

## **COMMUNITY PLANNING ORDINANCE, STODDARD, N. H.**

As amended, 1988, 1989, 1990, 1993, 1995, 1996, 1999, 2002, 2003, 2010, 2011, 2014, 2018

### **ARTICLE I - Purpose and Authority**

For the purpose of promoting the health, safety and general welfare of the Town of Stoddard; to protect the value of property, and to preserve the rural character of the Town, the following ordinance is hereby enacted by the voters of the Town of Stoddard, pursuant to the authority conferred by relevant provisions of RSA 672-677.

### **ARTICLE II - Community Planning Ordinance**

The Town of Stoddard is hereby divided into the following districts as shown on the Community Planning Map of Stoddard, N. H. The original map is filed in the office of the Town Clerk.

1. Residential Districts: The two residential districts include the areas commonly known as Stoddard Center, Mill Village and South Stoddard. Both districts include land within three hundred (300) feet of the public road measured perpendicularly from the center of the public road.

A. Residential District One begins at the intersection of Route 123 and Center Pond Road and extends along both sides of the road to a point, six hundred (600) feet south of the intersection of Route 123 and Shedd Hill Road and includes:

- a. Along both sides of the road from the intersection of Route 123 to the Elementary School.
- b. Along both sides of Mt. Stoddard Road a distance of one thousand two hundred-ninety (1,290) feet from the intersection with Route 123.
- c. Along both sides of King's Highway a distance of one thousand-three hundred-fifty (1,350) feet from the intersection with Route 123.
- d. Along both sides of Old Forest Road a distance of five hundred (500) feet from the intersection with Route 123.
- e. Along both sides of the road from the center of the bridge nine-hundred fifty (950) feet east on the Old Antrim Road, and from the center of the bridge two thousand-two hundred (2,200) feet north along Shedd Hill Road.

B. Residential District Two extends along both sides of Route 123 from Route 9 fifteen hundred (1,500) feet south.

2. Lakeside: This district will include land surrounding Highland Lake, Granite Lake and Island Pond to a distance of five hundred (500) feet measured from the normal lake level as maintained by existing dams at the effective date of this ordinance except for land otherwise included in the Residential Districts.

3. Rural District: This district includes all land not included in the Residential or Lakeside districts

## **ARTICLE III - General Regulations**

1. Setbacks: Buildings shall be located at least twenty-five (25) feet from any road as measured from the edge of the right-of-way and at least twenty-five (25) feet from all lot lines. Accessory buildings with less than one hundred (100) square feet of floor area may be located within fifteen (15) feet from a side or rear lot line.

### 2. Lot size and Frontage:

A. Residential Districts: Lots in the residential districts shall be one (1) acre minimum and shall have at least seventy-five (75) feet of frontage on an approved highway defined as a public highway Class I through Class V, or a road in a subdivision approved by the Planning Board.

B. Lakeside District: Lots in the lakeside districts shall be one (1) acre minimum and shall have at least seventy-five (75) feet frontage on an approved highway, defined as a public highway Class I through V, or a road in a subdivision approved by the Planning Board.

C. Rural District: Lots in the rural district shall be two (2) acres minimum and shall have at least one-hundred-fifty (150) feet of frontage on an approved highway, defined as a public highway Class I through V, or a road in a subdivision approved by the Planning Board.

D. Usable Lot Area: At least 50% of the minimum lot size for a district shall be land suitable for development and contain soils which are suitable for the type of development proposed unless appropriate measures have been taken by the owner to ensure an adequate amount of land is suitable for such development. The 50% requirements shall not include surface waters of ponds or lakes on the lot, areas with slopes in excess of 25%, or poor or very poorly drained soils as defined in the Cheshire County Soil Survey. This requirement shall not apply to lots of record that existed prior to the effective date of this provision (see Article VI Non-Conforming Lots).

### 3. General Dwelling Requirements:

A. No more than one residential dwelling shall be allowed on any lot except in the case of multi-family developments or as provided in Section 3E below.

B. The septic system must conform to sewage load requirements as specified by the N. H. Water Supply & Pollution Control Division.

C. Mobile homes and other manufactured housing are permitted in all districts subject to the same requirements as other buildings. Mobile home parks (two or more mobile homes on a lot) are not permitted in any district.

D. Temporary homes may be allowed by special permit of the Selectmen for specific periods of time during construction of a permanent dwelling provided that safe and adequate disposal of sewage and a safe water supply can be provided without endangering the health and safety of adjoining residents.

E. A single-family dwelling unit (the Primary Unit) is permitted to allow one conversion Apartment (Accessory Dwelling Unit – ADU) per parcel provided the following conditions are met:

1. A Special Exception from the Zoning Board of Adjustment is necessary to create an ADU, whether attached or detached, in the Town of Stoddard. It shall meet the size criteria set in #4 below and all other criteria.
2. Only one (1) conversion apartment (ADU) is permitted in any circumstance.
  - A. The primary unit, along with the ADU, must meet the septic loading requirements from the New Hampshire Department of Environmental Services, Subsurface Bureau.
3. The Primary Dwelling Unit shall have separate and complete kitchen and bathroom facilities.
4. An ADU shall have a maximum area of 1000 square feet.
5. Each unit shall have safe and proper means of ingress and egress. If the ADU is attached to the Primary Unit, an interior door shall be provided between the Primary Dwelling Unit and the ADU.
6. An ADU shall contain no more than two (2) bedrooms.
7. Each ADU shall have dedicated off-street parking for two (2) passenger vehicles. Each Primary Dwelling Unit shall have dedicated off-street parking for two (2) vehicles.
8. Either the ADU or the Primary Dwelling Unit shall be occupied by the Owner of Record and the Owner shall confirm in writing that one of the units is occupied solely by the Owner of Record.
9. An attached structure may be converted to allow one ADU provided the following conditions are met:
  - A. A building permit is required for an ADU, whether attached or detached.
  - B. An attached structure that **CANNOT** be converted for an ADU includes: box type storage trailers, travel trailers, mobile homes or and structure
  - C. The ADU must have design standards that maintain continuity with the look of the primary dwelling unit.

