

**Town of Carroll, New Hampshire  
Zoning Ordinance**

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**As Amended March 12, 2024**



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## ARTICLE I PREAMBLE

### **Section 101. Title**

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Carroll," and is hereafter referred to as "this Ordinance."

### **Section 102. Purpose**

This Ordinance is adopted pursuant to the authority conferred by the planning and zoning enabling legislation of the State of New Hampshire Revised Statutes Annotated, Title LXIV, Chapters 672-677, as amended, in order to promote the health, safety and general welfare; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; to conserve valuable natural and scenic resources; and to preserve the rural qualities of the Town.

## ARTICLE II DEFINITIONS

### **Section 201. Word Definitions**

The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The present tense includes future tense, the singular number includes the plural, and the plural number includes the singular.

The words shall and will are mandatory; the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used, or occupied.

The word incidental means use does not change the primary use of the building or premise.

### **Section 202. Definitions**

Act – When used in Section 701 Telecommunications Facilities, "Act" means the federal laws governing telecommunication facilities, as amended, including the Telecommunications Act of 1996, and FCC regulations promulgated thereunder.

Accessory Building - A subordinate building or a portion of the main building, the use of which is incidental to that of the main or principal building.

Accessory Dwelling Unit (ADU) – A dwelling unit that is within or attached to a one family dwelling or accessory building, 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.

Accessory Use - A use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or lot. The following examples are considered accessory uses, but are not limited to, antennas, swimming pools, satellite dishes, garages, barns, storage sheds, storage of a registered camper or recreational vehicle, and renewable energy facilities for on-site use including wind, solar and geothermal. All accessory uses must follow zoning set-back requirements. Antennas and towers shall be set back the greater of the minimum required for the district or a distance at least 125% of the height.

Added Use - The addition or inclusion of any use which substantially differs from the previous use of a building or land.

Antenna - Any exterior apparatus designed for telephone, radio, television, personal communications (PCS), pager network or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

Aquifer- A geologic formation composed of rock, sand, or gravel that contains a significant amount of potentially recoverable water.

Buffer - The protected upland areas adjacent to wetlands and surface waters in the Wetlands Conservation Overlay District.

Building - A constructed unit forming a shelter for persons, animals, or property and having a roof and being permanently located on the land. Where the context allows, the word "building" shall be construed as followed by the words "or parts thereof".

Certified Wetland Scientist - A person qualified to delineate wetland boundaries and prepare wetland maps who is certified by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a.

Change of Use - The alteration of any use from the existing use of the building or land to a use which is substantially different.

Co-Location - Locating telecommunication facilities from more than one provider on a single site.

Conditional Use Permit – A permit issued by the Planning Board as authorized by RSA 674:21 Innovative Land Use Controls.

Condominium - A form of ownership of real estate in which units are owned individually and open space and group facilities are held in common ownership. Condominium conversions shall be considered as subdivisions of land and shall be subject to subdivision review by the Planning Board.

Cul-de-sac Street - A street having one open end and being permanently terminated at the other end by a vehicular turnaround. A cul-de-sac street shall not provide entrance to other streets.

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

Dimension Stone - Rock that is cut, shaped or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridge revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth.

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 mask the bedrock.

Excavation - A land area which is used, or has been used, for the commercial taking of earth, including all slopes.

Excavation Area - The surface area within an excavation site, where excavation has occurred or is eligible to occur under the provisions of this ordinance.

Excavation, Incidental - Excavations that are exclusively incidental to the lawful construction or alteration of a building or structure, parking lot or way, including a driveway on a portion of the premises where the removal occurs. It may also include agricultural activities, normal landscaping or minor topographical adjustments.

Excavation Site - Any area of contiguous land in common ownership upon which excavation takes place.

Dwelling, Multi-Family - A building designed for or used as the living quarters for three or more families living independently of each other in individual dwelling units.

Dwelling, Single-Family - A detached building designed for or used as the living quarters for one family. The term shall not be deemed to include hotel, motel, rooming house, camper or recreational vehicle.

Dwelling, Two-Family - A building designed for or used as the living quarters by two families living independently of each other in individual dwelling units.

Dwelling Unit - One room or rooms connected together, constituting a separate independent establishment for owner occupancy, rental or lease and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking, sanitary and sleeping facilities.

