, and notice to abutters and the public, except that additional notice shall not be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session were made

known at the prior hearing;

- 6.4.4.3 Disapproval/Denial. The Board shall disapprove of an application, which does not meet the standards of these regulations, or fails to comply with other Town or State laws, or will have an adverse impact on surrounding areas or the community. See § 6.4.1 for denials as incomplete.
- 6.4.5 A Conditional Approval shall be valid for a term of one calendar year from the date granted. Within sixty (60) days after the expiration of the conditional approval the Planning Board shall hold a properly noticed public hearing pursuant to RSA 676:4-a to determine the final status of the proposal.
- 6.4.6 Written Decision. The Planning Board shall issue a final written decision of their action to approve, conditionally approve, or disapprove the completed application. If the application is conditionally approved, the Board shall list the conditions necessary to be met by the applicant prior to final approval.
- 6.4.7 In accordance with RSA 676:3, if the application is not approved, the Board shall provide the applicant with written reasons for disapproval. The decision shall be placed on file in the Planning Board's office and shall be made available for public inspection within seventy-two (72) hours after the decision is made and a copy of the decision shall be filed with the Town Clerk, see also § 6.4.1 for denials on applications that are found incomplete.
- 6.4.8 Extensions: The applicant, in writing, may waive the requirement for Planning Board action within the time periods specified above and consent to such extension as may be mutually agreeable (RSA 676:4, I(f)); or The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application (RSA 676:4, I(f)).
- 6.4.9 Failure to Act: In accordance with RSA 676:4, I(c)(1), upon failure of the Board to approve, conditionally approve, or disapprove the application, the Selectmen may order the Planning Board to act within 30 days. If the board still fails to act, the Selectmen must approve the plan within 40 days, unless it can state in writing some specific regulation with which the application does not comply. The failure of the Selectmen to act on such order shall, upon petition of the applicant, constitute grounds for the Superior Court to issue an order approving the application, if the Court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.
- 6.4.10 Recording and Filing of Plans: No subdivision plan shall be filed or recorded until it has been approved by the Planning Board and all outstanding fees have been paid by the applicant. Approved plans shall be endorsed in writing on the plan with the signatures of the Chairman and the Secretary of the Board. The South Hampton Planning Board at the fee established by the Planning Board will register the approved plan at the

Rockingham County Registry of Deeds. The Planning Board at the expense of the Sub divider shall obtain two copies of the recorded plan.

- 6.4.11 Rules for Conducting Hearings: The Planning Board of the Town of South Hampton NH has adopted rules of procedure in accordance with RSA 676:1 and copies of the rules can be obtained at the Town Clerk's Office.
- 6.4.12 Projects of Regional Impact: In accordance with state law any developments which are likely to have impacts beyond the boundaries of the Town of South Hampton shall be processed by the South Hampton Planning Board according to the procedures established in RSA 36:54-58.
- 6.4.13 Land Affected by Municipal Boundaries: In the case where an owner of contiguous land which is located in more than one municipality applies to the South Hampton Planning Board for subdivision the proceedings will be done in conformance with the standards outlined in RSA 674:53, Land Affected by Municipal Boundaries.
- 6.4.14 Active and Substantial Development: In accordance with RSA 674:39, the Board, at its discretion, shall require plans to include a note that shall specify the threshold level of work which shall constitute "active and substantial development or building" for purposes of fulfilling the requirements of RSA 674:39, I. This threshold for "active and substantial development or building" must be reached within 12 months of approval before the plan will be eligible for the four-year exemption, as provided in RSA 674:39, from subsequent changes in the Town of South Hampton Zoning Ordinance, Site Plan Review Regulations, or these regulations. The Board may extend this period for up to 12 months only for good cause.
- 6.4.15 Expiration of Approved Plans: Where no work has commenced upon a site, plans that are approved and signed by the Board shall expire two years from the date the plan is signed. All previously approved plans shall expire two years from the effective date of this regulation. An extension, not to exceed one year, may be granted by majority vote of the Board so long as it is applied for at least thirty days prior to the expiration date.

## **SECTION VII. GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND**

The Subdivider shall make application using appropriate forms provided by the Planning Board and shall conform to the application procedures and any other applicable regulations adopted by the Town.

The Subdivider shall observe the following general requirements and principles of land subdivision:

### **7.1 Conformance with Town Plan**



The plan shall conform with the Comprehensive Town Plan, the official map, if and when one is adopted, and any other pertinent State or local laws or regulations.

**7.2 Character of the Land**

Land of such character that it cannot safely be used for building purposes, because of exceptional dangers to health or peril from fire, flood or other menace shall not be plat-  
ted for residential occupancy, nor such other uses as may increase danger to health, life  
or property, or aggravate the flood hazard, until appropriate measures have been taken  
by the sub divider to eliminate such hazards. No flood way shall be obstructed.

**7.3 Road Classification**

No subdivision approval shall be granted for a subdivision whose proposed roads enter  
upon a Class VI road, or roads closed subject to gates and bars.

**7.4 Arrangement of Streets**

The arrangement of streets in the subdivision shall provide for the continuation of the  
principal streets in adjoining subdivisions or for their proper projection when adjoining  
property is not subdivided and shall be of a width at least as great as that of such exist-  
ing connecting streets.

**7.5 Frontage**

All frontages in a subdivision shall have access to its applicable public right-of-way. No  
building permits shall be granted unless the lot has frontage on one of three types of road  
listed in RSA 674:41, I.

**7.6 Streets, General Requirements**

7.6.1 Streets shall not be designed in such a manner as to provide frontage to land in a  
neighboring municipality. The Planning Board may, at its discretion, disapprove  
proposed streets within 200 feet of any municipal border in order to control the  
following:

7.6.1.1 Creation of a town road or private drive, which predominantly  
serves properties external to the Town of South Hampton.

7.6.1.2 Creation of undesirable traffic patterns from outside South Hamp-  
ton.

7.6.2 Streets shall be logically related to topography so as to produce usable lots and  
reasonable grades and shall be in appropriate relation to the proposed uses of the  
land to be served by such streets. Where practical, lots shall be graded to-  
wards the streets.

7.6.3 Grades of all streets shall conform in general to the terrain and shall, so far as  
practicable, not exceed 3% for major streets and 8% for minor streets. No Street

shall have a grade of less than ½ of 1%.

- 7.6.4 Pavement and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the standard specifications of the Town of South Hampton and in all cases must be constructed under the supervision of the Engineer designated by the Planning Board of the Town of South Hampton.

**7.7 Streets, Width and Length**

- 7.7.1 No street or highway right-of-way shall be less than fifty (50) feet in width and may be required to be more if a greater street width is warranted by specific conditions found by the Planning Board. The apportioning of the street width among roadway, sidewalks and possible grass strips shall be subject to the approval of the Board.
- 7.7.2 Except where future connections are provided for, dead-end or cul-de-sac streets shall not in general exceed four hundred (400) feet in length or be less than two hundred (200) feet in length and shall be equipped with a turn-around roadway at the closed end with a minimum diameter of one hundred and twenty (120) feet. The road length shall be measured along the centerline stations from the right-of-way line at the existing street to the center of the cul-de-sac.
- 7.7.3 The widths of blocks shall not be less than four hundred (400) feet, nor shall the length exceed twelve hundred (1200) feet.

**7.8 Streets, Naming**

- 7.8.1 Streets that join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Town. Where practical, names shall have historic or geographical connection.
- 7.8.1.1 If the subdivider is unable to submit an appropriate name for a street or streets, the Planning Board will name the street(s) in question.

**7.9 Streets, Intersections**

- 7.9.1 Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than 60 degrees. Streets entering opposite sides of another street shall be laid out either directly opposite each other or with a minimum offset of 125 feet between their center lines.
- 7.9.2 Intersecting property lines at street intersections shall be joined by a curve of at least twenty-five (25) foot radius.

## 7.10 Driveways

7.10.1 Residential or commercial lots laid out as part of subdivision plan must have a driveway or access onto a State Highway or an accepted Town road or street. State Highway access is governed by RSA 236:13 and applicable DOT regulations. Town Road/Street access shall require a Driveway Permit issued in accordance with the requirements of this section. These permits shall be issued by the Planning Board and administered and enforced by the Town Road Agent to insure compliance.

7.10.2 Adequate all-season safe sight distance must be provided for all driveways, entrances and intersections onto town roads in accordance with the more restrictive of the current NH DOT standards as found in Tra 302 Driveway Permits, or as follows:

7.10.2.1 Driveway entrances onto town roads, with speed limits of 30 mph or less, shall have an all-season safe sight distance of 300' in each direction.

7.10.2.2 Driveway entrances onto town roads, with speed limits greater than 30 mph, shall have an all-season safe sight distance of 400' in each direction.

7.10.2.3 Entrance roads to subdivisions onto town roads, regardless of speed limit, shall have an all-season safe sight distance of 400' in each direction.

7.10.3 All driveway grades shall meet or exceed the specifications of NH DOT requirements found in Tra 302 Driveway Permits.

7.10.4 Common driveways may be utilized, however, no more than 3 houses may share a common drive.

7.10.5 Driveways shall be designed and constructed so as to accommodate existing water flows across the lot and along the lot's road /street frontage.

## 7.11 Lot Shape

Lots shall be shaped in such a manner to provide easy identification of ownership, prevent unnecessary confusion, insure appropriate access for safety vehicles and personnel, promote the harmonious development of the land, and protect access to light, and air. Lot shapes shall be square or rectangular to the maximum extent possible, with no portion being less than 50' in width. No portion of a lot shall be less than 50' deep where the lot contains frontage, the depth shall be measured in a line perpendicular to the frontage, or the tangent of a section of curved frontage where the depth is to be measured.

7.12 Parks and Playgrounds

Areas set aside for parks and playgrounds to be dedicated or to be reserved for the common use of all property owners by covenant in the deed, whether or not required by the Board, shall be of reasonable size and character for neighborhood playgrounds or other recreational uses. For subdivisions involving more than 10 acres whether done at one time or in a series, at least 5% of the area shall be reserved for recreational purposes.

7.13 Reserve Strips of Land

Reserve strips of land which, in the opinion of the Planning Board, show an intent on the part of the sub divider to control access to land dedicated or to be dedicated to public use shall not be permitted.

7.14 Topography

Where topography is such as to make difficult the inclusion of any utilities or other facilities within the public area so laid out, the preliminary layout shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than 15 feet in width and shall have satisfactory access to existing or proposed public ways. Watercourses proposed for public control shall have a permanent easement of not less than 20 feet.

7.15 On-Site Disposal Systems

Where on-site disposal systems are proposed for each lot, it shall be the responsibility of the sub divider to provide adequate information to prove that the area of each lot is adequate to permit the installation and operation of an individual sewage disposal system (septic tank and leach field, not a cesspool). Where such information is required it shall consist of a report showing the results of a series of percolation tests taken one to an acre in the subdivision. The sub divider or his agent shall be required to provide the necessary equipment and labor for the making of these tests. Based on these tests the engineer shall locate the best position for each private sewerage system and shall submit a typical design for each system done in accordance with applicable state and town regulations. Not less than two (2) test pits and at least one (1) percolation test shall be required within the four thousand (4,000) contiguous square feet of reserve area. Sewage systems shall be set back at least 100 feet from surface water.

Where a group sewage disposal system, serving one or more lots is proposed, the design and specifications for same shall be submitted and shall have been certified to by a professional engineer qualified and registered under applicable New Hampshire Statutes.

7.16 On-Site Water Supply

Where individual on-site water supply is proposed, it shall be the responsibility of the sub divider to demonstrate that the area of each lot is adequate to permit the installation and operation of an individual on-lot water and sewerage systems, where there is no group sewage disposal system proposed.

Each water system shall be at least 100 feet from any portion of a septic tank or drainage field and shall be constructed in accordance with the U.S. Department of Health, Education and Welfare publication titled "Manual of Individual Water Supply Systems" Public Health Service Publication No, 24, copies of which are on file with the Town. Where a group water supply system, serving more than one lot, is proposed, the design and specifications for same shall be submitted and shall have been certified to by a professional engineer qualified and registered under applicable New Hampshire Statutes, and the proposed system shall meet applicable requirements of the State Water Supply and Pollution Control Commission and the State Public Utilities Commission.

**7.17 Fire Protection**

If, in the opinion of the Board, a danger to health or peril from fire exists, the Board may require the sub divider to undertake to cause the United States Soil Conservation Service to conduct an investigation of the area proposed under the subdivision. The subject of such investigation shall be to discover whether there exists upon the property of the sub divider a year-round water supply within twenty feet of the surface of the land capable of delivering not less than one thousand (1000) gallons of water per minute for a duration of not less than one hour.

In the event that said investigation shall determine that such a water supply does exist upon said property, or in the event that there exists sufficient surface water to allow the sub divider to store surface water to be used in case of fire, then the Board may require the sub divider to provide a water system including hydrants for fire protection if such is deemed to be, in the opinion of the Board, in the best interest of the safety of the future residents of the proposed subdivision.

In determining the exact requirements of the sub divider's system, the Board shall consult with the Chief of the South Hampton Fire Department and shall consider any engineering data and other data that the sub divider may submit. Furthermore, the Board shall consider additional safety factors such as the location of all hydrants in the proposed subdivision so that the distance from the hydrants to any lot location shall not exceed 1,500 feet and the Board may require other reasonable safety precautions such as the fencing of the perimeter of the surface water supply.

It shall be the responsibility of the sub divider to bear the cost of any equipment, apparatus, or construction which may be incurred under this Section, and all land areas and equipment shall, upon the completion, be transferred to the Town of South Hampton and the sub divider shall execute such instruments as may be prescribed by the Chairman of the Planning Board which are necessary to effect such transfer. The Planning Board shall consider all information submitted by the sub divider with reference to the fire prevention system in light of providing realistic and feasible costs both for the development of said system by the sub divider, and for the continued maintenance of the system by the Town of South Hampton.

7.17.1 A subdivision plan of 5 to 9 house lots shall provide for a water supply of no less than 10,000 gallons of water the year round, which, connected to a hydrant, will provide for such water supply within one thousand two hundred feet of each dwelling unit measured along a road.

7.17.2 A subdivision plan of more than 10 house lots shall provide for a water supply of no less than 12,000 gallons of water the year round, which, connected to a hydrant, will provide for such water supply within one thousand two hundred feet of each dwelling unit measured along a road.

7.17.3 In the event that provision for such a water supply is not physically possible on the land of the subdivision and an arrangement satisfying the above requirements can be made by utilizing water resources off the property, the subdivider may do so. The subdivider shall bear all costs, legal and otherwise, of such arrangements. The Planning Board and Selectmen shall use their good offices to persuade others of the advantage of such arrangements but in no case shall the power of eminent domain be utilized.

## 7.18 Security

7.18.1 Security shall be in a form and amount, and with surety, and other conditions all satisfactory to the Board, to ensure for the Town the construction and installation of any required improvements within a period of time not to exceed three (3) years. The time limit of three (3) years for completion from the date of final approval shall be expressed in the security. This time period for completion or act of posting security shall in no way affect, modify, or substitute for any definition for "active and substantial development" under § 6.4.14, above, or for any determination made in accordance with RSA 674:39. The security shall remain valid and available until drawn upon by the Town or released in accordance with sections 7.18.4 and 7.18.5 below. Further to the above, the security shall be one of the following:

7.18.1.1 Certified check or bank check properly endorsed to the Town of South Hampton.

7.18.1.2 Irrevocable letter of credit submitted on the standard form approved by the Town. (If other than the Town's approved form, the performance agreement shall be reviewed and approved by the Planning Board and Town Counsel as to proper legal form and enforceability. The cost of this review shall be borne by the applicant.)