F. Duplex (two family) dwellings: Duplex dwellings are permitted in all districts provided that the lot size for the district in which the duplex is proposed is increased by 100% (doubled). The minimum frontage for a duplex lot shall be as follows: Residential and Lakeside Districts: 125 feet; Rural District: 200 feet.

G. Multi-family dwellings: Multi-family dwellings, containing three or more dwelling units, shall be permitted in all districts. The maximum allowable density for multi-family dwellings shall be calculated as follows: Total area of the parcel minus the area of all undevelopable lands which shall include all surface waters (ponds and lakes) on the property, all lands with slopes in excess of 25% and all lands designated as poorly or very poorly drained soils as defined in the Cheshire County Soil Survey, equals total developable area. The total developable area divided by the minimum lot size for the district in which the project is located equals the maximum number of dwelling units permitted.

4. Standards for Waterfront Development

The purpose of this provision is to provide guidelines for the development of lakefront and backland with access to lakes and ponds so as to prevent overcrowding, to protect the shoreline and water quality, and to control the granting of easements by waterfront lot owners for the purpose of access to water frontage.

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

a-1) There shall be a minimum frontage on the water of fifty (50) feet per dwelling unit or per lot, whichever is more stringent.

(a-2) There shall be provided four hundred (400) square feet of beach area per dwelling unit or per lot, whichever is more stringent.

(a-3) Parking area in addition to the beach area shall be provided on the basis of two hundred (200) square feet for each dwelling unit planned.

5. Conversion of Seasonal Dwellings

Conversion of seasonal dwellings to year-round homes [\*], whether rented or owner occupied, is prohibited until an approval for operation of a septic system on file with the Stoddard Board of Selectmen or the New Hampshire Department of Environmental Services. [\*] 270 or more days per year constitutes year-round occupancy.

6. Enforcement of Ordinance

The Selectmen or their designee may take enforcement action against any violation of this Ordinance, The enforcement may include daily civil penalties as allowed by law, injunctive relief or any other enforcement action allowed by law.

**ARTICLE IV - Commercial and Industrial Uses**

**1. Commercial and industrial uses** may be allowed in the Rural District by special exception from the Board of Adjustment which shall determine that there is adequate off-street parking and that there will be no nuisance to the neighborhood in which they are to be located by reason of noise, dust, smoke, odor, illumination or other hazard to the public health.

**2. Home Occupations:** A home occupation will be permitted in all districts if it conforms to the following:

Definitions:

1. A Home Occupation shall be carried out by resident members of the premises and not more than (1) one other, on site full-time equivalent worker. It shall involve only a service provided or a product produced by those persons.
2. It shall be operated entirely within a principal living unit and/or existing accessory structure. The primary purpose of the building shall be for dwelling and the home occupation shall be secondary.

3. It shall result in no external evidence of the enterprise except for a permitted sign (see Article XIV of the Community Planning Ordinance). Exception: locally grown agricultural products, produced or grown on the premises, may be displayed. It shall not have an adverse effect on the environment or the surrounding properties as a result of noise, odors, smoke, dust, lights, soil, water or air pollution, significant increases in traffic or in parking requirements, or as a result of other nuisances.

Permitting Process:

1. The Selectmen require that, prior to the start up of a home occupation, the owner shall obtain a copy of the Home Occupations Ordinance.
2. Any operator of a home occupation who wishes to use an on-site employee shall :
  - A. Notify Abutters, Planning Board, Zoning Board of Adjustment, by certified mailing, of plans to start a home occupation and hire an on-site full-time worker. The certified mailing must be sent at least 10 days prior to submitting the application to the Selectmen for consideration.
  - B.

The 10 days cannot include the day of mailing or the day of the meeting with the Selectmen. The notification must include a copy of the Town of Stoddard Home Occupation Application. Receipts of such mailing will be submitted as proof of the mailing at the time of the application for a home occupation.

- C. Submit a Home Occupation Application to the Selectmen for review and approval by a majority of the Selectmen.

Home Occupation Applications may be obtained from the Selectmen's Office or the Town Clerk.

3. Any activity that exceeds these standards is subject to the requirements applicable to commercial or industrial uses under the Community Planning Ordinance.

**3. Wireless Communication Facilities:**

TELECOMMUNICATIONS FACILITIES ORDINANCE

SECTION I: AUTHORITY

This Ordinance is adopted by the Town of Stoddard on May 13, 2014 in accordance with the authority granted by the New Hampshire Revised Statutes Annotated 674:16. In addition, pursuant to the provisions of NH RSA 674:21, the Stoddard Planning Board is hereby granted the authority to issue Conditional Use Permits for the establishment of Telecommunication Facilities, in the residential, and lake district, subject to the provisions of this ordinance. For placement in the rural district, a Special Exception Permit is required from the Zoning Board of Adjustment.

## SECTION II: PURPOSE

These regulations have been enacted in order to establish general guidelines for the siting of towers and antennas and to enhance and fulfill the following goals:

Preserve the authority of the Town of Stoddard to regulate and provide for reasonable opportunity for the siting of telecommunications facilities.

Enhance the ability of providers of telecommunications services to provide such services to the community effectively and efficiently.