Expansion of Use - Alteration of an existing building or use of land which does not result in a substantial difference to the use which existed before alteration. Expansion of a non-conforming use or building must be approved by the Zoning Board of Adjustment in accordance with the provisions of Article III, Section 301.

Family - Any number of persons related by blood, marriage or adoption, or a group of persons not related by blood, marriage or adoption living together as a single housekeeping unit. For a group of unrelated individuals living together as a single housekeeping unit, there shall be no more than two people for each bedroom.

FAA- Federal Aviation Administration.

FCC - Federal Communications Commission.

Frontage - The width of a lot measured along its common boundary with the street line.

Ground cover - Any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Ground cover shall not include lawns, landscaped areas, gardens, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.

Groundwater - Subsurface water that occurs beneath the water table in soils and geologic formations.

Height - The vertical distance between a mean finished grade at the structure and the highest point of the roof of a structure and, when referring to a tower or other telecommunications structure, the highest point on the tower or structure, even if such highest point is an antenna. Building height shall be measured from the uphill side, ground level next to building, within one foot of the foundation of building.



Home Business - Any use conducted entirely within a dwelling or an accessory building, with no more than one (1 FTE) employee working on the premises who does not reside in the primary or accessory dwelling on the premises, which use is clearly incidental and secondary to the use of the building for dwelling purposes and does not change the character thereof. Such occupation shall not cause emission of dust, noise, fumes, vibration or smoke to such a degree as to create a nuisance.

Impervious - Not readily permitting the infiltration of waters.

Impervious surface - A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or hole are present. Asphalt, earthen, wooden, or gravel surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

Junkyards - The definition of junkyards set forth in RSA 236:112, as amended, is incorporated herein. Motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126 are excluded from the definition.

Kennels - Any location where breeding, raising, boarding, caring for, and/or keeping more than three dogs or cats or other small animals or a combination thereof (except litters of animals not more than 6 months of age) is carried on for commercial purposes.

Light Manufacturing - A manufacturing use that is non-polluting in terms of air, water, and noise and which, in general, is not offensive to the character of the community.

Lodging - All living accommodations intended primarily for use or lease on a temporary basis, not intended for year-round occupancy or as a primary residence for other than the owner and/or employees, such as hotels, motels, inns, cottages, bed and breakfast, guest homes, boarding houses, time-share condominiums, and certain employee housing. Includes customary accessory uses for guests such as dining rooms and bars, laundry, and recreational facilities. Does not include campgrounds.

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

Lot, Corner - A lot situated at the intersection of, and abutting two streets which have an angle of intersection of not more than 135 degrees. A lot abutting on a curved street shall be deemed a corner lot if the tangents to the curve at its points of intersection with the side lot lines meet at the interior angle of not more than 135 degrees.

Lot of Record - A lot of record shall mean a parcel of land or any part thereof designated on a deed or plat already recorded or so to be recorded with the Register of Deeds by its owner(s) as a separate lot.

Main or Principal Building or Use - A building or use which houses or constitutes the principal activity on the premise.

Manufactured Home Park - Any tract of land on which two or more manufactured homes are parked and occupied for living purposes.

Manufactured Housing - The term manufactured housing shall mean any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required facilities, which include plumbing, heating and electrical systems contained therein.

Motel - A building or group of buildings which contains four or more apartments or living accommodations, with or without kitchens, and which constitutes primarily the temporary abode of persons who have their residence elsewhere. This shall include hotels.

Multi-family dwelling - A building containing three or more dwelling units.

Natural woodland - A forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

Non-Conforming Building - A non-conforming building means any structure or part thereof not in compliance with the zoning ordinance covering building bulk, dimensions, height, area, yards or density where such a structure conformed to all applicable laws, ordinances and regulations prior to the enactment of this Zoning Ordinance.

Non-Conforming Use - A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto and that does not conform to the use regulations of the district in which it is located.

Off Highway Recreational Vehicle (OHRV) - Any mechanically propelled vehicle used off a public way for recreational or pleasure purposes and dependent on the ground or other surfaces for travel. All legally registered motor vehicles and snowmobiles used off the highway for these purposes shall be deemed as an OHRV.

Open Space - An area of a lot that is unoccupied by buildings, structures, or impervious surfaces, and intended for environmental, scenic, or recreational purposes.

Ordinary high water mark - The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Outdoor Storage - Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

Permitted Use - Permitted uses are those uses listed which are allowed by right, without a Special Exception from the Zoning Board of Adjustment or a Conditional Use Permit from the Planning Board, providing the standards established by this Ordinance are met.