7.18.2 The applicant shall file with the Board a detailed estimate of all costs of required street improvements, drainage structures, utilities or other improvements. The Board may have the estimate reviewed by a professional consultant, if deemed necessary. The cost of this review shall be borne by the applicant. The Board, after considering the estimate, and other pertinent information, shall determine the amount of the performance security required.

7.18.3 The Board may further extend the time of three (3) years for completion when

the reasons for delay were unforeseeable and beyond the reasonable control of the applicant. Any such extension shall be in writing and signed by a majority of the Board signifying their concurrence and shall only be granted after ensuring the validity and availability of the security for such extension. Any such extension shall be solely at the discretion of the Planning Board. Furthermore, developments must be in full compliance with all applicable town ordinances and regulations at the time the extension is requested.

7.18.4 The performance security shall not be released until the Board has certified after inspection that the required improvements have been completed in accordance with the approved plan. A fee, payable by the applicant, may be charged to cover the cost of professional consultation selected by the Board to assist in determining completion of all required work to the construction standards of the Town. In accordance with RSA 674:36,III,(b), as phases or portions of the secured improvements or installations are completed and approved by the board or its designee, the municipality shall partially release said security to the extent reasonably calculated to reflect the value of such completed improvements or installations.

7.18.5 All security shall be held by the Treasurer of the Town and in accordance with RSA 673:16. The Treasurer shall not draw upon or release any security until he/she is in receipt of a resolution passed by a majority of the Planning Board stating the purpose and amount to be drawn or released. The Selectmen shall enforce such securities by all appropriate legal and equitable remedies.

7.19 Utilities

All utilities, including telephone and electric, shall be underground.

7.20 Monumentation (amended January 4, 2016)

All monuments adjacent to and in the subdivision shall be shown on the plan. The subdivider shall install concrete or granite monuments at least four (4) feet in length and four (4) inches in diameter with suitable drill hole at the center point, at the beginning and end of each curve at each street intersection on the right-of-way line, and at all lot corners in the subdivision to establish the boundary lines of lots upon the ground with reasonable permanence, and shall further install additional concrete or granite monuments along street lines within the subdivision such that two permanent concrete or granite monuments, one rear and one fore, are visible from each other within the subdivision. Each monument shall be set two to six inches above the finished grade of the surrounding property. Where appropriate, one-inch deep drill holes may be set in an existing stonewall or in ledge, in lieu of a required monument. To ensure the installation of monuments required by the subdivision plan, the subdivider shall meet the following requirements:

7.20.1 If the subdivision involves the construction of a roadway, all monumentation shall be in place before fifty percent (50%) of the surety held for the road construction is released; and

- 7.20.2 If the subdivision does not involve the construction of a roadway, all monumentation shall be in place prior to the signing of the subdivision plan by the Planning Board Chairman; and
- 7.20.3 Once in place, a form certifying that the monumentation has been accurately installed shall be filed with the Planning Board by the subdivider. The form shall contain the signature and seal of the licensed land surveyor that certified the placement of the monumentation. This form is provided as Addendum of these Regulations.
- 7.20.4 Where the distance between concrete or granite bounds is greater than four hundred (400) feet, the Planning Board requires iron pins to be set at intervals of two hundred (200) feet.

7.21 State Approvals

Prior to final approval, all subdivisions coming before the Planning Board shall be accompanied by approval from Water Supply & Pollution Control Division, NH Department of Environmental Services, as per RSA 149-E for lots less than five (5) acres in size.

7.22 Flood Hazard Areas

Special Flood Hazard Areas. All subdivision proposals and proposals for other development governed by these Regulations having lands identified as Special Flood Hazard Areas in the "Flood Insurance Study for the Town of South Hampton, NH," together with the associated Flood Insurance Rate Maps and Flood Boundary and Flood way Maps of the Town of South Hampton dated July 15, 1992 shall meet the following requirements:

All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. Subdivision review shall assure that all of the following minimum standards are met:

- 7.22.1 The proposal is designed consistent with the need to minimize flood damage.
- 7.22.2 All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage.
- 7.22.3 Adequate drainage systems shall be provided to reduce exposure to flood hazards.
- 7.22.4 Base flood elevation (the level of the 100-year flood) data shall be provided for proposals greater than 5 lots or 50 acres, whichever is the lesser, for that portion within the Special Flood Hazard Area).
- 7.22.5 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.

**7.23 Inspection**

The Board may make a visual on-site inspection of any proposed subdivision at any stage of the proposal, after prior arrangements are made with the applicant or landowner. Inspection is to be at a time when the site is free of snow cover, unless the Board is otherwise satisfied that such inspection is not required.

**7.24 Plan Approval**

Approval of the plan by the Board shall not constitute an acceptance by the Town of any proposed street, highway, park or other public open space.

**7.25 Special Improvements**

Pursuant to RSA 674:36, III, the Board may require special improvements on or off-site, which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular subdivision. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore. The Planning Board may require either that the applicant construct the improvements in whole or in part, or reimburse the municipality or any other party who, at the direction of the municipality, undertakes such improvements. The applicant's responsibility for such improvements is limited to that portion of the cost of the improvements which bears a rational nexus to the needs created by, and special benefits conferred upon, the subdivision, taking into consideration the municipality's ability to pay for such improvements.

**SECTION VIII. SPECIFIC PLAT REQUIREMENTS**

- 8.1 The minimum dimensional requirements of lots shall be determined by the provisions of the Town of South Hampton Zoning Ordinance.
- 8.2 Five (5) copies of the original plan submitted for approval shall be submitted to the Planning Board by the developer. The size and material of the sheets shall conform to the requirements of the registry of Deeds of Rockingham County, for filing (See definition of Plan, above). Adequate space shall be available on the map for the necessary endorsement by the proper authorities.
- 8.3 Proposed subdivision name; tax map page(s) and lot number(s); name and address of owner of record; sub divider and designer; date, and north point and scale. The name, license number and seal of a NH licensed land surveyor shall be required on the plans.
- 8.4 Names of owners of record of properties directly abutting proposed subdivision, abutting subdivision names, streets, easements, building lines, alleys, parks and public open spaces and similar facts regarding abutting properties.

- 8.5 Location of property lines and their dimensions, easements, buildings, water courses, ponds or standing water, rock ledges, street lines, building lines, pedestrian ways, lot lines, reservations, wells and other essential features.
- 8.6 Existing water mains, sewers, culverts, drains and proposed connections or alternative means of providing water supply and disposal of sewerage and surface drainage.
- 8.7 Topographic survey of the whole property shall be required for subdivision. All topographic contours must conform to 2' intervals.
- 8.8 The following example endorsement block should be incorporated into any final plan submitted to the Planning Board for approval:

**Subdivision Approval - Town of South Hampton Planning Board**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

- 8.9 Location, name, widths, and sight distance lines (see § 7.13) of existing and proposed streets and highways and entrances thereon with their grades and profiles and the elevations of sufficient points on the property to indicate the general topography of the property. For the streets, sub divider's shall file (on Mylar or other suitable material) with the Board, three copies of separate plans for streets showing widths, grades, profiles, existing topography, boundaries and drainage (existing and proposed) at a scale of not less than 1" = 50'.
- 8.10 Sufficient data acceptable to the Road Agent or Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed 1 to 10,000. The plan shall show the boundaries of the property.
- 8.1 Where the topography is such as to make difficult the inclusion of any facilities mentioned above, within the public area so laid out, the plan shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than ten (10) feet in width and shall have satisfactory access to existing or proposed public ways.
- 8.12 Location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication and a copy of such private deed restrictions as are intended to cover part or the entire tract.

- 8.13 Designs of any bridges or culverts that may be required.
- 8.14 Where the plan submitted covers a part of the sub divider's entire holding, a sketch of the prospective future street system of the un-submitted part shall be furnished and the street system of the submitted part will be considered in the light of adjustments and connections with the street systems of the part not submitted.
- 8.15 The location of and pertinent data on at least two (2) test pits, and of at least one (1) percolation test to show that the regulations in Section 7.19 have been met on each lot created by the subdivision. Information shall include at least the following: the location of test pits, and outline of the four thousand (4,000) contiguous sq. ft. area reserved for leach fields, percolation test data, the certification of the Town official or agent witness- ing the tests.
- 8.16 All drawings, unless otherwise specified, will be at a scale of not more than one hundred feet to the inch.
- 8.17 Changes in lot line locations require application and approval for boundary line adjustment. Application forms and a checklist detailing the necessary steps for boundary line adjustments are available in Planning Board Office. These applications will be addressed only during scheduled public hearings and require that abutters must be notified of the public hearing.(RSA 676:4,I(e)1.)
- 8.18 Deeds or other proposed documents of conveyance of any land located within the subdivision proposed by the Sub divider for use for recreational or other Town purposes and Town ownership shall be part of the application. These proposed documents of conveyance shall be in a form satisfactory to Town Counsel. The fact that the Sub divider makes such offers and Town Counsel approves the form of the documents does not bind the Town or its agents to accepting the offer. The suitability of lands offered for recreational or the Conservation Commission of the Town shall determine conservation uses. A letter indicating the commission's opinion shall accompany the application.
- 8.19 New lots displayed on the subdivision plan should be numbered as sub-lots 1 through  $n$  (where  $n$  is the total number of lots in the subdivision).

## **SECTION IX. EROSION AND SEDIMENT CONTROL**

- 9.1 General: The purpose of this regulation is to control soil erosion and sedimentation resulting from site construction and development. Subdivision and site plans shall include plans for controlling erosion and sedimentation as provided below.
- 9.2 Where Required: The applicant shall submit an erosion and sediment control plan to the Planning Board for any tract of land being developed or subdivided, where one or more of the following conditions are proposed:

- 9.2.1 A cumulative disturbed area exceeding 20,000 square feet.
  - 9.2.2 Construction of a street or road.
  - 9.2.3 A subdivision of three or more building lots or dwelling units.
  - 9.2.4 Disturbed critical areas. Standard agricultural and silvicultural practices are exempt from this regulation. The Planning Board may waive the requirement for all or part of an erosion and sediment control plan if it determines that a plan is unnecessary because of the size, character, or natural conditions of a site. All requests for waivers and action thereon shall be made in writing.
- 9.3 Design Standards: The following standards shall be applied in planning for erosion and sediment control:
- 9.3.1 All erosion and sediment control measures in the plan shall meet the design standards and specifications set forth in the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" as amended and adopted by the Rockingham County Conservation District.
  - 9.3.2 Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation will be done in a manner that minimizes soil erosion.
  - 9.3.3 Appropriate erosion control measures shall be installed prior to removal of vegetation.
  - 9.3.4 The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.
  - 9.3.5 Measures shall be taken to control sediment and retain it within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Very poorly drained soils and water bodies shall be protected from sediment.
  - 9.3.6 Off site surface water and runoff from undisturbed areas shall be carried non-erosively through the project area, or diverted away from disturbed areas where feasible.
  - 9.3.7 All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within 30 days.
- 9.4 Plan Requirements for Erosion and Sediment Control:

9.4.1 Preliminary Plan Requirements. A preliminary plan is optional. If submitted it shall include the following:

1. Site drawing of existing and proposed conditions:
  - (1) Locus map showing property boundaries
  - (2) North arrow, scale, date
  - (3) Property lines
  - (4) Easements
  - (5) Structures, utilities, roads and other paved areas
  - (6) Topographic contours
  - (7) Critical areas
  - (8) Waterways, bodies of water, drainage patterns, and watershed boundaries
  - (9) Vegetation
  - (10) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist
  - (11) Erosion and sediment control measures
  - (12) Areas of soil disturbance
2. Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.

9.4.2 Final Plan Requirements for Erosion and Sediment Control. The Planning Board shall require each of the following in the final plan unless specifically waived:

- A. Site drawing of existing and proposed conditions
  - (1) Locus map showing property boundaries
  - (2) North arrow, scale, date
  - (3) Property lines
  - (4) Structures, roads, utilities, earth stockpiles, equipment storage, and stump disposal
  - (5) Topographic contours at two-foot intervals
  - (6) Extent of 100-year flood plain boundaries if published or determined
  - (7) Soils information from a High Intensity Soil Map done by a Certified Soil Scientist.
  - (8) Easements
  - (9) Areas of soil disturbance
  - (10) Areas of cut and fill
  - (11) Areas of poorly and/or very poorly drained soils including any portion to be

- disturbed or filled
- (12) Location of all structural and vegetative erosion and sedimentation control measures
- (13) Identification of all permanent control measures

B. Narrative section including:

- (1) Construction schedule
- (2) Earth movement schedule
- (3) Description of temporary and permanent vegetative measures including seeding specifications
- (4) Description of all structural erosion and sedimentation control measures, with detailed drawings of each
- (5) Design calculations for all temporary and permanent structural control measures
- (6) A proposed schedule for the inspection and maintenance of all measures
- (7) Identification of all permanent control measures and responsibility for continued maintenance
- (8) Calculations showing volume, peak discharge, and velocity of present and future runoff

9.5 Responsibility for Installation/Construction. The applicant shall bear final responsibility for the installation, construction, and disposition of all erosion and sediment control measures required by the provisions of this regulation. The Planning Board may require a bond or other security in an amount and with surety conditions satisfactory to the Board, as described in Section 7.23 above. Site development shall not begin before the erosion and sediment control plan is approved. Erosion and sediment control measures shall be installed as scheduled in the approved plan.

9.6 Maintenance: The applicant shall maintain all soil erosion and sediment control measures, including devices and plantings as specified in the approved plan, in effective working condition. Responsibility for maintenance by subsequent owners of the property on which permanent measures have been installed shall be included in the deed and shall run with the land. This information shall also be incorporated on the plan. For improvements, which require easements on property owned by another, the easement must be recorded at the Rockingham County Registry of Deeds. If the owner fails to adequately maintain such measures, the town shall have the authority to perform required maintenance. The cost of such work shall be borne by the owner.

9.7 Plan Approval and Review. The Planning Board shall indicate its approval of the

erosion and sediment control plan, as filed, if it complies with the requirements and objectives of this regulation. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

Technical review of any erosion and sediment control plan prepared under this regulation shall be reviewed by the Town Engineer at the expense of the applicant, in accordance with these regulations and RSA 676:4.

- 9.8 Inspection. Inspection shall be made during development to ensure compliance with the approved plan and that control measures are properly installed or performed and maintained.
- 9.9 Other Required Permits. In addition to local approval, the following may be required:
  - 1 . RSA 485-A:17 requires a permit from the New Hampshire Water Supply and Pollution Control Division for "... any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural runoff...". Regulations require this permit for any project involving more than 100,000 contiguous square feet of disturbance or if such activity occurs in or on the border of the surface waters of the state.