Reduce the adverse impacts such facilities may create on, including, but not limited to: migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, historically significant locations, health and safety by injurious accidents to person and property, and diminution of property values.

Preserve Stoddard's unique viewsheds and scenic values, in particular those associated with Mountain Ridges, Lakes and Recreational Trails.

## SECTION III: DEFINITIONS

**Antenna:** Means any exterior apparatus designed for telephonic, radio, television, personal communications service, pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any frequency and bandwidth.

**Average Tree Canopy Height:** Means the average height found by inventorying the height above ground level of all trees over 20 feet in height for a radius of 150 feet.

**Tower:** Means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas.

**Telecommunications Facilities:** Means any antenna, tower, or other structure intended for use in connection with the transmission or reception of radio or television signals or any other electromagnetic transmission/receptions.

## SECTION IV: LOCATION OF TELECOMMUNICATIONS FACILITIES

Telecommunications facilities may be permitted, by a Special Exception Permit, in all districts, provided the following is considered: Two-thirds of the town is in conservation, and that value needs to be considered and protected against damaging development proposals. A telecommunications structure shall not, in any way, detract from or impair the historical appearance and nature of the town, specifically in the historically significant Stoddard Center Village, as well as in other areas of town that are deemed to be historically significant to the maintenance of the town's heritage and historical nature. If practicable, they shall be hidden. Because of Stoddard's hilly terrain, with residents

located in pockets, and the propagation and characteristics of personal wireless service, shorter, multiple towers are preferred to accomplish the goal of adequate coverage.

It is important to reduce the adverse impacts such facilities may create on, including, but not limited to: migratory bird flight corridors, impacts on aesthetics, environmentally sensitive areas, health and safety by injurious accidents to person and property, and diminution of property values.

Carriers wishing to build personal wireless service facilities (PWSF) in New Hampshire should consider commercially available alternative PWSFs to tall cellular towers, which may include the use of the following: (RSA 12-K: 1)

- a. Lower antenna mounts which do not protrude as far above the surrounding tree canopies.
- b. Disguised PWSFs, such as flagpoles, artificial tree poles, light poles and traffic lights, which blend with their surroundings.
- c. Camouflages PWSFs mounted on existing structures and buildings.
- d. Custom designed PWSFs to minimize the visual impact of a PWSF on its surroundings.
- e. Other available technology.

The provisions of this ordinance are satisfied as set forth further herein.

## SECTION V: PERMITTED USES

Principal or Secondary Use. Telecommunications facilities may be considered either principal or secondary uses. Having an existing-permitted use on site shall not preclude the addition of a facility as a Secondary Use as long as all other provisions of the Ordinance are met. A different existing use or an existing structure on the same lot shall not preclude the installation of a facility on such lot. For purposes of determining whether the installation complies with district development regulations, including but not limited to set back and lot coverage requirements, the dimensions of the entire lot shall control, even though the facility may be located on leased parcels within such lots. Facilities that are installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

Any alteration of the original permitted use and device configuration of the facility will require a new approval.

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

Essential Services & Public Utilities: Telecommunication facilities shall not be considered infrastructure, essential services, or public facilities, as defined or used

elsewhere in the Town's ordinances and regulations. Siting for telecommunications is a use of land, and is addressed by this Ordinance.

## SECTION VI: CONSTRUCTION PERFORMANCE REQUIREMENTS

**Federal Requirements:** All facilities must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of facilities governed by this Ordinance shall bring these into compliance within six (6) months of the effective date of the changes, unless a more stringent compliance schedule is mandated by the controlling Federal agency. Failure to bring facilities into compliance with any changes shall constitute grounds for the removal of the tower or antenna at the owner's expense, in accordance with Section X through the execution of the posted security.

**Building Codes/Safety Standards:** To ensure the structural integrity of towers and antennas, all facilities will be inspected after one (1) year and thereafter as recommended by an engineer approved by the Town, with the cost to be paid by the owner. The engineer will submit a report to the Town. If the report concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, the owner will receive notice that he/she has 30 days to bring such tower into compliance with the standards. If the owner fails to comply within 30 days, such action shall constitute abandonment and grounds for the removal, in accordance with Section X, of the tower or antenna, at the owner's expense through execution of the posted security.

**Additional Requirements for Telecommunications Facilities:** These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict.

A. **Height.** All efforts should be made to keep tower height at a minimum; in no case shall a tower exceed 199 feet and in no case shall it be lighted.

B. **Setbacks and Separation:** In addition to compliance with the minimum zoning district setback requirements for all structures, towers shall be set back a distance equal to 150% of the height of the tower from all property lines (fall zone).

C. **Security Fencing:** Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

D. **Landscaping:** A buffer shall be provided that effectively screens the view of the compound from adjacent residential property. The standard buffer shall consist of a landscaped strip with native vegetation only, at least 10 feet wide outside the perimeter of the compound. The area shall be monitored for invasive species in disturbed areas.

In locations where the visual impact of the compound would be minimal or non-existent, the landscaping requirement may be reduced or waived entirely.

Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent practicable. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

E. Camouflaging:

a. At a tower site, the design of the buildings and related structures shall, to the maximum extent practicable use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.

b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment visually unobtrusive.

F. Balloon Test: The applicant shall provide notice of a date on which a balloon (or balloons) will be floated at the proposed site, and provide pictures from several locations around town and within 20 miles from which the balloon(s) is (are) visible. The listed sites to be approved by the governing board.

## SECTION VII: SPECIAL EXCEPTION PERMITS

General: Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit from the Planning Board. All such uses must comply with other applicable ordinances and regulations of the Town of Stoddard.

Issuance of Special Exception Permits in all districts: In granting the Special Exception Permit, the Zoning Board of Adjustment may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties, and preserve the intent of this Ordinance.