## **SECTION X. MINOR SUBDIVISIONS**

- 10.1 Per RSA 676:4,III, the Board adopts the following regulation for minor subdivisions. Minor subdivision applications may be submitted, reviewed and approved at one or more Board hearings subject to the following conditions:
  - 10.1.1 Procedures for Minor Subdivision: The procedures for a Minor Subdivision will be in accordance with Section VI of these Regulations.
  - 10.1.2 General Requirements For Minor Subdivisions: Minor Subdivisions must conform to section VII of these Regulations.
  - 10.1.3 Specific Plat Requirements for Minor Subdivisions: Minor Subdivisions must conform to Section VIII of these regulations.
  - 10.1.4 Erosion and Sedimentation Control for Minor Subdivisions: Minor Subdivisions must conform to Section IX of these Regulations.

## **SECTION XI. LOT LINE ADJUSTMENTS**

- 11.1 Per RSA 676:4,III the Board adopts the following regulations for Lot Line Adjustments. Lot Line Adjustment applications may be submitted, reviewed, and approved at one or more Board hearings subject to the following conditions:

- 11.1.1 Procedures for Lot Line Adjustments: The Procedures for a Lot Line Adjustment shall be in accordance with Section VI of these Regulations.
- 11.1.2 General Requirements for Lot Line Adjustments: Lot Line Adjustments must conform to the General Requirements specified in Addendum B of these regulations.
- 11.1.3 Specific Plat Requirements for Lot Line Adjustments: Plats for Lot Line Adjustments must conform to Section VIII of these Regulations, with the exception that existing site conditions and the new layout plan may be shown on the same sheet.

## **SECTION XII. VOLUNTARY MERGERS**

- 12.1 Per RSA 674:39-a, the Board adopts the following Regulations for Voluntary Mergers.
  - 12.1.1 Any owner of two or more contiguous pre-existing approved or subdivided lots or parcels who wishes to merge them for municipal regulation and taxation purposes may do so by applying to the Planning Board or its designee. Except where such merger would create a violation of then-current ordinances or regulations, all such requests shall be approved, and no public hearing or notice shall be required. No new survey plat need be recorded, but a notice of merger, sufficient to identify the relevant parcels and endorsed in writing by the Planning Board or its designee, shall be filed for recording in the registry of deeds, and a copy delivered to the Town's assessing officials. No such merged parcel shall thereafter be separately transferred without subdivision approval. A copy of a Voluntary merger application may be obtained at the Planning Board's office.

## **SECTION XIII. ADMINISTRATION AND ENFORCEMENT**

- 13.1 General
  - 13.1.1 These Regulations shall be administered by the Planning Board with the assistance of the Building Inspector, Town Engineer, Planning Board Agent and such other persons as the Board shall designate. It shall be the duty of the Board of Selectmen to enforce the Subdivision Regulations. The Selectmen in enforcing these Regulations shall act upon complaints from the public or information from the Planning Board, Building Inspector, Town Engineer, Planning Board Agent or others, and shall, whenever practicable, take such action as is necessary.
  - 13.1.2 Agents designated by the Planning Board, Board of Selectmen, Building Inspector, Town Road Agent or Town Engineer shall be charged with the responsibility of inspecting improvements and development of subdivisions on site for compliance with the Subdivision Regulations.



- 13.2 Appeals. Any person aggrieved by any decision of the Planning Board concerning a plan or subdivision may appeal said decision to the ZBA in accordance with RSA 676:5, II, or the Superior Court, as provided by RSA 677:15, as appropriate.
- 13.3 Amendments. The Planning Board may from time to time amend these regulations. Amendments to the Subdivision Regulations shall include the following steps:
- 13.3.1 The Board shall hold at least one (1) public hearing on the proposed regulations and/or amendments.
- 13.3.2 Notice for time, place and date of any hearing to amend shall be given at least ten (10) calendar days before hearing, not including day of posting or day of hearing. Notice of hearing shall be published in a paper of general circulation in Town and posted in two (2) public places. Notice shall include an adequate statement describing the proposal and the place where a full text of proposal is on file for public inspection. Posting shall include a copy of the full text.
- 13.3.3 The Planning Board may adopt the amendments upon completion of the public hearing by an affirmative vote of a majority of its members.
- 13.3.4 Regulations and/or amendments adopted shall be legal and have full force and effect when copies are certified by a majority of the Planning Board members and filed with the Town Clerk and the Board of Selectmen. A copy of the regulations and/or amendments shall be forwarded to the Office of State Planning.
- 13.4 Penalties for Transferring Lots in Unapproved Subdivisions. Any owner, or agent of the owner, of any land located within South Hampton, who transfers or sells any land before a plan of said subdivision has been approved by the Planning Board and filed with the appropriate recording official under RSA 674:35 II, shall forfeit and pay a civil penalty of \$500.00 for each parcel or lot so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town of South Hampton may enjoin a transfer or sale which violates the provisions of this Section and may recover the penalty imposed by civil action. (RSA 676:16)
- 13.5 Fines and Penalties. Any violation of these regulations shall be punishable as per RSA 676:17, 17-a, and 17-b, as the Board of Selectmen shall elect. The Planning Board shall also have the authority to seek injunctive relief pursuant to RSA 676:15.
- 13.6 Waiver Procedure
- 13.6.1 When a proposed subdivision plan is submitted for approval, the applicant may request in writing to waive specific requirements of these Regulations as they pertain to the specific plan. The applicant shall present reasons, in writing, why

the waiver is needed.

13.6.2 The Planning Board may grant a waiver in a special case, so that justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purposes of these Regulations; and further provided that the Planning Board shall not approve waivers unless it shall make written findings based upon the evidence presented to it in each specific case. Such waivers will be entertained and acted upon by the Planning Board only at a properly noticed public hearing.

#### **SECTION XIV. INSPECTION SCHEDULES**

14.1 The following is an inspection schedule which shall be abided by, to the maximum extent feasible or appropriate, during the construction of roadways and any other constructed facility, including but not limited to: fire ponds, detention basins, etc. An inspection shall be performed for each item and documented by the Town's Road Agent or other Town agent, as part of an inspection checklist. Copies of this inspection checklist are available in the Selectmen's office.

1. Review of design engineer's layout and wetlands marking.
2. Inspection of clearing and grubbing and erosion control measures.
3. Inspection of fill placement. In-place compaction testing of fill is required every 1,000 cubic yards or as directed by the inspector.
4. Inspection of drainage piping and buried utilities. Full time inspection is required, including the trench back filling.
5. Inspection of sub-grade and slope work.
6. Inspection of gravel grade. Compaction testing of the gravel course is required every 200 linear feet of roadway.
7. Inspection of crushed gravel grade. Compaction testing of the crushed gravel course is required every 200 linear feet of roadway.
8. Inspection of final ditch work, slope work, landscaping and erosion control measures.
9. Inspection of head wall construction.
10. Inspection of binder course paving. Full-time inspection will be performed during the paving. After the binder course pavement and all work required prior to that point has been completed, the Developer can request, in writing, a reduction of the roadway bond to the Planning Board. The exact amount of the bond reduction is to be determined by the Planning Board.
11. Inspection of the wearing course pavement. Full-time inspection is required.

12. Remaining work inspection by Developer and Inspector.
13. Final walk-through inspection by the Planning Board, Board of Selectmen, and Road Agent.
14. Follow-up inspection.

**ADDENDUM A**  
**South Hampton Subdivision Regulations**

**ROAD DESIGN AND CONSTRUCTION SPECIFICATIONS**

General:

For the proposed street construction, the contractor shall submit to the Town Engineer three (3) copies of plans for proposed street construction showing proposed widths, grades, profiles, existing topography, boundaries and drainage (existing and proposed) at a scale of not less than 1" = 50', and final plans of all streets showing accurately all physical features (on Mylar or other suitable material). If during construction, the final location of any item changes this shall be corrected on the final plan and returned to the Town Engineer for filing.

Decisions and recommendations of the Town Engineer of the Town of South Hampton relative to any of the requirements and conditions stated shall be final.

Permanent point of origin benchmark at mean sea level must be created within the right-of-way of the new street to be created in accordance with USGS Rules and Regulations.

The Town reserves the right of inspection to the Planning Board, Town Engineer, or other authorized agent from the time of approval until final construction.

Requirements for Construction of Roads & Streets in the Town of South Hampton

A. Clearing and Grubbing

- A1. Prior to clearing and grubbing, the Town Engineer, accompanied by the owner, shall review the plan of the roadway and approve or disapprove it.
- A2. This work shall consist of clearing, grubbing, removing and disposing of all vegetation and debris within the right-of-way.
- A3. This work shall also include the removal and disposal of all stonewalls and fences within the right-of-way.
- A4. This work shall also include the preservation from injury or defacement of all vegetation and objects designated by the Town Engineer to remain.
- A5. All debris shall be disposed of outside of the right-of-way.

B. Excavation and Embankment

- B1. All excavation and embankment operations shall be done in accordance with the applicable sections of the document, Standard Specifications for Road and

Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended.

- B2. All testing of embankments, i.e., gradation, compaction, etc., ordered by the Town Engineer shall be performed by an independent testing laboratory, approved by the State to perform such tests, and shall be paid for by the subdivider.
- B3. Prior to placing any gravel sub-base, the Town Engineer shall have approved the sub-grade as suitable for placing the gravel sub-base.

C. Sub-grade

- C1. The sub-grade of the road bed shall be constructed to the required width, grade, and cross section as shown on the typical section on file with the Planning Board and Town Engineer.
- C2. All unsuitable material including stumps, large roots, loam, muck, organic material and any other improper road foundation material within the limits of the right-of-way shall be completely removed to a depth of 3 ½ feet below the sub-grade unless otherwise directed by the Town Engineer. All above mentioned stumps below such depth shall be cut off within six inches of the existing ground surface.
- C3. Any unsuitable material encountered in the sub-grade shall be replaced with bank run gravel containing no stone greater in any dimension than six inches and shall be compacted in accordance with the document, Standard Specifications for Road and Bridge construction, State of New Hampshire, Department of Transportation, 1990, as amended.
- C4. Ledge and boulders shall be removed to a minimum of at least 8 inches below sub-grade and replaced with sand or bank run gravel.

D. Drainage

- D1. The subdivider shall engage the services of a registered professional engineer currently licensed to practice in the State of New Hampshire to make a complete study of the subdivision, including adjacent properties which may be contributing run-off water, or have natural water courses affecting said subdivision, for the purpose of designing a storm drainage system for the subdivision.
- D2. The criteria to be used shall be the criteria currently used by the NH Department of Public Works for designing storm drainage systems for roadways. Design criteria shall include fifty (50) year storm frequency events all areas, using rainfall data from Northeast Regional Climate Center at Cornell University or the National Weather Service ,whichever has been more recently updated. (amended January 4, 2016)

- D3. The sub divider shall submit the design, criteria, and plans for the proposed storm drainage system on the preliminary plan.
- D4. All pipe used for storm drains shall be reinforced concrete pipe not less than 15 inches in diameter measured inside of the pipe, certified by the manufacturer.
- D5. Headwalls of a type currently used by the NH Department of Public Works shall be constructed at the ends of all pipes which drain to the surface of the ground.

E. Gravel Sub-base and Crushed Gravel Base

- E.1 A sub base course of gravel shall consist of 12 inches placed in two six (6) inch lifts and compacted to 95% of optimum shall be constructed under the gravel sub-base and shall be tested, at the expense of the contractors, if requested by the Town Engineer.
- E2. A gravel base consisting of six (6) inches of crushed gravel containing no stone larger than three inches shall be constructed on the approved sub-grade in accordance with the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended. The width and depth of the gravel sub-base shall be in accordance with the typical section on file with the Planning Board and the Town Engineer.
- E3. If requested by the Town Engineer, the contractor shall have the gravel sub-base tested by an approved laboratory. The cost of such testing to be paid for by the sub divider.
- E4. Material used for Gravel Sub-base and crushed gravel base shall meet or exceed the standards described in the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended.

F. Bituminous Concrete Pavement

- F1. The construction of Bituminous Concrete Pavement and materials used shall be in accordance with the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended.
- F2. Bituminous concrete pavement shall be constructed in two courses as shown on the typical section. 2" binder, 1" top, as measured after compaction.
- F3. A maximum tolerance of 1/4 inch in 10 feet in any direction from the theoretical plane will be allowed.

G. Guard Rail

On all fills of 2:1 slope, guardrail will be installed in accordance with the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended.

H. Seeding

H1. Humus material will be placed on the final slope. This material shall be free from stumps, roots, and other non-desirable material designated by the Town Engineer.

H.2 After placing and shaping of humus material, all slopes except rock slope ledge shall be seeded with a mixture of seed approved by the road Agent.

I. Signs

Signs with names of street conforming to standards of Town of South Hampton shall be erected on required metal posts.

J. General Information

J1. Roads will not be accepted by the Town of South Hampton for at least one year after construction is completed. A construction bond will no longer be required once the Town Engineer has approved a road; however, a maintenance bond will be required from that point until acceptance of the road by the Town. The Town can agree to plow a road once the Town Engineer has approved the road; however, the Town shall not be responsible for any damage resulting from such plowing. Costs for maintenance and plowing shall be borne by the person or persons offering the road for acceptance, or the applicant for subdivision. Repairs to roads prior to acceptance will be accomplished by person or persons offering the road for acceptance by Town.

J2. Decisions and recommendations of the Town Engineer of the Town of South Hampton relative to any of the requirements and conditions stated shall be final.

J3. The finished roadway surface shall not be less than twenty-four (24) feet in width and have at least four (4) foot gravel shoulders on each side of the paved section before tapering off at a 4:1 slope to the ditch line. In embankment areas where six (6) feet of more of fill is required and a 2:1 slope is used, the shoulder shall extend six (6) feet beyond the edge of pavement and a standard guard-rail shall be installed as deemed necessary by the South Hampton Planning Board.

J4. The roadway shall be constructed in accordance with the typical cross section included as a part of these specifications.

- J5. The grade of the road shall not be less than one percent (1%) nor more than eight per cent (8%) unless specifically approved by the Planning Board.
- J6. Monuments of granite or concrete four (4) inches diameter on the top and four (4) feet long shall be set with six (6) inches exposed above ground at all street corners and angle points in the street line as well as at the ends of all curves. All street lines shall have monuments set a maximum of four hundred (400) feet apart.

K. Curbing and Sidewalks

Curbing shall be granite and installed and constructed in accordance with the Standard Specifications. The curb reveal will be six (6) inches above finished pavement grade. Bituminous sidewalks shall be constructed in accordance with the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended. The total thickness of the Bituminous sidewalk will be 3 inches consisting of a 2-inch binder course and a 1-inch wearing course placed on 12 inches of compacted gravel base.



**ADDENDUM B**  
**SOUTH HAMPTON SUBDIVISION REGULATIONS**  
**LOT LINE ADJUSTMENT REQUIREMENTS**

**INFORMATION REQUIRED:**

Lot Line Adjustments or boundary agreements are those applications which do not create new building lots. The following information is required:

- \_\_\_\_\_ 1. Name, mailing address and telephone number of applicant.
- \_\_\_\_\_ 2. Name, mailing address and telephone number of owner of record (if other than applicant).
- \_\_\_\_\_ 3. Location of proposed Lot Line Adjustment.
- \_\_\_\_\_ 4. Town of South Hampton Tax Map(s) and Lot Numbers of affected properties.
- \_\_\_\_\_ 5. Name, mailing address and telephone number of the Surveyor preparing the plan.
- \_\_\_\_\_ 6. Abutters: Name, mailing address, South Hampton Tax Map(s) and Lot Number(s) of all Abutters as defined in Section V.

**OBTAINING AN APPLICATION; SCHEDULING A HEARING:**

No Lot Line Adjustment hearing shall be scheduled unless an application has been submitted in accordance with Sections VI, VII and VIII of these Regulations.

Copies of the Lot Line Adjustment Application may be obtained from the office of the Planning Board.

**ADDENDUM C**  
**SOUTH HAMPTON SUBDIVISION REGULATIONS**

**FEE SCHEDULE**

Administrative Costs: The applicant shall pay a filing fee of \$50.00 for a two-lot subdivision, plus \$25.00 per lot for each additional lot.

Notice Costs: the applicant shall pay \$150.00 plus \$10.00 for each Abutter, Applicant, licensed professional whose stamp must be affixed to the final plan, and any other party who must be notified in accordance with these Regulations.

Registry Costs: The applicant shall pay all costs associated with registration of documents at the Rockingham County Registry of Deeds upon approval by the Board. The current recording fee is \$40.00 per page.

Consultant's Fees: Assessed by the Board to cover costs in accordance with Paragraph 6.3.7 of these Regulations.

Other Costs: Assessed by the board to cover costs in accordance with Paragraph 6.3.6.4 of these Regulations.

**ADDENDUM D**

Town of South Hampton, NH

**Certificate of Monumentation Installation Form**

Sub divider's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street Address of Property Subdivided: \_\_\_\_\_

Tax Map #: \_\_\_\_\_ Lot #: \_\_\_\_\_

Surveyor of Approved Plan: \_\_\_\_\_

Date of Planning Board Approval or Conditional Approval \_\_\_\_\_

Number of concrete or granite monuments required by approved plan \_\_\_\_\_

Number of iron pipe monuments required by approved plan \_\_\_\_\_

**SURVEYOR'S STATEMENT**

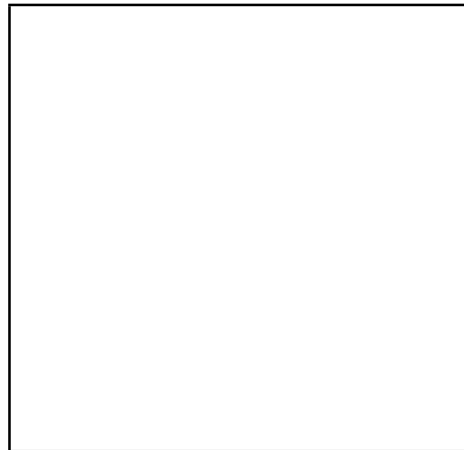
"I hereby certify that the monumentation required on the above referenced subdivision plan has been accurately installed under my supervision and said monumentation complies with Section 7.20 of the South Hampton Subdivision Regulations."

Signature of Surveyor: \_\_\_\_\_

Date: \_\_\_\_\_

Surveying Company: \_\_\_\_\_

Telephone \_\_\_\_\_



Seal of Surveyor

For Planning Board Use Only

Date of Receipt: \_\_\_\_\_ Received By: \_\_\_\_\_

**SITE PLAN REVIEW REGULATIONS**  
**Approved May 4, 1998**  
**Amended 1/6/2014**

**South Hampton**  
**New Hampshire**

# **Site Plan Review**

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## **SITE PLAN REVIEW REGULATIONS TOWN OF SOUTH HAMPTON, NH**

### **SECTION I. AUTHORITY AND TITLE**

Pursuant to the authority vested in the Planning Board by the voters of the Town of South Hampton and in accordance with the provisions of 674:43 and 44, New Hampshire Revised Statutes Annotated (RSA), the Planning Board has been empowered to review and approve or disapprove site plans for the development or change or expansion of use of tracts for non-residential uses, or change or expansion of use of tracts for non-residential uses, or for multi-family dwelling units (three or more units) whether or not such development includes the subdivision or re-subdivision of the site.

These regulations shall be known, and may be cited as, the "Site Plan Review Regulations for the Town of South Hampton, New Hampshire" as adopted and subsequently amended.

2.1 Short Title: "Site Plan Review Regulations"

### **SECTION II. PURPOSE AND INTENT**

Consistent with the enabling legislation cited above, the purpose of these regulations is to ensure that multi-family and non-residential developments:

- (a) Are harmonious with the Town and its environs;
- (b) Are provided with adequate services and utilities;
- (c) Are provided with safe and convenient vehicular and pedestrian traffic flow both on and off the site;
- (d) Do not necessitate an excessive expenditure of public funds for the supply of such services;
- (e) Afford adequate open spaces, light, air and access; and
- (f) Promote the public's health, safety, welfare and convenience.

### **SECTION III. CONFLICTING PROVISIONS AND VALIDITY**

Whenever the regulations made under the authority differ from those prescribed by any statute, ordinance, or other regulations, that provision which imposes the greater restriction, or the highest standard shall govern.

If any section, clause, provision, portion, or phrase of these regulations shall be held to be

invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of these regulations.

#### **SECTION IV. JURISDICTION**

4.1 The provisions of these regulations shall apply to all land within the boundaries of the Town of South Hampton.

4.1.1 Any person proposing site development for non-residential and multi-family uses in the Town of South Hampton must apply to the Planning Board for approval of such activity.

4.1.2 A site plan review application must be submitted by the applicant and approved by the Planning Board seeking approval for any of the following:

- (a) The construction of any new non-residential use.
- (b) The enlargement of any existing non-residential use that occasions development of the site.
- (c) The construction of any new multi-family use other than a one family dwelling, including but not limited to those uses under Article IV, A., Sections 5 and 7 of the South Hampton Zoning Ordinance.
- (d) The enlargement of any existing multi-family use resulting in other than a one family dwelling which occasions development of the site.
- (e) The construction and conversion of any multi-family dwellings, other than one family dwellings, or non-residential use in which development of the site is contemplated or required by virtue of any other Town or State ordinance, statute or regulation, or decision of the Town's Zoning Board of Adjustment.
- (f) The change within a structure from one permitted use to another non-residential use or multi-family use, other than one family dwelling which will occasion development of the site including, but not limited to, improvement or alteration to the site required by virtue of any other Town or State ordinance, statute, or regulation.

4.1.4 Site plans for all multi-family dwellings and non-residential development shall be submitted to the Planning Board for review. A full site plan review will not be required for any expansion or change of use of any existing non-residential or multi-family use under the following circumstances.

4.1.4.1 A new site plan need not be submitted for Planning Board or Spe-

cial Site Review Committee approval if all of the following criteria are met:

- a. There is an approved site plan for the property on file in the Planning Board office;
- b. Does not constitute a change of use;
- c. Does not result in expansion greater than seven percent (7%) of the original structure's size; (in no instance shall the increase constitute greater than 1500 square feet of new construction);
- d. All other requirements of site plan review are met; and
- e. All site activity must presently conform to the existing recorded site plan.

4.1.4.2 This site plan review exemption may be utilized one (1) time on any non-residential parcel, and only after the applicant has had an informal consultation with the Planning Board at which time the determination is made that a site plan is not required. After the first time any further expansion must be approved by the Planning Board within the scope of formal site plan review procedures.

4.2 No building permit may be issued for the construction or alteration of any building or structure within the purview of these Regulations (except as described in 4.1.4.1 and 4.1.4.2 above) until the applicant has presented a copy of an endorsed site plan plat to the Building Inspector.

## **SECTION V. DEFINITIONS**

All definitions appearing in the Town of South Hampton Zoning Ordinance, as amended, and in the Subdivision Regulations at § V, as amended, are applicable to site plan review regulations. In the case of any conflicts the Zoning Ordinance definition shall be the governing definition.

Change of use: Changing the nature or intensity of the use. A proposal significantly changing traffic patterns or significantly increasing traffic volumes, number of employees, parking, consumption of water or production of sewage, noise or lighting shall constitute a Change of Use. A proposal to resume a previous use discontinued for more than one year shall constitute a change of use.

## **SECTION VI. PROCEDURE FOR SITE PLAN REVIEW**

6.1. Pre-Application Review (optional): The Planning Board may provide for pre-application



review of plats in accordance with RSA 676:4, II, a-c, as follows:

6.1.1 Preliminary Consultation Phase: A Preliminary consultation with the Planning Board shall enable a developer to review basic concepts of the proposal, and request suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the Planning Board and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any subsequent action. The Planning Board and the applicant may discuss proposals in conceptual form only and in general terms. Such discussion may occur without giving formal public notice. Such discussions shall take place at formal meetings of the Planning Board.

6.1.1.1 It is recommended that the applicant submit the following information for the preliminary consultation with the Planning Board: Correct names, mailing addresses and Zip Codes of owner(s) of record (and applicant, if different) and a brief description of the proposal.

6.1.2 Design Review Phase (optional): The Planning Board or its designees may engage in non-binding discussions with the applicant concerning specific design and engineering details provided to the Board or its agents. Such discussions shall take place at public meetings of the Planning Board, after proper notice to abutters and the general public.

Statements made by Planning Board members shall not be binding nor be the basis for disqualifying said members or invalidating any subsequent action.

6.1.2.1 When meeting with the Planning board under the Design Review Phase option, a rough sketch of the site should be provided showing the following:

1. Location of lot lines.
2. Lot measurements
3. Streets in proximity to the site sufficient to show resulting traffic patterns.
4. Approximate layout and shape of improvements to the site.

6.1.3 The applicant may elect or forego to engage in the Pre-Application Review or either phase thereof and proceed directly to the formal application process.

6.1.3.1 Pre-Application Review shall be separate and apart from formal consideration as described under "6.2. Formal Application Process" and the time limits as described under Section 6.4 shall not apply

until a formal application is submitted, deemed complete by the Planning Board and formally accepted.

## 6.2 Formal Application Process

Whenever any site plan is proposed, and before any construction occurs or application for a permit for the erection of a structure thereon shall be made, the owner thereof or his agent (agent to be designated in writing to the Planning Board) shall apply, in writing, to the Planning Board for approval of such construction. The applicant shall file the completed application with the Board or its agent at least 21 days prior to the meeting at which the application may be accepted. A completed application shall be submitted to and accepted by the Board at a public hearing. In order to be considered complete, all applications must contain the information and documents required by §§ VII, VIII, and IX of these regulations, as well as the following:

- 6.2.1 Five (5) copies of the Plat showing all of the information required in Sections 7 and 8 of these Regulations.
- 6.2.2 A list of names and mailing addresses of the present owners of all of the property abutting the land to be subdivided including those across any street or stream. In addition, the names and business addresses of every engineer, architect, land surveyors, or soil scientist whose professional seal appears on any plat submitted to the board, neighboring towns where the plan shows land in such neighboring town, and all holders of conservation easements or restrictions of any type on the property.

## 6.3 Fees:

The Applicant shall bear the following costs at the time of application:

- 6.3.1 A fee assigned based upon the size of the development to cover the costs incurred by the Board for professional plan review is required upon application. Those funds collected but not used by the Board to cover the Board's costs for plan review will be returned to the applicant.
- 6.3.2 An application and secretarial fee to cover reasonable administrative expenses necessary for the processing of the application.
- 6.3.3 Cost of certified mailings to each abutting landowner and all professionals whose seals are affixed to the final plan. Notice to abutters shall be made by the Planning Board 10 days prior to the date of formal submission of application by certified mail, return receipt requested.
- 6.3.4 A fee to cover the costs of publication of a legal notice in a paper of general cir-

culation.

6.3.5. In the event that the abutters hearing is defaulted for any reason, or additional hearings are required, all fees except those for the tax map changes shall be repaid by the applicant for the new hearing. If a plan is withdrawn prior to hearing notification, no further action is necessary by the Board. One copy of any such plan shall be retained for Board files.

6.3.6 The Applicant shall bear the following costs to be paid before the Planning Board signs the Mylar: (Copies of the current fee schedule are available in the Board office.)

6.3.6.1 A fee to cover the costs of making any appropriate changes to the South Hampton tax maps.

6.3.6.2 The costs incurred as a result of review by the Town's consultants in accordance with § 6.3.7.

6.3.6.3 The costs of recording the original Mylar and securing two copies of said plan at the Rockingham County Registry of Deeds.

6.3.6.4 Any and all costs deemed necessary by the Road Agent, Town Engineer and/or the Planning Board in excess of the above shall be paid by the applicant before the final approval.

6.3.7 In accordance with NH RSA 676:4, I (g) the applicant shall be required to pay all reasonable costs or fees for special investigative studies and the review of documents, which are particular to the application, in addition to administrative and notification fees as required by the Board. Such studies shall include but not be limited to traffic impact analysis, environmental impact studies, and fiscal impact studies.

6.3.8 All fees are as specified in Addendum C of the South Hampton Subdivision Regulations.

#### 6.4 90-Day Review Period, Application Acceptance and Hearings:

6.4.1 The planning board will accept the application as complete and will begin the review process if the application includes:

1. The plan for the proposed site plan incorporating the requirements of Sections 7 and 8 of these Regulations,
2. The list of current abutters,

3. Letter of intent (the application form may serve as this document)
4. Letter of authorization (if required),
5. A copy of the deed, and
6. The money to cover all fees as required in 6.3.1 through 6.3.4.

The 90-day review period called for in RSA 676:4 I(c) shall begin upon receipt by the Board of a completed application as described in section 1-6 above. Acceptance of the completed application must occur at a properly noticed public hearing. The minutes of the meeting shall indicate which, if any, applications are accepted for review. The date of receipt in the planning board offices shall be the last date upon which any of the required information was received by the planning board.

Should an application be found incomplete, the Board shall notify the applicant in writing, requesting that further necessary documentation be submitted and informing the applicant that no further consideration of the application can be made until the application is complete shall be in writing. Furthermore, this notification shall be considered a written formal Denial in accordance with RSA 676:4, 676:3, and this section, unless otherwise noted.

#### 6.4.2 Public Hearing and Notice Requirements

Before making any decision to approve or disapprove, unless such disapproval is for failure to submit a completed application, the plat, the Board will hold a public hearing at which all of the abutters and other interested parties will be allowed to speak. All land-owners that are direct abutters will be notified of the hearing by certified mail, return receipt requested, at least 10 days before the hearing (in accordance with RSA 676:4,I,(d)). During the public hearing, the Planning Board will take testimony from the applicant, questions by members of the Board, questions from any abutters present, and any members of the public present with an interest in the proceedings.

#### 6.4.3 Zoning Conformity

The Planning Board shall only have the authority to finally approve an application that conforms to the South Hampton Zoning Ordinance or has received proper variances from the South Hampton Zoning Ordinance. It is within the power of the Zoning Board of Adjustment to authorize, upon appeal, in specific cases, variances or exceptions from the terms of the zoning ordinances (see RSA 674:33 and any amendment thereto).