### Procedure on Application:

The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.

All towns within 20 miles of the proposed location will be notified of the public hearing, by certified mail, to be paid by the applicant. A notice will also be posted in the newspaper customarily used for legal notices by these municipalities. Such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.

Decisions: All decisions shall be rendered in writing. A denial must be based upon substantial evidence contained in the written record.

Permits shall be renewable every five (5) years. When possible, this time frame shall be consistent with the timing for performance bond renewal.

Plan Requirements. Each applicant requesting a Conditional Use Permit under this Ordinance, shall submit a scaled plan showing, or accompanied by the following information:

A. Title block that shows the name of the development or project:

B. North arrow, date of plat, scale; name, address and seal of all persons preparing the plat.

C. Signature block for Planning Board endorsement.

D. Vicinity sketch and zoning district(s).

Total area of the parcel in acres and square feet.

E. Lot frontage.

F. Boundary lines and approximate dimensions and bearings.

G. Tax map and lot numbers.

H. Locations and descriptions of any existing or proposed easements, deed restrictions, or covenants.

I. Physical features on the site and within 200 feet of the site.

J. Soil information based on Cheshire County Soil Survey.

K. All natural features, such as streams, ponds, wetlands, etc.

L. Existing and proposed grades and contours, and base flood elevations.

M. Shape, size, height, location and use of existing and proposed structures on the site.

N. Existing buildings and structures within 500 feet of the site.

O. Access to the site, with location and width of existing and proposed driveways.

P. A driveway permit must be granted from either the NH DOT or the Town of Stoddard.

Q. Locations, names, right-of-way and travel widths of any existing and proposed roads on the property and within 200 feet of the site.

R. Final road profiles and cross sections for any new roads.

S. Locations and sizes of all electric and telephone lines on the site.

T. Existing and proposed fire hydrants and/or fire ponds.

U. Existing and proposed methods of handling storm water runoff, and the direction of the flow indicated by arrows.

V. Sizes and locations of all storm water drainage lines, catch basins, drywells, drainage ditches, retention basins, and culverts.

W. Location, types, and sizes of all existing and proposal landscaping and screening.

X. Location of any proposed lighting.

Y. Other Information Require: In order to assess compliance with this Ordinance, the Planning Board shall require the applicant to submit the following prior to any approval by the Board:

a. Propagation map showing proposed radio frequency coverage.

b. Photographic documentation of the balloon test(s).

The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.

The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal 30-day comment period; the Town proceedings with respect to the proposed facility shall become part of the FCC application requirements.

The applicant shall provide the Board with the following information:

The number of sites for telecommunication facilities each provider will require,

Sites outside of the Town for the particular coverage area that are being considered,

How the siting of a telecommunication facility will affect the ability to allow a competitor's antennas on the same property,

The applicant shall provide the Board with studies of alternative sites in Town that have been considered for siting.

The applicant shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure in compliance with the conditions expressed in Section IV above. Such statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other wireless telecommunication providers. An opportunity for co-location is not to be considered a justification for excessive height of towers.

Co-location opportunities shall also not exclude the investigation of alternative sites.

The applicant will provide the Board with any copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their systems under the Federal Telecommunications Act of 1996.

Upon request, the applicant will provide:

Detailed maps showing all of the carrier's current externally visible tower and monopole locations in the state within a 20-mile radius, both active and inactive; (RSA12K: 1IV) and

Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.

The applicant will submit an agreement to the Town to the effect that the Town will be held harmless for any extraordinary fire or safety events.

## SECTION VIII: WAIVERS

Any portion of these regulations may be waived or modified when, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and such waiver would not be contrary to the spirit and intent of these regulations.

Conditions: In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

Procedures: A petition for any such waiver shall be submitted in writing by the applicant for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

#### SECTION IX: BONDING AND SECURITY INSURANCE

The applicant shall provide a bond to the Town in an amount that would be sufficient to cover the costs of removal and disposal of the facility components. The Planning Board shall set the form and amount of the security. The Planning Board shall also require the applicant to submit proof of appropriate liability insurance with respect to the proposed facilities prior to construction.

The term of the bond shall be negotiated with the Planning Board and administered by the Selectmen. In addition, if the Board requires an engineering assessment in order to set the amount of the bond, the cost shall be borne by the applicant.

The Bond amount will be reviewed as to its sufficiency on a periodic basis and either a bond in a new amount is posted or the tower removed.

#### SECTION X: REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days, the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

#### SECTION XI: ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to enforce the provisions of this ordinance. The Selectmen may appoint an agent to enforce this ordinance.

Upon any well-founded information that this ordinance is being violated, the Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other legal action.

#### SECTION XII: SEVERABILITY

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

## SECTION XIII: APPEALS

Pursuant to RSA 676:5, any decision made under this ordinance cannot be appealed to the Stoddard Zoning Board of Adjustment, but to the Superior Court as provided by RSA 677:15.

### **ARTICLE V - Non-conforming Uses**

Any non-conforming use of land or buildings lawfully existing at the effective date of these regulations may be continued or may be reestablished after discontinuance not exceeding one year. Non-conforming uses may not be expanded. Changes from an existing non-conforming use to another non-conforming use are not permitted.

### **ARTICLE VI - Non-conforming Lots**

Provided that the safe and adequate disposal of sewage and a safe water supply can be provided without endangering the health and safety of adjoining residents, nothing in the regulations shall prevent the construction of a permitted building or the establishment of a permitted use of a lot containing less than prescribed area if it was at the effective date of these regulations: Owned separately from any adjoining lot and recorded in the land records of the Cheshire County Registry, or,

1. The foundation or a proposed project cannot be started until a Building Permit is approved.
2. Construction of a dwelling
3. Addition to an existing dwelling, including a porch or deck
4. Installation of a mobile home or manufacturing housing for residential purpose
5. Construction of an accessory building
6. Construction of a building for commercial or industrial purpose
- 7.