#### 6.4.4 Board Action on Accepted Applications

Within 90 days of receipt of a formally accepted plan, or any proper extension, the

Planning Board will make a decision on the site review application as follows:

- 6.4.4.1 Approval. At a duly noticed public hearing, the board shall act to approve, conditionally approve, or disapprove the application. The ninety (90) day time limit shall be subject to extension or waiver as provided below in § 6.4.8 (RSA 676:4, I(c)).
- 6.4.4.2 Conditional Approval. The Planning Board may grant conditional approval of a plat or application, which approval shall become final without further public hearing, upon certification to the Board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Final approval of a plat or application may occur in the foregoing manner only when the conditions are:
  - A. Changes, whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
  - B. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or
  - C. Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies, provided said permits and approvals themselves have not required a change to the Plat submitted to the board or to any other conditions imposed by the Board. All other conditions shall require a hearing, and notice to abutters and the public, except that additional notice shall not be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session were made known at the prior hearing;
- 6.4.4.3 Disapproval/Denial. The Board shall disapprove of an application that does not meet the standards of these regulations, or fails to comply with other Town or State laws, or will have an adverse impact on surrounding areas or the community. See § 6.4.1 for denials as incomplete.
- 6.4.5 A Conditional Approval shall be valid for a term of one calendar year from the date granted. Within sixty (60) days after the expiration of the conditional approval the Planning Board shall hold a properly noticed public hearing pursuant to RSA 676:4-a to determine the final status of the proposal.

- 6.4.6 Written Decision. The Planning Board shall issue a final written decision of their action to approve, conditionally approve, or disapprove the completed application. If the application is conditionally approved, the Board shall list the conditions necessary to be met by the applicant prior to final approval.
- 6.4.7 In accordance with RSA 676:3, if the application is not approved, the Board shall provide the applicant with written reasons for disapproval. The decision shall be placed on file in the Planning Board's office and shall be made available for public inspection within seventy-two (72) hours after the decision is made and a copy of the decision shall be filed with the Town Clerk, see also § 6.4.1 for denials on applications that are found incomplete.
- 6.4.8 Extensions: The applicant, in writing, may waive the requirement for Planning Board action within the time periods specified above and consent to such extension as may be mutually agreeable (RSA 676:4, I (f)); or
- The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application (RSA 676:4, I (f)).
- 6.4.9 Failure to Act: In accordance with RSA 676:4, I(c)(1), upon failure of the Board to approve, conditionally approve, or disapprove the application, the Selectmen may order the Planning Board to act within 30 days. If the board still fails to act, the Selectmen must approve the plan within 40 days, unless it can state in writing some specific regulation with which the application does not comply. The failure of the Selectmen to act on such order shall, upon petition of the applicant, constitute grounds for the Superior Court to issue an order approving the application, if the Court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.
- 6.4.10 Recording and Filing of Plats: No site plan shall be filed or recorded until it has been approved by the Planning Board and all outstanding fees have been paid by the applicant. Approved plans shall be endorsed in writing on the plan with the signatures of the Chairman and Secretary of the Board. The South Hampton Planning Board at the fee established by the Planning Board will register the approved plan at the Rockingham County Registry of Deeds. The Planning Board at the expense of the Subdivider shall obtain two copies of the recorded plan.
- 6.4.11 Rules for Conducting Hearings: The Planning Board of the Town of South Hampton NH has adopted rules of procedure in accordance with RSA 676:1 and copies of the rules can be obtained at the Town Clerk's Office.
- 6.4.12 Projects of Regional Impact: In accordance with state law any developments which are likely to have impacts beyond the boundaries of the Town of South Hampton shall be processed by the South Hampton Planning Board according to

the procedures established in RSA 36:54-58.

- 6.4.13 Land Affected by Municipal Boundaries: In the case where an owner of contiguous land which is located in more than one municipality applies to the South Hampton Planning Board for subdivision the proceedings will be done in conformance with the standards outlined in RSA 674:53, Land Affected by Municipal Boundaries.
- 6.4.14 Active and Substantial Development: In accordance with RSA 674:39, the Board, at its discretion, shall require plans to include a note that shall specify the threshold level of work which shall constitute "active and substantial development or building" for purposes of fulfilling the requirements of RSA 674:39, I. This threshold for "active and substantial development or building" must be reached within 12 months of approval before the plan will be eligible for the four-year exemption, as provided in RSA 674:39, from subsequent changes in the Town of South Hampton Zoning Ordinance, Subdivision Regulations, or these regulations. The Board may extend this period for up to 12 months only for good cause.
- 6.4.15 Expiration of Approved Plans: Where no work has commenced upon a site, plans that are approved and signed by the Board shall expire two years from the date the plan is signed. All previously approved plans shall expire two years from the effective date of this regulation. An extension, not to exceed one year, may be granted by majority vote of the Board so long as it is applied for at least thirty days prior to the expiration date.

## **SECTION VII. GENERAL STANDARDS AND PRINCIPLES FOR SITE PLAN REVIEW**

In review of any site plans conducted under these regulations, the Planning Board and/or special Site Review Committee will require, as applicable, provisions be made by the owner or his agent for:

- 7.1 Appropriate buffers that shall be maintained or installed to screen the use from neighboring properties. Landscape treatment shall consist of natural vegetation or features, or ground cover, shrubs, trees as appropriate, or fencing;
- 7.2 Sufficient off-street parking for the anticipated use;
- 7.3 Sufficient off street loading space, including off-street areas for maneuvering the anticipated trucks or other vehicles;

- 7.4 Access, parking and loading areas constructed so as to minimize dust, erosion and run-off conditions that would have a detrimental effect on abutting or neighboring properties. The Planning Board and/or the Special Site Review Committee may require paving if appropriate or necessary;
- 7.5 Grading, paving and storm drainage systems, so that development will not result in erosion/sedimentation of streams, or damage to abutting properties and roads;
- 7.6 Light, glare and odors so that it will not be discernible off the premises except for indirect lighting of permitted signs or security lighting. Lighting shall not glare on abutting properties or on public highways or streets;
- 7.7 Access to public streets that will meet the standards of the New Hampshire Department of Public Works and Highways and/or the specifications for the construction of roads in South Hampton as detailed in the Subdivision Regulations and section 9.10.1 of these regulations.
- 7.8 To insure that water supply and sewage disposal facilities are sized to adequately meet the needs of the proposed use under the regulations of New Hampshire Water Supply and Pollution Control Commission and the Town of South Hampton Zoning Ordinance for the siting of septic systems.
- 7.9 Pedestrian and bicycle safety and access;
- 7.10 Storm water drainage and ground water recharge;
- 7.11 Adequate fire safety, prevention, and control;
- 7.12 Suitably located and coordinated travel-ways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access to buildings for fire fighting apparatus and other emergency equipment;
- 7.13 Conformance with all existing regulations and ordinances;
- 7.14 Demonstration that the proposal is generally consistent with the Town's Master Plan;
- 7.15 Minimization of encroachment on neighboring land uses;
- 7.16 Adequate green areas, open space, conservation easements, slope and drainage easements as may be necessary or applicable;
- 7.17 Sidewalks, when required, shall be installed and constructed in accordance with the specifications of the Town of South Hampton Subdivision Regulations, as amended;
- 7.18 The public health, safety and welfare will be otherwise protected.



In addition to the general standards for site plan review listed above, the applicant shall observe the following general principles governing site development:

- 7.19 Land of such character that it cannot be safely used for building purposes because of exceptional danger to health or peril from fire, flood, impermeable soil or other menace shall not be platted for building, nor for such other uses as may increase danger to health, life, or property or aggravate the flood or sewage hazard, until appropriate measures have been taken by the owner or his agent to eliminate such hazards.
- 7.20 All public or private utilities, sewage and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the specifications included in the Town of South Hampton Subdivision Regulations.
- 7.21 A detailed plan indicating how the site will be served by electric, telephone and any other public utility must be provided. If the utility company(s) requires an easement to provide service, the South Hampton Planning Board shall grant no final approval until such easement(s) are secured.
- 7.22 Pursuant to RSA 674:44, IV, the Board may require special improvements on or off-site which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular site plan review. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore. The Planning Board may require, either that the applicant construct the improvements in whole or in part, or reimburse the municipality or any other party whom, at the direction of the municipality, undertakes such improvements. The applicant's responsibility for such improvements is limited to that portion of the cost of the improvements which bears a rational nexus to the needs created by, and special benefits conferred upon, the site, taking into consideration the municipality's ability to pay for such improvements.
- 7.23 The development of the site shall not change the topography of the land to be developed by the removal of trees, shrubs, soils and rocks, except that which is necessary for the building of the structures and driveways.
- 7.24 The applicant must file when appropriate, emergency planning documentation with the Town of South Hampton Police and Fire Departments.

#### **SECTION VIII. GENERAL INFORMATION REGARDING THE SITE PLAN REVIEW PROCESS**

- 8.1 It is recommended that the applicant read the Town of South Hampton Zoning Ordinance, Building Code and Subdivision Regulations.
- 8.2 The applicant shall make application using appropriate forms provided by the Planning

Board and shall conform to the application procedures and any other applicable regulations adopted by the Town.

- 8.3 The applicant shall be required to pay all reasonable costs or fees for special investigative studies and review of documents, which are particular to the application, in addition to administrative and notification fees as required by the Board, in accordance with RSA 676:4, I(g).
- 8.4 The Board or its representative may make a visual on-site inspection of the land at any stage of the proposal. Inspection is to be at such time when the site is free of snow cover, unless the Board is otherwise satisfied that such inspection is not required.
- 8.5 If a plan is withdrawn prior to hearing notification for the plan, no further action is required by the Board, and it will be considered terminated. One copy of any such plan(s) shall be retained for Board files.
- 8.6 Approval of the plan by the Board shall not constitute an acceptance by the Town of the dedication of any proposed street, highway, park or other public open space.
- 8.7 Only the Town of South Hampton Planning Board, by vote, has the authority to waive any Site Plan Review Regulations. The procedure for granting of waivers is found in Section 10.3 below.

#### **SECTION IX. SPECIFIC PLAN REQUIREMENTS**

- 9.1 The Plan must be presented to the Planning Board in the following format:
  - 9.1.1 The plan must be drawn in original ink on Mylar or other material acceptable for recording purposes at the Rockingham County Registry of Deeds.
  - 9.1.2 Sheet size that conforms to the requirements of the Registry of Deeds of Rockingham County for filing. These sheet sizes are: 8.5"x11"; 11"x17"; 17"x22"; and 22"x 34".
  - 9.1.3 Abutters must be indicated on any plan submitted, showing their location in relation to the proposed site plan.
  - 9.1.4 Scale should not be more than 1"=100' (one inch=100 feet).
  - 9.1.5 Proposed site plan name or identifying title.
  - 9.1.6 Correct current names of owner(s) of record (and applicant, if different).
  - 9.1.7 Date, north arrow and location (locus map).

- 9.1.8 Name, license number, signature(s), and seal of a NH registered land surveyor, and engineer, if applicable.
- 9.1.9 The following example endorsement block should be incorporated into any final plan submitted to the Planning Board for approval:

**Site Plan Approval - Town of South Hampton Planning Board**

Chairman		Date
Secretary		Date

- 9.1.10 All benchmarks shall be placed in reference to a permanent USGS point location.
- 9.1.11 Tax map reference including map and parcel number.
- 9.1.12 The final plan(s) shall include sufficient data acceptable to the Planning Board and the town Engineer to determine readily the location, bearing and length of the existing street and lot line, and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed a ratio of one (1) to ten thousand (10,000). The final plan(s) shall show the boundaries of the property and the bounds of any public or private streets and easements abutting or pertaining to the proposed site plan.
- 9.1.13 Match lines when needed.

**9.2 Surveyed Plan.**

Five (5) copies of the surveyed plan shall be submitted upon application and these plans shall include the following information:

- 9.2.1 Location of property lines and their approximate dimensions and bearings, boundary extensions, existing buildings, existing and proposed easements, alleys, parks, public open spaces, water courses, flood plains, ponds or standing water, wetlands, rock ledges, and other existing natural or man-made features. Abutting parcel names and similar facts regarding abutting property shall be included.
- 9.2.2 Location, name and widths of existing and proposed streets, roads and rights-of-way (ROW's) with their grades and profiles and their centerlines.

- 9.2.3 The plan shall show the location of an emergency key box to be available to the police and fire department to insure access to all on-site facilities in the case of emergencies.
- 9.2.4 Locations of access to existing town roads, showing compliance with RSA 236:13, V; with copies of state permits for access attached; and in conformance with the requirements of Section 9.10.1 of these regulations.
- 9.2.5 Existing and proposed water mains, sewers, culverts, drains, and proposed connections or alternative means of providing water supply, and disposal of sewage and surface drainage. All utilities including telephone and electric shall be underground.
- 9.2.6 Where the topography is such as to make difficult the inclusion of any facilities mentioned in paragraph 9.2.1 above, within the public area so laid out, the plan shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than ten (10) feet in width and shall have satisfactory access to existing or proposed public ways(s).

### 9.3 Topographic Plan

The topographic plan of the proposed site shall be submitted which includes the information described below:

- 9.3.1 The general topography of the proposed site shall be shown by means of elevations of sufficient points on the property to establish and show contour lines at vertical increments of not more than two (2) feet for the entire area proposed to be developed.

### 9.4 Erosion and Sediment Control Plan

An erosion and sediment control plan, if required, shall be submitted as specified in Section 9.8 - (Erosion Control) of these regulations and all State requirements.

### 9.5 Septic System Siting Requirements

- 9.5.1 In no case shall the Planning Board grant final approval of a proposed site plan until all State and Federal approvals, if necessary, have been received: e.g.; NH Department of Environmental Services (DES) - Water Supply and Pollution Control Division Subdivision Approval; DES Subsurface Disposal; DES Site Specific; DES Wetlands Board - Dredge and Fill Permit; DES Water Supply Approval; and U.S. Army Corps of Engineers 404 Permit.
- 9.5.2 In areas served by individual on-site sewage disposal systems, it shall be incum-

bent upon the applicant or his agent to adequately demonstrate that the lots will meet all current state and local septic system disposal standards. No site plan of land will be approved which cannot meet these standards.

- 9.5.3 The applicant or his agent shall be required to submit all site information, including, but not limited to, percolation tests, test pits, soil, slope, and minimum distance data as may be required by the South Hampton Zoning Ordinance and Subdivision Regulations to determine the suitability of the lots(s) for on-site sewage disposal.
- 9.5.4 Where on-site disposal systems are proposed for the site, it shall be the responsibility of the developer to provide adequate information to prove that the area of subject site to review is adequate to permit the installation and operation of an individual sewage disposal system (septic tank and leach field, not a cesspool). Where such information is required it shall consist of a report showing the results of a series of percolation tests taken one to an acre in the site, and in no case less than 2 perc tests per site. The developer or his agent shall be required to provide the necessary equipment and labor for the making of these tests. Based on these tests the engineer shall locate the best position for each private sewer- age system and shall submit a typical design for each system done in accord- ance with applicable state and town regulations. Not less than two (2) test pits and at least one (1) percolation test shall be required within the four thousand (4,000) contiguous square feet of reserve area. Sewage systems shall be set back at least 100 feet from surface water. Where a group sewage disposal sys- tem, serving one or more lots or structures is proposed, the design and specifica- tions for same shall be submitted and shall have been certified to by a profes- sional engineer qualified and registered under applicable New Hampshire Stat- utes.