B. Shown on a plan or subdivision approved by the Stoddard Planning Board and recorded in the land records of the Cheshire County Registry. If two or more contiguous lots exist in common ownership, either, both or all of which do not meet requirements for frontage and/or area of their district, then the lots involved shall be considered to be an undivided parcel for the purposes of this ordinance provided, however the area of at least one lot shall be less than 50% of the minimum lot size required in that district. Before a building permit can be issued, the town will require merger of these substandard, contiguous lots. Requirements of this ordinance other than lot size and frontage shall apply.

C. If a lot exists in different zoning districts, and is to be divided by a subdivision or lot line adjustment, the zone with the more stringent requirement shall apply (RSA 676:14)

### **ARTICLE VII - Building Permits**

A. A building permit granted by the Selectmen shall be required for the following:

1. Construction of a dwelling.
  2. Addition to an existing dwelling, including decks and porches.
  3. Installation of a mobile home or other manufactured housing for residential purpose.
  4. Construction of an accessory building.
  5. Construction of a commercial or industrial building.
  6. Alteration of a building for commercial or industrial purpose.
  7. Foundation for a project cannot be started until a building permit has been approved
  8. Installation of a septic system and or well
  9. Installation of a new or rebuilding an existing foundation
- B. Permits shall not be required for normal repair or redecoration of a building.
- C. Where applicable, a state approved plan for construction of a septic system shall be required as part of the application for a building permit.
- D. The Selectmen may grant building permits on Class VI roads in accordance with state laws.
- E. Applicants shall provide a sketch showing lot lines, roads, bodies of water, existing and proposed buildings with distances from lot lines, driveways, and locations of septic systems and water supply. This sketch need not be to scale, but where distances approach minimum setbacks and frontages precise distances will be necessary.
- F. Upon submission of a complete application for a building permit, Selectmen shall act to approve or disapprove such application within fourteen (14) days. Reasons for disapproval shall be provided upon request from the applicant.
- G. Fees for building permits shall be set from time to time by the Selectmen.

### **ARTICLE VIII - Board of Adjustment**

A Board of Adjustment of five members shall be appointed by the Selectmen for the purpose of making special exceptions and variances in harmony with the provisions of this ordinance and to hear appeals from the decisions of town officials within the authority of this ordinance. Variances from the terms of this ordinance shall be granted only where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship. Relevant provisions of RSA 627-677, being the statutes considered a part of this ordinance.

### **ARTICLE IX - Amendments**

This ordinance may be amended by procedures set forth in relevant provisions of RSA 675.

### **ARTICLE X - Severability**

The invalidity of any part of this ordinance shall not invalidate any other part thereof.

### **ARTICLE XI - Effective date**

This ordinance shall take effect upon passage.

## **ARTICLE XII - WETLANDS CONSERVATION DISTRICT ORDINANCE**

### **SECTION 1 - General**

The Wetlands Conservation District is hereby determined to be all surface waters as well as those areas delineated as poorly drained or very poorly drained soils identified by the U.S. Dept. of Agriculture Soils Conservation Service, in cooperation with the Cheshire County Conservation District. The Wetlands Conservation District of the Town of Stoddard as herein defined is shown on a map designated as the "Wetlands Map for the Town of Stoddard". In all cases where the Wetlands Conservation District is superimposed over another zoning district in the Town of Stoddard, that district whose regulations are the more restrictive shall apply.

### **SECTION 2 - Authority**

Pursuant to the provisions of the New Hampshire Revised Statutes Annotated R.S.A. 674:16 the Town of Stoddard adopts the following regulation to be administered by the Planning Board in conjunction with the Subdivision Regulations of the Town of Stoddard.

### **SECTION 3 - Purpose**

In the interest of public health, convenience, safety and welfare, the regulations of the Wetlands Conservation District are intended to guide the use of areas of land near surface waters or with extended periods of high water tables.

A. To regulate the development of structures and land uses on naturally occurring wetlands which development and land uses diminish the capacity of wetlands to regulate surface water run off.

B. To prevent the destruction of natural wetlands which provide flood protection and natural habitats for wildlife.

C. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities, which arise because of improper use of wetlands.

### **SECTION 4 - Use of Wetlands**

- A. Permitted use of wetlands is any use that does not result in the erection of any structure or alter the surface configuration by the addition of fill or by dredging and that is otherwise permitted by the Ordinance.
- B. An application must be made to the Zoning Board of Adjustment for a special exception for any change in the use of wetlands.

## **SECTION 5 - Special Exceptions**

A. Special exceptions for the undertaking of a use not otherwise permitted in the Wetlands Conservation District which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of the land may be granted by the Board of Adjustment if it can be shown that such proposed use will not conflict with the purpose and intentions of Section 3. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment accompanied by any necessary permits or approvals (State or otherwise). If requested by the Board of Adjustment, the application shall also be accompanied by the findings of a review (by the Cheshire County Conservation District or other expert opinion as sought by the Planning Board) of the environmental effects of such proposed use upon the wetlands in question. The Stoddard Conservation Commission shall receive notice from the Board of Adjustment of any application for Special Exception and shall render an advisory opinion to the Board on such applications. Costs of any other environmental studies requested by the Board will be paid for by the applicant.

B. Inaccuracies of the "Wetlands Map for the Town of Stoddard" may be corrected by the Board of Adjustment when documented by an on-site investigation and analysis by a qualified soils scientist and approved by the Soils Conservation Service. Any necessary soil testing procedures shall be conducted at the expense of the landowner or developer.

## **SECTION 6 - Special Provisions**

A. A buffer strip of natural vegetation along the edge of the water or wetland shall be left for a width of not less than fifty (50) feet to insure the integrity of wetlands and prevention of siltation, sedimentation and erosion into the wetland areas. Clear cutting shall be prohibited within the buffer area. Any selective and dispersed cutting of vegetation for wildlife management or to create a view shall be conducted so as to cause negligible adverse environmental impact.

B. Any prior existing nonconforming use of land or buildings on or adjoining wetlands shall be deemed a nonconforming use and when such use is discontinued for one year, such land and/or buildings become subject to the Wetlands Conservation District Ordinance.

## **SECTION 7 - Enforcement**

A. The Board of Selectmen is hereby authorized and empowered to adopt such rules or organization and procedures as are necessary for the efficient administration and enforcement of this ordinance.

B. Upon any well founded information that this ordinance is being violated, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking an injunction to the Superior Court or by any other appropriate legal action.

## **SECTION 8 - Saving Clause**

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

## **ARTICLE XIII - PLANNED RESIDENTIAL DEVELOPMENT**

### **I. AUTHORITY**

Pursuant to the provisions of Revised Statutes Annotated Chapter 674:16, II, and in furtherance of the policies, goals and objectives set in the General Statement of Objectives and the Land Use sections of the Master Plan, the following section is hereby adopted by the voters of the Town of Stoddard at the Town meeting convened on Tuesday, March 14, 1989.

### **II. PURPOSE**

The purpose of this section is to encourage reasonable flexibility in the development of land for residential purposes, to promote the most efficient use of land and to preserve significant natural and man-made features and open space in the design and development of residential projects. The specific objectives of these provisions and the general standards with which all proposed Planned Residential Developments shall comply are:

- A. Promote the conservation of the natural environment and the development of land in harmony with natural features of the specific site proposed for development.
- B. Preserve the natural beauty of existing rural roads, farmlands, woodlands and cultural features that give the Town much of its identity.
- C. Provide usable open space and recreation areas for the enjoyment of the residents of the development and the Town as a whole.
- D. Promote economy and efficiency in the design, construction and maintenance of new roads and utilities for the developer, the Town and the residents of the proposed development.
- E. Avoid development of lands which by virtue of excessive slope, wetness, flood hazard or similar conditions are unsuitable for residential use.
- F. Promote a wide range of housing opportunities for individuals and families of various ages and economic circumstances.
- G. Provide an efficient and expedient regulatory procedure while assuring high quality design, engineering and site planning.
- H. Protect the health, safety and welfare of present and future residents of the Town.

### III. STANDARDS AND CRITERIA

- A. Planned Residential Development shall be a permitted use in all districts of the Town of Stoddard.
- B. The minimum parcel size for any Planned Residential Development shall not be less than 25 contiguous acres.
- C. Any parcel proposed for a Planned Residential Development shall have a minimum of 150 contiguous feet of frontage on an approved public street.
- D. The maximum allowable density in any Planned Residential Development shall be calculated as follows:

TOTAL area in acres, of the parcel

MINUS area of all undevelopable lands which shall include all surface waters on the parcel, all lands with slopes of 15% or greater, all soils designated by the USDA Soils Conservation Service in cooperation with the Cheshire County Conservation District and a High Intensity Soil survey to be poorly drained or very poorly drained, all lands within the 100 year flood zone, and all soils with severe limitations as defined by the United States Department of Agriculture Soil Survey interpretation sheets of 1976. On-site determination of soil types may be conducted at the request of the Planning Board by an agent of the Cheshire County Conservation District or a qualified soil scientist approved by the Town of Stoddard Planning Board. Only soils with slight or moderate limitations shall be included in calculating the total developable area. Structures, paved areas, service areas and other developed facilities shall be built only on the developable area or developable portion of the tract.

Total developable area may be increased to include soils with severe limitations and slopes up to 25% upon adequate demonstration of appropriate engineering and permanent site use control to accommodate site conditions.

EQUALS total developable area

TOTAL developable area minus area of all streets and/or road rights of way in the development

DIVIDED by the minimum lot size for the district in which the project is located as specified in the zoning ordinance

EQUALS the maximum number of dwelling units permitted (fraction should be rounded down to the next lowest number).

- E. Minimum lot size, frontage, setback and other dimensional requirements specified in the Zoning Ordinance and/or Subdivision Regulations may be modified or waived by the Planning Board within the Planned Residential Development provided that the Planning Board after review of the required application materials finds that the proposal is consistent with the objectives outlined in Section II and other provisions of this Article.
- F. Permitted uses and housing types in a Planned Residential Development shall be limited to those in which the parcel is located. It envisioned that the housing types, while having different internal configurations, will have an

external appearance to compliment and be in general harmony with the natural surroundings of the PRD. Maximum height of any dwelling structure shall be two and one half (2-1/2) stories or thirty-five (35) feet, whichever is less.

G. All land in the PRD which is not covered by buildings, septic systems, wells, paved areas, parking and service areas, or which is not set aside as private yards, patios, or gardens for the residents shall be treated as open space. The area of the open space shall be at least forty (40) percent of the total area of the PRD tract. The open space area shall have a shape, dimension, character, and location suitable to assure use for park, recreation, conservation or agricultural purposes by at least all of the residents of the PRD. Provision shall be made for the open space to be held in common equally, by all the owners of the PRD. Such provision shall further hold that all the open space shall be readily accessible to all residents of the PRD and that such open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation, or park. No building construction or substantial alteration of terrain or topography, whether it be structures or septic systems, shall take place in the open space. Harvesting of trees in the open space is not permitted if the tree is greater than 4" (four inches) in diameter. Exceptions to this would be only with express permission of the Planning Board.