## 9.6 Legal Documents

Where applicable to a specific site, the following are required in a form approved by Town Counsel:

- 9.6.1 Agreements to convey to the Town land to be used for streets or other public purposes, with transfer of title.
- 9.6.2 Easements and rights-of-way over property to remain in private ownership, including drainage easements.
- 9.6.3 Performance security, as described in § 9.7.

## 9.7 Performance Security

- 9.7.1 Security shall be in a form and amount, and with surety, and other conditions all

satisfactory to the Board, to insure for the Town the construction and installation of any required improvements within a period of time not to exceed three (3) years. The time limit of three (3) years for completion from the date of final approval shall be expressed in the security. This time period for completion or act of posting security shall in no way affect, modify, or substitute for any definition for "active and substantial development" under § 6.1.14, above, or for any determination made in accordance with RSA 674:39. The security shall remain valid and available until drawn upon by the Town or released in accordance with §§ 9.7.4 & 9.7.5 below. Further to the above, the security shall be one of the following:

- 9.7.1.1 Certified check or bank check properly endorsed to the Town of South Hampton.
- 9.7.1.2 Irrevocable letter of credit submitted on the standard form approved by the Town. (If other than the Town's approved form, the performance agreement shall be reviewed and approved by the Planning Board and Town Counsel as to proper legal form and enforceability. The cost of this review shall be borne by the applicant.)
- 9.7.2 The applicant shall file with the Board a detailed estimate of all costs of required street improvements, drainage structures, utilities or other improvements. The Board may have the estimate reviewed by a professional consultant, if deemed necessary. The cost of this review shall be borne by the applicant. The Board, after considering the estimate, and other pertinent information, shall determine the amount of the performance security required.
- 9.7.3 The Board may further extend the time of three (3) years for completion when the reasons for delay were unforeseeable and beyond the reasonable control of the applicant. Any such extension shall be in writing and signed by a majority of the Board signifying their concurrence and shall only be granted after ensuring the validity and availability of the security for such extension. Any such extension shall be solely at the discretion of the Planning Board, furthermore, developments must be in full compliance with all applicable town ordinances and regulations at the time the extension is to be granted.
- 9.7.4 The performance security shall not be released until the Board has certified after inspection that the required improvements have been completed in accordance with the approved plan. A fee, payable by the applicant, may be charged to cover the cost of professional consultation selected by the Board to assist in determining completion of all required work to the construction standards of the Town. In accordance with RSA 674:36,III,(b), as phases or portions of the secured improvements or installations are completed and approved by the board or its designee, the municipality shall partially release said security to the extent reasonably calculated to reflect the value of such completed improvements or installa-

tions.

- 9.7.5 All security shall be held by the Treasurer of the Town and in accordance with RSA 673:16. The Treasurer shall not draw upon or release any security until he/she is in receipt of a resolution passed by a majority of the Planning Board stating the purpose and amount to be drawn or released. The Selectmen shall enforce such securities by all appropriate legal and equitable remedies.

## 9.8 Erosion and Sediment Control

- 9.8.1 General: The purpose of this regulation is to control soil erosion and sedimentation resulting from site construction and development. Subdivision and site plans shall include plans for controlling erosion and sedimentation as provided below.

- 9.8.2 Where Required: The applicant shall submit an erosion and sediment control plan to the Planning Board for any tract of land being developed or subdivided, where one or more of the following conditions are proposed:

9.8.2.1 A cumulative disturbed area exceeding 20,000 square feet.

9.8.2.2 Construction of a street or road.

9.8.2.3 Construction of three or more buildings or dwelling units.

9.8.2.4 Disturbed critical areas.

Standard agricultural and silvicultural practices are exempt from this regulation. The Planning Board may waive the requirement for all or part of an erosion and sediment control plan if it determines that a plan is unnecessary because of the size, character, or natural conditions of a site. All requests for waivers and action thereon shall be made in writing.

- 9.8.3 Design Standards: The following standards shall be applied in planning for erosion and sediment control:

9.8.3.1 All erosion and sediment control measures in the plan shall meet the design standards and specifications set forth in the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" as amended and adopted by the Rockingham County Conservation District.

9.8.3.2 Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation will be done in a manner that minimizes soil erosion.

- 9.8.3.3 Appropriate control measures shall be installed prior to removal of vegetation.
  - 9.8.3.4 The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.
  - 9.8.3.5 Measures shall be taken to control sediment and retain it within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Very poorly drained soils and water bodies shall be protected from sediment.
  - 9.8.3.6 Off-site surface water and runoff from undisturbed areas shall be carried non-erosively through the project area, or diverted away from disturbed areas where feasible.
  - 9.8.3.7 Naturally occurring streams, channels, and wetlands shall be used for conveyance of runoff leaving the project area.
  - 9.8.3.8 All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within 30 days.
- 9.8.4 Plan Requirements For Erosion And Sediment Control:
- 9.8.4.1 Preliminary Plan Requirements. A preliminary plan is optional. If submitted it shall include the following:
    - A. Site drawing of existing and proposed conditions:
      - (1) Locus map showing property boundaries
      - (2) North arrow, scale, date
      - (3) Property lines
      - (4) Easements
      - (5) Structures, utilities, roads and other paved areas
      - (6) Topographic contours
      - (7) Critical areas
      - (8) Waterways, bodies of water, drainage patterns, and watershed boundaries
      - (9) Vegetation
      - (10) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist
      - (11) Erosion and sediment control measures



(12) Areas of soil disturbance

- B. Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.

9.8.4.2 Final Plan Requirements for Erosion and Sediment Control. The Planning Board shall require each of the following in the final plan unless specifically waived:

- A. Site drawing of existing and proposed conditions
- (1) Locus map showing property boundaries
  - (2) North arrow, scale, date
  - (3) Property lines
  - (4) Structures, roads, utilities, earth stockpiles, equipment storage, and stump disposal
  - (5) Topographic contours at two-foot intervals
  - (6) Extent of 100-year flood plain boundaries if published or determined
  - (7) Soils information from a High Intensity Soil Map done by a Certified Soil Scientist.
  - (8) Easements
  - (9) Areas of soil disturbance
  - (10) Areas of cut and fill
  - (11) Areas of poorly and/or very poorly drained soils including any portion to be disturbed or filled
  - (12) Location of all structural and vegetative erosion and sedimentation control measures
  - (13) Identification of all permanent control measures
- B. Narrative section including:
- (1) Construction schedule
  - (2) Earth movement schedule
  - (3) Description of temporary and permanent vegetative measures including seeding specifications
  - (4) Description of all structural erosion and sedimentation control measures, with detailed drawings of each
  - (5) Design calculations for all temporary and permanent structural control measures
  - (6) A proposed schedule for the inspection and maintenance of all measures
  - (7) Identification of all permanent control measures and

- (8) responsibility for continued maintenance  
Calculations showing volume, peak discharge, and velocity of present and future runoff

- 9.8.5 Responsibility For Installation/Construction. The applicant shall bear final responsibility for the installation, construction, and disposition of all erosion and sediment control measures required by the provisions of this regulation. The planning Board may require a bond or other security in an amount and with surety conditions satisfactory to the Board, as described in Section 7.20 above. Site development shall not begin before the erosion and sediment control plan is approved. Erosion and sediment control measures shall be installed as scheduled in the approved plan.
- 9.8.6 Maintenance: The applicant shall maintain all soil erosion and sediment control measures, including devices and plantings as specified in the approved plan, in effective working condition. Responsibility for maintenance by subsequent owners of the property on which permanent measures have been installed shall be included in the deed and shall run with the land. This information shall also be incorporated on the plan. For improvements that require easements on property owned by another the easement must be recorded at the Rockingham County Registry of Deeds. If the owner fails to adequately maintain such measures, the town shall have the authority to perform required maintenance. The cost of such work shall be borne by the owner.
- 9.8.7 Plan Approval and Review: The Planning Board shall indicate its approval of the erosion and sediment control plan, as filed, if it complies with the requirements and objectives of this regulation. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant. Technical review of any erosion and sediment control plan prepared under this regulation shall be reviewed by the Town Engineer at the expense of the applicant, in accordance with these regulations and RSA 676:4.
- 9.8.8 Inspection. Inspection shall be made during development to ensure compliance with the approved plan and that control measures are properly installed or performed and maintained.
- 9.8.9 Other Required Permits. In addition to local approval, state approvals, including but not limited to the following, may be required:
  - 9.8.9.1 RSA 485-A: 17 requires a permit from the New Hampshire Water Supply and Pollution Control Division for "... any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural runoff..." Regulations require this permit for any project involving more than 100,000 contiguous square feet of disturbance or if such activity

occurs in or on the border of the surface waters of the state.

## 9.9 Traffic Impact Analysis

- 9.9.1 All commercial, industrial or residential development proposed to be located on or having an effect on a town-maintained (Class V) road or street shall be re- viewed by the Planning Board and/or the special Site Review Committee to as- certain that adequate provisions have been made by the owner or his/her agent for traffic safety. To facilitate this review, the Planning Board and/or the Special Site Review Committee may require the applicant to provide the Planning Board and/or the Special Site Review Committee with a traffic impact analysis when deemed necessary by the Board and/or the Special Site Review Committee due to the size, location, or traffic generating characteristics of the development.

Traffic impact analyses shall address each of the following:

- 9.9.1.1 Traffic circulation and access, including adequacy of adjacent streets and intersections, entrances and exits, traffic flow, sight dis- tances, curb cuts, turning lanes, and existing or recommended traf- fic signals and may require accident statistics.
- 9.9.1.2 Pedestrian safety and access.
- 9.9.1.3 Off-street parking and loading.
- 9.9.1.4 Emergency vehicle access.
- 9.9.1.5 Off site improvements necessitated and to be constructed by the applicant.
- 9.9.1.6 Any site specific issues as determined by the Planning Board.

- 9.9.2 The Planning Board may retain the services of a consultant qualified in traffic planning to review the traffic impact analysis and to ensure that adequate provi- sions are made in the development plan to reduce or eliminate those impacts.

## 9.10 Streets and Roads and Access

All public and private roads, streets, driveways, sidewalks, pedestrian ways and bikeways shall be submitted as specified in the Subdivision Regulations (Construction Requirements may be found at Addendum A of the South Hampton Subdivision Regulations).

- 9.10.1 Streets and access ways shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than 60 de- grees. Streets entering opposite sides of another street shall be laid out either

directly opposite each other or with a minimum offset of 125 feet between their center lines.

9.10.1.1 Adequate all-season safe site distance must be provided for all driveways, entrances and intersections onto town roads in accordance with the more restrictive of the current NH DOT standards as found in Tra 302 Driveway Permits, or as follows:

- (a) Driveway entrances onto town roads, with speed limits of 30 mph or less, shall have an all season safe site distance of 300' in each direction.
- (b) Driveway entrances onto town roads, with speed limits greater than 30 mph, shall have an all season safe sight distance of 400' in each direction.
- (c) Entrance roads to sites with more than one use or commercial structure onto town roads, regardless of speed limit, shall have an all season safe sight distance of 400' in each direction.

## 9.11 Parking

Parking shall comply with the Town of South Hampton Zoning Ordinance as it relates to parking requirements. In the absence of parking regulations, the following requirements shall apply:

- 9.11.1 Parking Space - defined as an off-street area for vehicular parking of approximately 9' wide by 20' long.
- 9.11.2 Professional, general office, retail or service uses -- at least one (1) parking space per 300 square feet of gross floor area.
- 9.11.3 Clubs, restaurants, churches, or places of assembly - one (1) parking space per three (3) person capacity.
- 9.11.4 Wholesale and distribution, warehousing and storage, and other enclosed storage uses, manufacturing, light industrial and industrial uses - one (1) parking space per 750 square feet of gross floor area or one (1) parking space per employee on the maximum shift, whichever is greater.

Where a use is not specified re: above, the regulation's intent is that adequate parking spaces shall be provided for the vehicles of all persons likely to be gathered at the premises at one (1) time.

All parking spaces must be on site or assured of perpetual existence by easement.

In site plans of more than one (1) use, the aggregate number of parking spaces shall be apportioned based upon the various uses, with respective areas designated upon the plan.

For handicapped parking requirements, "The Architectural Barrier Free Design Code for the State of New Hampshire - Section 304", as amended, are incorporated by reference herein.

#### 9.12 Signs

For specific sign requirements, please refer to the Town of South Hampton Zoning Ordinance.

#### 9.13 Noise

In accordance with applicable section of zoning ordinance for the Town of South Hampton, the following standards shall apply for the purpose of regulating noise levels within the Town:

##### 9.13.1 General Noise Provisions

- 9.13.1.1 It shall be unlawful for the owner, occupant and/or any person causing or permitting sound or noise to project within the boundary of a use district which exceeds the limiting noise level set forth in Table 1 below.
- 9.13.1.2 Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the noise limits at any point of the district into which the noise is projected.
- 9.13.1.3 The issuance of a building permit shall carry an automatic increase in the noise limit to seventy-five (75) DBA for all activities directly involved with the permitted construction for the hours between 7:00 a.m. and 8:00 p.m. The noise limits for the hours between 8:00 p.m. and 7:00 a.m. shall remain as specified in Table 1 below, unless otherwise specified in the site plan.

##### 9.13.2 Measurement of Noise.

- 9.13.2.1 The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American Na-

tional Standards Institute.

- 9.13.2.2 The appropriate methodology shall be used in conjunction with a meter in order to best determine that the maximum permissible sound pressure levels for use districts has not exceeded the limiting noise level set forth in Table 1.
- 9.13.2.3 Measurement of sound levels shall be made at the property line of the property on which such noise is generated or perceived, as appropriate, and shall be taken at least four feet from ground level.
- 9.13.2.4 Compliance with the noise limits is to be maintained at the boundary of the property.
- 9.13.2.5 Daytime hours shall be between 7:00 a.m. and 8:00 p.m. Night- time hours shall be between 8:00 p.m. and 7:00 a.m.

**TABLE 1**  
**MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS FOR USE DISTRICTS**  
**(Sound Pressure Level Limits Measured in dB(A)s)**

	<u><b>DAYTIME</b></u>	<u><b>NIGHTTIME</b></u>
Commercial/Industrial Zones		
Industrial Uses	70	65
Commercial Uses	65	55
(Includes professional office structures)		
Residential Uses	60	50
(Includes multi-family structures)		

**9.14 Buffer Zones/Landscaping**

9.14.1 Each site plan proposed shall include appropriate buffer areas.

- 1) These buffer zones shall not be less than twenty-five (25) feet when separating two commercial lots and shall not be less than fifty (50) feet when separating a commercial lot from a residential lot.
- 2) The buffer shall be planted with a screen of shrubbery and trees not less than six (6) feet in height at the time of planting.
- 3) The screen shall be at least fifteen (15) feet in width and shall be main-

tained suitably by the owner.

- 4) In order to maintain a dense screen year-round, at least fifty (50) percent of the plantings shall consist of evergreens. Existing natural growth may be considered as part of the screen.
- 5) No parking shall be located within any part of the buffer zone.
- 6) Only an access road where required for access to another portion of the lot and approved in location may encroach upon said buffer.
- 7) Screening within the one hundred and twenty-five (125) foot yard setback from the edge of the pavement of the abutting right-of-way shall consist of either plantings as described above or suitable fencing materials.