H. To provide an adequate transition between the development and abutting lands or public roadways, all Planned Residential Developments shall provide for a landscape perimeter buffer with a minimum 100-foot depth.

I. No lots shown on the plan for which a permit is granted under this PRD ordinance shall be further subdivided and a note to this effect shall be placed on the final plat.

J. Where there are differences between the PRD requirements and the Subdivision Regulations, the requirements of the PRD shall prevail. All the regulations and restrictions not specifically mentioned in this ordinance shall be those of the zoning district in which the PRD is located.

#### **IV. PROCEDURE**

Applicants for approval for the proposed PRD shall make application to the Planning Board in the same fashion as specified in the Subdivision Regulations. In the course of review of the proposal by the Planning Board, the Board shall hear evidence presented by the applicant and determine whether, in the Board's judgment, the proposal meets the objectives and purpose set forth above, in which event the Board shall grant approval to the proposal, subject to such reasonable conditions and limitations as the Board shall deem appropriate.

#### **ARTICLE XIV - SIGN ORDINANCE**

##### **I. PURPOSE AND INTENT**

The purposes of the Sign Ordinance are to protect and improve community appearance and esthetics; and to protect the health, safety and welfare of its citizens. The principle guiding this article is that signs should not destroy or detract from the scenic vistas, compete with the natural environment, or proliferate in number. This Ordinance aims to encourage use of street graphics that are compatible with community character, readable and clear, non-distracting to vehicular and pedestrian traffic and are maintained in good repair.

## II. DEFINITIONS

The following words and phrases, when used in this ordinance, shall have the meaning given in this section:

- A. Sign: A sign is an object, device, or structure, or part thereof, situated outdoors, freestanding or attached, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, location by any means including words, letters, figures, design, symbols, advertising flags, fixtures, colors, projected images or illuminations.
- B. Sign Area: The sign area is the total area of the sign face including any framing surrounding the sign face. The structural supports of a sign are to be excluded in determining the sign area. Where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign and be so measured. The area of one side of a two-sided sign shall be considered in determining the total area of the sign.
- C. Free-Standing Sign: A sign supported by one or more uprights or braces permanently affixed into the ground.
- D. Projecting Sign: A sign which projects from, and is supported by, a wall, porch, or any other part of a building.
- E. Wall Sign: A sign which is attached directly to, or painted upon, a building wall or fence and which does not extend more than ten (10) inches there from, nor extends above the roof line or top of the fence.
- F. Roof Sign: Any sign erected and maintained upon or above the roof of any building.
- G. Temporary Sign: A sign constructed of cloth, canvas, fabric, wood, paper or other similar material with or without a structural frame and intended for a limited period of display.
- G. Premise: The lot or parcel that the sign is physically located upon or above. When more than one business occupies a single building or lot, each business area shall be considered a separate premise.
- I. Portable Signs: Signs that are placed, erected or constructed on any movable or portable base, stand, sled, vehicle or trailer.

### III. EXISTING NONCONFORMING SIGNS

A. Every sign lawfully in existence at the time of adoption of this Ordinance may continue in existence and be maintained, but may not be changed in any of its dimensions or character or be moved except to comply with this Ordinance.

B. Any nonconforming sign, the use of which has been discontinued for a period of 12 months or more, for any reason, shall not be reestablished, restored or repaired, unless it is made to comply with this Ordinance.

### IV. SIGNS PERMITTED IN ALL DISTRICTS

A. Temporary signs not exceeding nine (9) square feet in area and limited to one sign per premise. Signs such as "For Sale" and "For Rent" are not to be illuminated and shall be removed promptly when the property is sold or rented. Signs for construction in progress identifying the owner, contractor, architect, or developer, are to be removed within ten (10) days of completion or occupancy of the project. Signs of a Political nature must be free standing, may be erected not more than forty-five (45) days in advance of the vote and removed within four (4) days of the vote.

B. Wall signs not exceeding six (6) square feet in area and limited to one sign per premise. Where letters are attached or painted on a building the space between the letters or figures will be counted in determining sign area.

C. Projecting signs not exceeding six (6) square feet in area and limited to one sign per premise. The sign must not project more than five (5) feet from its supports.

D. Free Standing signs not exceeding six (6) square feet in area, twelve (12) feet in height and limited to one sign per premise.

E. Only one type of sign is permitted per lot or premise, with the exception of signs of a directional nature, such as "in", "out", "exit", "office", etc., which have no advertising copy and are intended to aid traffic or pedestrian flow. There shall be no more than four types of these directional signs, not exceeding one square foot each, on a lot or premise. One temporary sign is also permitted with any other lawfully permitted sign.

F. Any sign required by federal, state, county or town governmental body.

G. Street signs in conformance with town requirements.

H. Legal notices such as "No Trespassing" or "No Hunting" signs.

I. Roof signs not exceeding six (6) square feet in area and not more than twenty (20) feet above the ground.

J. No more than one sign is permitted at an entrance or from an exit in a Planned Residential Development.

### V. SIGNS PERMITTED AS SPECIAL EXCEPTIONS

A. Signs over six (6) square feet, but less than twenty (20) are permitted in the Rural District upon the granting of a Special Exception by the Zoning Board of Adjustment, following a public hearing. The following conditions for a Special Exception must be met:

1. The sign must be attractive and in keeping with the character of the neighborhood.
2. The sign shall conform with all provisions of Section VI of this Article (Prohibited Signs).
3. Only one sign over six (6) square feet is permitted on the premises.
4. The sign will not be placed within fifteen (15) feet of all lot lines.
5. The sign must be for business purposes only.

## **VI. PROHIBITED SIGNS**

The following signs are not permitted under the provisions of this Ordinance:

- A. Signs which emit odors, vapor, smoke, sound, or noise.
- B. Signs which contain statements, words or pictures of an obscene, indecent, or immoral character, such as will offend public morals or decency.
- C. Any sign or structure which constitutes a hazard to public safety or health.
- D. Neon or similar type signs which are constructed of formed glass or tubing.
- E. String lights or bare bulb illumination, other than temporary holiday decorations, which are unshielded from off the property on which they are located.

## **National Flood Insurance Program**

### **SECTION**

- I. PURPOSE
- II. ESTABLISHMENT
- III. PERMITS
- IV. CONSTRUCTION REQUIREMENTS
- V. WATER AND SEWER SYSTEMS
- VI. CERTIFICATION
- VII. OTHER PERMITS
- VIII. WATERCOURSES
- IX. SPECIAL FLOOD HAZARD AREAS

X. VARIANCES AND APPEALS

XI. DEFINITIONS

XII. SEVERABILITY

XIII ENFORCEMENT

## **SECTION I - PURPOSE**

Certain areas of the Town of Stoddard, New Hampshire are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Stoddard, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

This ordinance establishes a permit system and review procedure for the development activities in the designated flood hazard areas of the Town of Stoddard, New Hampshire.

## **SECTION II - ESTABLISHMENT**

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Stoddard, New Hampshire Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Stoddard, NH 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 conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The 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 the County of Cheshire, N.H." May 23, 2006 as amended, together with the associated Flood Insurance Rate Maps dated May 23, 2006\_or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

## **SECTION III - PERMITS**

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

## **SECTION IV – CONSTRUCTION REQUIREMENTS**

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

- a. be designed (or modified) and adequately anchored to prevent floatation,

- collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- b. be constructed with materials resistant to flood damage,
  - c. be constructed by methods and practices that minimize flood damages,
  - d. be 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.

## **SECTION V – WATER AND SEWER SYSTEMS**

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

## **SECTION VI - CERTIFICATION**

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

- a. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- b. if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- c. any certification of flood proofing.

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

## **SECTION VII – OTHER PERMITS**

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

## **SECTION VIII – WATERCOURSES**

1. 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 Department of Environmental Services and submit copies of such notification to the Board of Selectmen, in addition to the copies required by the RSA 482-A: 3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.
2. The applicant shall submit to the Board of Selectmen certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Board of Selectmen shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

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

## **SECTION IX – SPECIAL FLOOD HAZARD AREAS**

1. In special flood hazard areas the Board of Selectmen shall obtain, review and reasonable utilize any 100-year flood elevation data available from an federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).
2. The Board of Selectmen's 100-year flood elevation determination will be used as criteria for requiring in Zone A that:
  - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
  - b. All new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - (i) be flood proofed so that below the 100-year 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 floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- d. All recreational vehicles placed on sites within Zone A shall either:
  - (i) be on the site for fewer than 180 consecutive days;
  - (ii) be fully licensed and ready for highway use; or
  - (iii) meet all standards of Section III of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Section IX (2) (c) of this ordinance.

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

- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
  - (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - (ii) the area is not a basement;
  - (iii) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped

with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

## **SECTION X - VARIANCES AND APPEALS**

1. Any order, requirement, decision or determination of the Board of Selectmen made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
  - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - b. 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. 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:
  - a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - b. such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.
4. The community shall:
  - a. maintain a record of all variance actions, including their justification for their issuance, and
  - b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **SECTION XI - DEFINITIONS**

The following definitions shall apply only to this Floodplain Management Ordinance, and

shall not be affected by the provisions of any other ordinance of the Town of Stoddard, New Hampshire.

1. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Stoddard subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FIRM.
2. "Base Flood" means the flood having an one-percent possibility of being equaled or exceeded in any given year.
3. "Basement" means any area of a building having its floor subgrade on all sides.
4. "Building" - see "structure".
5. "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, excavating or drilling operation or storage of equipment or materials.
6. "FEMA " means the Federal Emergency Management Agency.
7. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland or tidal waters, or
  - b. the unusual and rapid accumulation or runoff of surface waters from any source.
8. "Flood Insurance Rate Map" (FIRM) means an official map of a community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
9. "Flood Insurance Study" (FIS) means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood - related erosion hazards.
10. "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
11. "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
12. "Floodway" - see "Regulatory Floodway".

13. "Functionally dependent use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
14. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
15. "Historic Structure" means any structure that is:
  - a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - (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.

16. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
17. "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.
18. "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.
19. "Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.
20. "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.
21. "100-year flood" - see "base flood"
22. "Recreational Vehicle" is defined as:
  - a. built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projection;
  - c. designed to be self-propelled or permanently towable by a light duty truck; and
  - d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
23. "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.
24. "Special flood hazard area" - see "Area of Special Flood Hazard"

25. "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.
26. "Start of Construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.
27. "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.
28. "Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:
- a. the appraised value prior to the start of the initial repair or improvement, or
  - b. in the case of damage, the value of the structure prior to the damage occurring.
- For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
29. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section VI, Section IX (2)(b), Section VIII (3)(4), or Section X (1)(2)(3) of this ordinance is presumed to be in violation until such time as that documentation is provided.

30. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains.

## **SECTION XII - SEVERABILITY**

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

## **SECTION XIII - ENFORCEMENT**

It shall be the duty of the Board of Selectmen (or their designee) to enforce and administer the provisions of this Ordinance in accordance with RSA 676.