#### 9.15 Protection of Natural and Historic Features

- 9.15.1 Each significant natural feature within the site including large or unusual trees, watercourses, natural stone outcroppings, and other scenic features shall be shown on the plan. Planning Board and/or Special Site Review Committee approval shall be obtained before removal of such features.
- 9.15.2 Each existing building or manmade structure, including stone fences, shall be shown on the plan and reviewed with the Planning Board and/or Special Site Review Committee for historic significance. Such features will not be destroyed or removed without Planning Board and/or Special Site Review Committee approval.

### **SECTION X. ADMINISTRATION AND ENFORCEMENT**

#### 10.1 General

- 10.1.1 These Regulations shall be administered by the Planning Board with the assistance of the Building Inspector, Town Engineer, Planning Board Agent and such other persons as the Board shall designate. It shall be the duty of the Board of Selectmen to enforce the Subdivision Regulations. The Selectmen in enforcing these Regulations shall act upon complaints from the public or information from the Planning Board, Building Inspector, Town Engineer, Planning Board Agent or others, and shall, whenever practicable, take such action as is necessary.
- 10.1.2 Agents designated by the Board of Selectmen, Building Inspector, Town Road

Agent or Town Engineer shall be charged with the responsibility of inspecting improvements and development on sites for compliance with these Regulations.

- 10.2 Appeals. Any person aggrieved by any decision of the Planning Board concerning a plan or subdivision may appeal said decision to the ZBA in accordance with RSA 676:5, II, or the Superior Court, as provided by RSA 677:15, as appropriate.
- 10.3 Amendments. The Planning Board may from time to time amend these regulations. Amendments to the Subdivision Regulations shall include the following steps:
  - 10.3.1 The Board shall hold at least one (1) public hearing on the proposed regulations and/or amendments.
  - 10.3.2 Notice for time, place and date of any hearing to amend shall be given at least ten (10) calendar days before hearing, not including day of posting or day of hearing. Notice of hearing shall be published in a paper of general circulation in Town and posted in two (2) public places. Notice shall include an adequate statement describing the proposal and the place where a full text of proposal is on file for public inspection. Posting shall include a copy of the full text.
  - 10.3.3 The Planning Board may adopt the amendments upon completion of the public hearing by an affirmative vote of a majority of its members.
  - 10.3.4 Regulations and/or amendments adopted shall be legal and have full force and effect when copies are certified by a majority of the Planning Board members and filed with the Town Clerk and the Board of Selectmen. A copy of the regulations and/or amendments shall be forwarded to the Office of State Planning.
- 10.4 Fines and Penalties. Any violation of these regulations shall be punishable as per RSA 676:17, 17-a, and 17-b, as the Board of Selectmen shall elect. The Planning Board shall also have the authority to seek injunctive relief pursuant to RSA 676:15.
- 10.5 Waiver Procedure
  - 10.5.1 When a proposed subdivision plan is submitted for approval, the applicant may request in writing to waive specific requirements of these Regulations as they pertain to the specific plan. The applicant shall present reasons, in writing, why the waiver is needed.
  - 10.5.2 The Planning Board may grant a waiver in a special case, so that justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purposes of these Regulations; and further provided that the Planning Board shall not approve waivers unless it shall make



written findings based upon the evidence presented to it in each specific case. Such waivers will be entertained and acted upon by the Planning Board only at a properly noticed public hearing.

## **SECTION 2**

### **SITE PLAN REVIEW REGULATIONS**

#### **EXCAVATION REGULATIONS**

Approved January 1991

**SOUTH HAMPTON  
NEW HAMPSHIRE**

# **EXCAVATION REGULATIONS**

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**EXCAVATION**  
**(Adopted January 1991)**

1. Authority and General Purpose

Effective August 24, 1979, the New Hampshire legislature created RSA 155-E to establish standards for municipalities to regulate commercial excavations. Effective August 4, 1989, the New Hampshire legislature amended RSA 155-E.

The preamble to the 1989 legislation states that "comprehensive and extensive local regulation of excavation of rock, sand and gravel for the production of construction materials is in the best interests of the citizens and taxpayers of New Hampshire," except "where state regulations apply or where sites are exempt or excepted by RSA 155-E."

In particular, RSA 155-E:11 authorizes planning boards to adopt such regulations as may be reasonably necessary to carry out the provisions of RSA 155-E. Pursuant to this enabling legislation, the South Hampton Planning Board has adopted these regulations to protect water resources; to prevent water and land pollution; to preserve soil, water, forests, wildlife and other natural assets; to maintain aesthetic features of the environment; to promote soil stabilization; to minimize safety hazards created by open excavations; and to otherwise safeguard the public health and welfare.

2. Definitions

- 2.1 Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. [RSA 672:3]
- 2.2 Commercial: Any use of any earth material for sale or resale on or off site of the excavation area. In addition, an excavation shall be considered commercial if earth materials are transported to other land whose ownership is different than the ownership of the land from which the earth was excavated. Excavations, which use earth materials in the processing of other material such as, but not limited to, concrete, asphalt and other building materials, shall be considered commercial.
- 2.3 Dimension stone: Rock that is cut, shaped, or selected for use in blocks, slabs, sheets, or other construction units of specified shaped or sizes and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. [RSA 155-E:1(IV)] Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth as defined in Section B-5 of Definitions.
- 2.4 Earth: Sand, gravel, rock, soil, or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally make the bedrock. [RSA 155-E:1(I)].
- 2.5 Excavation: A land area which is used, or has been used, for commercial taking of earth, including all slopes. [RSA 155-E: 1(II)]

- 2.6     Excavation Site: Any area of contiguous land in common ownership upon which excavation takes place. [RSA 155-E:1(V)]

3.     Permit Required

No owner shall permit any excavation of each on his premises without first obtaining a permit from the Planning Board. [RSA 152-E:2]

- 3.1     Permit Exempted Excavations: The permit requirement does not apply to certain excavations. These exempted excavations are described in Section K. Even though no permit is required for these excavations, they must generally still comply with the operational and reclamation standards of these regulations.

3.2     Grand fathered Excavations:

- 3.2.1   The owner of a grand fathered excavation described in Section K-2(a) must obtain a permit to expand the excavation beyond the area delineated in Section K-2(a)(1).
- 3.2.2   The permit requirement applies to the entire area of an abandoned grand fathered excavations described in Section M.

4.     Performance Guarantees

If the Planning Board approves an excavation permit application, it will issue the permit only after the owner furnishes the Planning Board with an irrevocable letter of credit or other security. The Planning Board shall require the letter of credit or other security to be in an amount sufficient to guarantee the owner complies with the permit. [RSA 155-E:8] The letter of credit shall be for a reasonable time period determined by the Planning Board.

A completed letter of credit in the form shown in Appendix B must be submitted before the Planning Board will grant a permit.

5.     Permit Application

5.1     Information:

- 5.1.1   Original Application: An owner applying for a permit shall sign, date and complete the Excavation Application Form in Appendix A. [RSA 155-E:3]
- 5.1.2   Renewal Application: An application for permit renewal must be submitted to the Planning Board by the owner if excavation is to be continued beyond the termination date of the original permit. The renewal application must identify and update all information contained in the original application that no longer is effective for the renewal period.

5.2 Fees:

- 5.2.1 Permit Fee: The Planning Board shall assess an owner a \$50 fee for permit application review. [RSA 155-E:8 & 11(I)]
- 5.2.2 Rockingham County Conservation District Fees: The Planning Board will hire the Rockingham County Soil conservation District to review the permit application. The owner shall be responsible for the Soil Conservation District's review fee. The Planning Board will assess the review fee. The owner must pay the fee to the Planning Board before the Planning Board issues the permit. [RSA 676:4(I)(g)]
- 5.2.3 Other Consulting Fees: The Planning Board will assess an owner in advance, or in arrears, for the fees charged by the Planning Board's consultants, engineers, or other agents to review the permit application and to conduct inspections at the excavation site to ensure compliance with the approved excavation and reclamation plans. [RSA 676:4(I)(g)]
- 5.2.4 Town Counsel Fees: The owner shall pay for Town Counsel to review the owner's letter of credit or other security offered to guarantee performance.

6. Hearing

- 6.1 Deadline: Before approving an excavation permit application, or an amended excavation permit application, the Planning Board will hold a public hearing within 30 days after receiving the application. [RSA 155-E:7]
- 6.2 Notice: The Planning Board will prepare a notice of the hearing specifying the date, time, place, and grounds for the hearing. At least 14 days before the hearing, the Planning Board will send the notice to all abutters, post the notice in at least two public places in the town, and publish the notice in a newspaper of general circulation in the town. The 14 days shall not include the day of the hearing nor the day the notice is mailed, posted or published, but shall include any Saturdays, Sundays and legal holidays.
- 6.3 Written decision: Within 20 days after the hearing, including hearing continuations, the Planning Board shall issue a written decision approving or disapproving the application. A disapproval will state the reasons for the decision.

7. Waivers

After a hearing, the Planning Board may grant a waiver in writing from the operational and reclamation standards contained in these regulations for good cause shown. [RSA 155-E:5-b] The written decision shall state specifically what standards, if any, are being relaxed and include reasonable alternative conditions.

8. Issuance of Permit

- 8.1 Conditions: The Planning Board may include in a permit such reasonable conditions as are consistent with the purpose of these regulations including the provision of visual barriers to the excavation. [RSA 155-E:8]
- 8.1.1 Minimum Conditions: At a minimum, an owner's permit will be condition upon the owner and excavator complying with the maximum depth, operational, reclamation, and additional standards of these regulations, except those standards waived by the Planning Board.
- 8.1.2 Hauling Conditions: The Planning Board may impose conditions upon the excavators hauling operations, depending on the surrounding land uses and road conditions. The Planning Board may contract for a traffic study at the owner's expense to enable the Planning Board to consider public safety, neighborhood compatibility, and road capacity and condition in assessing the hauling plan. [RSA 676:4(l)(g)]
- 8.2 Duration: Unless the Planning Board specifically decides otherwise, the permit shall be valid for a period of one (1) year from the date of issuance. A permit shall not be assigned or transferable without the prior written consent of the Planning Board.
- 8.3 Posting: A copy of the permit shall be prominently posted at the excavation site and the principal access thereto.

9. Appeal

- 9.1 Rehearing request: Within 10 days after the Planning Board's decision to disapprove or approve an excavation permit application, or an amended permit application, any interested person affected by the decision may request a rehearing. [RSA 155-E:9] The request shall be in writing and fully specify every ground upon which it is alleged that the decision is unlawful or unreasonable.
- 9.2 Rehearing decision: Within 10 days after the request for rehearing, the Planning Board shall either grant or deny the request. If the Planning Board grants the request, it will schedule a rehearing within 30 days from its decision to grant the rehearing request.
- 9.3 Appeal: Any interested person affected by the Planning Board's decision not to hold a rehearing, or the Planning Board's decision after the rehearing, may appeal to the superior court, in accordance with the procedures specified in RSA 677:4 within 30 days after the Planning Board records its decision.

10. Enforcement

- 10.1 Inspection: To determine if an owner is complying with these regulations, or any permit issued under these regulations, the Planning Board, or its duly authorized agent(s), may

enter upon any land on which there is reason to believe an excavation is being conducted or has been conducted since August 24, 1979. [RSA 155-E:10(III)]

The Planning Board or its duly authorized agent(s) will conduct site inspections to verify compliance on an annual basis unless a more frequent site visitation is necessary due to special characteristics of the excavation or restoration plans.

- 10.2 Failure to Obtain Permit: Any owner who allows excavation on his land without a permit violates these regulations unless the owner is exempted from the permit requirement under **Section 13**.
- 10.3 Fines and Penalties: Fines, penalties and remedies for violations of these regulations shall be the same as for violations of RSA 676:15 (e.g., injunctive relief) and RSA 676:17 (misdemeanor conviction and \$100 per day civil penalty). [RSA 155-E:10(II)]
- 10.4 Permit Revocation or Suspension:
- 10.4.1 Misstatement and violations: The Planning Board, or its duly authorized agent, may revoke or suspend an owner's permit if a material misstatement is made in the owner's application for the permit or if any person has violated any provision of the owner's permit or these regulations. [RSA 155-E: 10(I)]. The owner may request a rehearing on the suspension or revocation pursuant to Section G.
- 10.4.2 Automatic revocation: An owner's permit to excavate is automatically revoked if no substantial work is done on the site during the duration of the permit. In addition, the owner must reclaim those areas worked during the duration of the permit.
- 10.5 Performance Guarantee Collection: An owner or excavator shall not be released from its letter of credit or other security until the Planning Board certifies compliance with all reclamation standards and, if applicable, the terms of the excavation plan and the reclamation plan for excavations subject to a permit. The Planning Board or its designee can periodically inspect the excavation site to ensure the owner has complied with the reclamation standards and, if applicable, excavation plan and reclamation plan. If the owner or excavator does not reclaim the excavation site within 12 months after:
- 10.5.1 the completion of any excavation (whether or not a permit was required); or
- 10.5.2 if sooner, the expiration of a permit;
- the Planning Board may call the letter of credit, and use the monies to reclaim the site.
- 10.6 Conflict with other regulations: Where these regulations are in conflict with other ordinances or regulations, the more stringent shall apply.

## 11. Application for Amendment

When any person proposes to alter the size or location of the excavation, the rate of removal or the plan for reclamation, the owner shall submit an application to amend his excavation permit. [RSA 155-E:6]



The Planning Board will process the amended application in the same manner as an original application for an excavation permit. The Planning Board may approve an application for amended permit to increase the size of an excavation only if at least one-half of the area covered by the original permit is reclaimed in accordance with the Reclamation Plan the Planning Board approved in granting the original permit.

## 12. Prohibited Excavations

The Planning Board shall not grant a permit for an excavation that would:

- 12.1 Violate the maximum depth, operational, reclamation and additional standards of these regulations. [RSA 155-E:4(I) & (VIII)]
- 12.2 Be within 50 feet of the boundary of an abutter unless the Planning Board specifically authorizes approval of a lesser distance. [RSA 155-E:4(II)]
- 12.3 Be below road level within 50 feet of any highway right-of-way unless the excavation is for the purpose of said highway. [RSA 155-E:4-a(I)]
- 12.4 Fail to maintain or provide vegetation within the 50 feet and 150 feet buffer areas described in Sections J-2, J-3, M-7, and O-2. [RSA 155-E:4-a(III)]
- 12.5 Remove any existing visual barriers, except to provide access to the excavation. [RSA 155-E:4(V)]
- 12.6 Violate any zoning or other applicable ordinances. [TSA 155-E:4(III)]
- 12.7 Be unduly hazardous or injurious to the public welfare, or would unduly endanger the safety of highway uses or local residents. [RSA 155-E:4(IV) or (III)(b)]
- 12.8 Substantially damage a known aquifer, so designated by the United States Geological Survey. [RSA 155-E:4(VI)] The Board shall determine whether or not substantial damage to the aquifer will occur by considering the following criteria:
  - 12.8.1 Whether the excavation will detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long term susceptibility of the aquifer to potential pollutants.
  - 12.8.2 Whether the excavation will cause a significant reduction in the long term volume of water contained in the aquifer or in the storage capacity of the aquifer.
  - 12.8.3 The Board may require that the excavator provide reports prepared by a professional engineer or groundwater consultant which assess the potential aquifer damage caused by the proposed excavation project.

## 13. Permit Exempted Excavations

This section describes excavations that require no permit. Some of these excavations also need not comply with the operational and reclamation standards of these regulations. However, many of the excavations described in this section must comply with the operational and reclamation standards, even though no permit is required.

13.1 Operational or Reclamation Compliance Not Required: Neither operational nor reclamation compliance is required for the following types of excavations:

- 13.1.1 Building, parking lots, and driveways: An excavation that is exclusively incidental to the lawful construction or alteration of:
- a building or structure, or
  - parking lot or way including a driveway on a portion of the premises where removal occurs.

However, these excavations cannot be started until all required state and local permits necessary for the construction or alteration of the building, structure, parking lot, or way have been issued. [RSA 155-E:2-a(I)(a)]

- 13.1.2 Agriculture and normal landscaping: An excavation that is incidental to agricultural or silvicultural activities, normal landscaping or minor topographical adjustment. [RSA 155-E:2-a(I)(b)]

- 13.1.3 Dimension stone: An excavation from a granite quarry for the purpose of producing dimension stone, if the excavation requires a permit under RSA 12-E. [RSA 155-E:2-a(I)(c)]

- 13.1.4 Eminent domain: A person owning land abutting a site which was taken by eminent domain or by any other governmental taking upon which construction is taking place may stockpile earth taken from the construction site and may remove the earth at a later date after written notification to the Planning Board. [RSA 155-E:2(II)]

- 13.1.5 Excavation Abandoned Before August 24, 1979: An excavation that was abandoned on or before August 24, 1979, and has not been used after August 24, 1979.

13.2 Operational and Reclamation Compliance Required: The following types of excavations must comply with the operational and reclamation standards of these regulations, even though no permit is required. [RSA 155-E:2(I)(c) and RSA 155-E:2(IV)(b)]

- 13.2.1 Grandfathered Excavations: An excavation which lawfully existed and was in use on or before August 24, 1979, and is excavated after August 24, 1979, provided that:

- 13.2.1.1 Before August 4, 1991, the owners or excavators of the excavation site file a report of an existing excavation with the Planning Board containing the following information:

- a. the location of the excavation with tax map and lot number;
- b. the date the excavation first began;
- c. a description of the permissible limits of expansion as described in Section K-2(a)(2);
- d. an estimate of the area which has been excavated to date;
- e. an estimate of the amount of commercially-viable earth materials still available on the parcel; [RSA 155-E:2(I)(d)]

13.2.1.2 The excavation site is not expanded beyond the land that

- a. has been continuous to, and in common ownership with, the excavation site since August 24, 1979, and
- b. has been appraised and inventoried as part of the same tract as the excavation site for property tax purposes; [RSA 155-E:2(I)(b)]

13.2.1.3 At the time the excavation was first begun, it was in compliance with any local ordinances that may have been in effect. [RSA 155-E:2(I)(a)]

13.2.2 Public Highway Excavations: An excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a class I, II, III, IV, or V highway or an agent of the unit of government which has a contract for the construction, reconstruction, or maintenance of the highway, provided that:

13.2.2.1 A copy of the pit agreement executed by the owner, the agent and the governmental unit shall be filed with the Planning Board before the excavation starts. In addition, a plan must be filed with the Planning Board which identifies and limits the permit exemption to only that portion of the pit that is necessary for the public highway project. Failure to file a copy of the pit agreement or the plan with the municipality or to comply with the terms of the agreement constitutes a violation enforceable under the provisions of these regulations. [RSA 155-E:2(IV)(a)]

13.2.2.2 A public highway excavation must comply not only with the operational and reclamation standards of these regulations, but with any other land use regulation of South Hampton. [RSA 155-E(IV)(b)]

13.2.2.3 The New Hampshire Department of Transportation or its agent may apply to the appeals board created under RSA 21-L to be exempted from the provisions of local land use regulations. The appeals process includes a formal public hearing in the affected municipality as set forth in RSA 155-E:2(IV)(c).

14. Maximum Depth Standards

The maximum depth of excavation shall be at least four feet above the seasonal high water table existing at the location in question before commencement of excavation. The owner applying for a permit shall derive the water table information from test pits. The Planning Board, or its designee, must verify the test pit water table information. The Planning Board shall grant an exception for excavations which propose to dig within the four feet above seasonal high water table, provided the following conditions are met:

- 14.1 The owner provides a plan which depicts the proposed depth of excavation and its relation to the seasonal high water table.
- 14.2 The owner demonstrates that the proposed excavation will not adversely affect water quality by directly contributing pollution, or by increasing the long-term susceptibility of groundwater or surface water to potential pollutants.
- 14.3 The owner provides an enforceable restriction (e.g., covenant or easement) prohibiting any further on-site subsurface sewage disposal or any other use which could contaminate groundwater.
- 14.4 Where an excavation will create temporary or permanent standing water, the owner will provide adequate safety measures (e.g., grading perimeter slopes, fencing, etc.) as may be required by the Planning Board.

When the Planning Board grants an exception to the maximum depth of excavation requirements, the owner shall record a written notice of the exception in the Rockingham County Registry of Deeds, and file one copy with the Division of Water Supply and Pollution Control, Department of Environmental Services. [RSA 155-E:11(II)]

15. Operational Standards

Excavators shall comply with the following operational standards, whether or not the owner had to obtain a permit for the excavation:

- 15.1 Before removing topsoil or other material from a new excavation area, the excavator shall furnish the Planning Board with an irrevocable letter of credit or other security in an amount sufficient to cover the cost of reclaiming the excavation site. The Planning Board shall determine the amount of the letter of credit or other security. [RSA 155-E:4-a(VII)] The amount of the letter of credit or other security shall be based on the acreage of the excavation project and the estimated per acre reclamation costs. The Planning Board will release the letter of credit or other security when the excavator has completed the reclamation work and the Planning Board is satisfied with the reclamation work after it or its designee has inspected the excavation site.
- 15.2 The excavator shall reclaim in accordance with the reclamation standards any excavated area of 5 contiguous acres or more:
  - 15.2.1 which is depleted of commercial earth materials, or

15.2.2 from which no earth materials have been removed for a two-year period,

within one year following the depletion or two years of non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership. [RSA 155-E:5-a]

- 15.3 Excavation practices, which result in siltation in streams or degradation of any water supplies, are prohibited. [RSA 155-E:4-a(IV)]
- 15.4 Drainage shall be maintained so as to prevent the accumulation of free-standing water for prolonged periods. [RSA 155-E:4-a(IV)]
- 15.5 No fuels, lubricants or other toxic or polluting chemicals shall be stored on-site unless in compliance with State laws or rules pertaining to such materials. [RSA 155-E:4-a(V)]
- 15.6 Where the depth of excavation will exceed 15 feet or temporary slopes will exceed 1:1 in grade, a fence or other suitable barricade shall be erected to warn of danger and/or limit access to the site. [RSA 155-E:4-a(VI)]
- 15.7 An excavator cannot excavate within 50 feet of an abutter's boundary or within 150 feet of an existing dwelling, or a dwelling for which a building permit has been issued at the time the excavation is begun. [RSA 155-E:4-a(II)]

## 16. Reclamation Standards

Within 12 months after:

- the completion of any excavation (whether or not a permit was required) or
- if sooner, the expiration date of a permit the owner of the excavated land shall have completed the reclamation of the areas affected by the excavation to meet each of the following minimum conditions. The owner shall:

- 16.1 Eliminate any standing bodies of water created in the excavation project that the Planning Board decides is a hazard to health and safety. [RSA 155-E:5(IV)]
- 16.2 Leave the topography of the land so that water draining from the site leaves the property at the original, natural drainage points and in the natural proportions of flow. For excavation projects which require a permit from the Division of Water Supply and Pollution Control pursuant to RSA 485-A: 17, that statute, and rules adopted under it, shall supersede this paragraph. The excavator shall file a copy of permits issued under RSA 485-A: 17 with the Planning Board. [RSA 155-E: 5(V)]
- 16.3 Leave no slope in soil material steeper than 3:1 (three horizontal feet for each one foot of vertical drop) unless the owner can demonstrate that a steeper grade can be adequately vegetated and stabilized. In no case shall a soil material slope be left steeper than 2:1. Changes in slope shall not be abrupt, but shall blend with the surrounding terrain. [RSA 155-E: 5(III)]
- 16.4 Bury, remove or otherwise lawfully dispose of earth and vegetative debris resulting from

the excavation. [RSA 155-E: 5(II)]

- 16.5 Plant all areas, except for exposed rock ledge, which have been affected by the excavation or otherwise stripped of vegetation with seedlings or grass suitable to prevent erosion. Areas visible from a public way, from which trees have been removed, shall be replanted with tree seedlings, set out in accordance with acceptable horticultural practices to the satisfaction of the Planning Board. [RSA 155-E:5(I)]

## 17. Additional Standards

Owners and excavators shall comply with the following additional standards:

- 17.1 Start-up time for all machinery associated with a gravel or sand pit shall be no earlier than seven (7:00) a.m. and all machinery must be shut down by five (5:00) p.m. These operating hours shall be for Monday through Saturday. No operation will take place on Sundays, and on both State and Federal holidays. Hours of operation other than those stipulated may be allowed if specifically authorized by the Planning Board.
- 17.2 No excavation shall be within 50 feet of poorly drained and 100 feet from any other wetlands as defined in the Town's Zoning Ordinance.
- 17.3 No excavation shall be permitted to close to the seasonal high water table or to bedrock (as indicated by the required borings or test pits) as would preclude the subsequent re-use of the site in accordance with existing public health standards, local zoning, and local master plan.
- 17.4 The applicable state statutes and regulations pertaining to forest practice and timber harvesting shall apply to the removal of vegetative cover at excavation sites.
- 17.5 Topsoil shall be stripped from the excavation area and stockpiled for use in subsequent reclamation of the site. It shall be protected from erosion (e.g., by seeding covering, or other acceptable practices).
- 17.6 No excavation can exceed more than five (5) acres at one time unless specifically authorized by the Planning Board. In addition, the size of any permitted excavation shall not exceed that area which can be excavated and reclaimed within one year after the permit expiration date.
- 17.7 Access roads leading to the excavation site shall intersect existing streets and roads at locations that have been duly approved by state or local officials and in a manner that will not endanger the safety of highway users and local residents. The provisions of RSA 249:17-18 ("Highway Access") shall be adhered to by the excavator.
- 17.8 Permit approval shall be conditioned on compliance by the owner with street and highway regulations promulgated by federal, state and local units.
- 17.9 All vehicles transporting excavated material shall utilize adequate covering and/or sideboards to prevent dust and spillage when loaded.

- 17.10 The owner shall be responsible for a proportionate share of refurbishing existing Town road(s) which access the excavation site, and for the repair of Town maintained roads which are damaged as a result of hauling earth from the site. The Planning Board may require the owner to furnish an irrevocable letter of credit in an amount to cover the cost of refurbishing the roads before granting a permit to excavate.
- 17.11 Appropriate erosion, sedimentation, air and water quality measures shall be integrated into the excavation process.
- 17.12 The Planning board shall have the authority to require screening (e.g., vegetation or fencing) where necessary.
- 17.13 The excavation site cannot be used for disposing any waste material, including solid and/or hazardous waste, septage, dredge spoils, or organic waste and debris.
- 17.14 All temporary structures required during excavation operations shall be removed from the site within 30 days after the operations ceases.
- 17.15 The owner or excavator must cover all areas, except for exposed rock ledge, which have been affected by the excavation or otherwise stripped of vegetation with topsoil, if any, but at least with soil capable of sustaining vegetation.
- 17.16 The owner or excavator must spread topsoil over the disturbed area to a depth to allow and maintain vegetation. Areas posing the most critical problems for re-vegetation shall be given first priority should available topsoil be limited. The disturbed area(s) shall be fertilized, if necessary, and seeded with a grass or grass-legume mixture.
- 17.17 The owner or excavator must plant suitable trees or shrubs to provide screening and natural beauty and to aid in erosion control, if deemed necessary by the Planning Board. The planted areas shall be protected from erosion during an appropriate establishment period by mulch and structural erosion control devices.
- 17.18 The owner or excavator must blend the restored landscape with the character of the surrounding natural features.
- 17.19 The owner or excavator must restore site in a condition that will not preclude its future use in a manner consistent with the zoning ordinance and map.

18. Abandoned Grand fathered Excavations

- 18.1 Permit Required: After a grand fathered excavation site has been abandoned, the owner of the site shall not permit any additional excavation without first obtaining a permit from the Planning Board and complying with any other South Hampton land use regulation. [RSA 155-E:2(II)]
- 18.2 Reclamation of Abandoned Grand fathered Excavation: the Planning Board can order the owner of an abandoned grand fathered excavation to reclaim the site after notice and a hearing. [RSA 155-E: 2(II)(b)]

18.2.1 Notice: The Planning Board will prepare a notice of a hearing specifying the

date, time, place, and grounds for the hearing. At least 14 days before the hearing, the Planning Board will send the notice to all abutters, post the notice in at least three public places in the town, and publish the notice in a newspaper of general circulation in the town. The 14 days shall not include the day of the hearing nor the day the notice is mailed, posted or published, but shall include any Saturdays, Sundays and legal holidays.

18.2.2 Hearing: At the hearing, the Planning Board can determine whether the public health, safety, or welfare requires an abandoned grand fathered excavation site to be reclaimed.

18.2.3 Reclamation Order: If the Planning Board finds the public health, safety, or welfare requires reclamation, the Planning Board may order the owner of the land containing the abandoned grand fathered excavation to either:

- file a reclamation time table and irrevocable letter of credit, or
- to complete reclamation in accordance with the reclamation standards of these regulations within a reasonable period time stated in the reclamation order.

18.2.4 Failure to Reclaim: If the owner fails to reclaim the excavation site within the time period stated in the reclamation order, the Planning Board may request the town meeting to authorize the reclamation at the town's expense. The town's costs shall constitute an assessment against the owner, and shall create a lien against the real estate on which the excavation is located. The town may enforce can collect the assessment and lien in the same manner as provided for real estate taxes.

18.3 Abandoned Defined: A grand fathered excavation site shall be deemed abandoned if excavation occurred on the site after August 24, 1979, and anyone of the following conditions exists:

18.3.1 Failed to File Report: Before August 4, 1991, the owner or excavator of the excavation has neither:

- filed a report of an existing excavation, nor
- obtain a permit pursuant to these regulations.  
[RSA 155-E:2(a)(3)]

18.3.2 Failed to Incrementally Reclaim: Before August 4, 1992, the owner or excavator has not:

- brought the affected area into compliance with the reclamation requirements in Section 15.2, or
- furnished a letter of credit in an amount sufficient to reclaim the entire site in accordance with the reclamation standards of these regulations.



[RSA 155-E:2(a)(2)]

18.3.3 Failed to Excavate: During any three (3) year period, no earth material has been removed from the excavation site.

The Planning Board may extend the 3-year period if the owner/excavator:

- submits an acceptable timetable for reclamation to the Planning Board, and
- furnishes a letter of credit or other security in an amount sufficient to guarantee the reclamation of the entire site in accordance with the reclamation standards of these regulations. [RSA 155-E:2(a)(1)]