Planned Unit Development (PUD) – A development granted a Conditional Use Permit by the Planning Board to enable flexibility and thereby promote a higher quality of large-scale development by considering project proposals based upon a comprehensive, integrated plan rather than the specific constraints applicable to piecemeal lot-by-lot development under conventional zoning.

Planning Board – The Carroll Planning Board.

Principal use or principal building – The primary use or building on a lot; any use or building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises. A complex of related businesses on a single lot, or a single building housing multiple businesses or combination of commercial and residential uses shall be considered as a single principal use.

Public water system - A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 65 days out of the year.

Regulated substance - Petroleum, petroleum products and substances listed under 40 Code of Federal Regulations 302, as amended, excluding the following substances: ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, potassium hydroxide, potassium permanganate, and propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

Retail Business - Includes shop and store for the sale of retail goods, personal service shop and department store and shall exclude warehouses.

Sanitary protective radius - The area around a well which must be maintained in its natural state as required by Env-Dw-301 or 302 (for community water systems) and Env-Dw 405.13 (for other public water systems).

Secondary containment- A structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated substance container that will be stored there.

Setback – The required distance from the street right-of-way, side lot line and rear lot line within which primary and accessory buildings and uses are prohibited.

Short-Term Rentals – Any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare or owner-occupied residential home, that is offered for a fee and for less than 30 consecutive days.

Snow dump - A location where snow which is cleared from roadways and/or motor vehicle parking areas is placed for disposal. However, the plowing and deposit of snow on residential, business and industrial premises where the snow has fallen shall not be considered to be a "snow dump."

Special Exception - A use of a building or lot which may be permitted under this Ordinance only upon application to the Board of Adjustment and subject to the approval of that Board, and only in cases where the words "Special Exception" in this Ordinance pertain.

Stratified-drift aquifer - A geologic formation of predominately well- sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

Stream order shall be determined using the New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the university of New Hampshire, and developed by GRANIT in collaboration with the department of environmental services.

Surface water - Streams, lakes, ponds, and tidal waters, including marshes, water courses, and other bodies of water, natural or artificial.

Telecommunications Facility - Includes "wireless telecommunications facilities" such as any structure, antenna, tower or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCR) and common carrier wireless exchange access services, includes "conventional telecommunications facilities" such as any telecommunications facility installed within, upon or across a public right-of-way utilizing poles, wires, conduits or similar equipment, whether installed above or below ground.

Tower - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

Use, Permitted - Use specifically allowed in a zoning district, excluding illegal uses and nonconforming uses.

Variance - Such departure from the terms of this Ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize only under the terms of Section 804.4 and applicable statutes of the State of New Hampshire (RSA 674:33).

Warehouse - Includes warehouse, wholesale establishment, bulk storage and bulk sales outlet.

Wellhead protection area – The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

Wetland - Pursuant to RSA 482-A:2.X, an area that is inundated or saturated by surface 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.

Yard - That portion of a lot formed by the required setback which may not be occupied by a building or other structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

Yard, Rear Depth - The depth of the rear yard shall be measured from the rear lot line to the rearmost building.

Yard, Side Depth - The depth between the side of the principal building or accessory building and the nearest side lot line.

### ARTICLE III EXISTING USES

#### **Section 301. Non-Conforming Use and Non-Conforming Building**

Any lawful building, or use of a building, or land, or parts thereof in existence at the time of the adoption of this Ordinance, or of any amendment thereto, may be continued although such building or use does not comply with the provisions herein. Such building or use shall be lawful if there was compliance with existing regulations in effect. Changes in the use of the building or land, or expansions of the use or building, are subject to the following.

Any building or use existing on the effective date of this Ordinance which does not conform to the requirements of this Ordinance may be continued indefinitely, but it shall not be:

- a. Expanded, unless granted a Special Exception by the Board of Adjustment, which, for nonconforming buildings, shall find such expansion or extension does not increase the degree of nonconformance, and for uses, does not create a greater nuisance or detriment after

consideration of factors such as, but not limited to, the nature of the use itself, volume and type of traffic, noise, vibration, odors, lighting, glare, hours of operation, building size and mass, and impervious area.

- b. Changed to another non-conforming use, unless granted a Special Exception by the Board of Adjustment which shall find that such use is equally appropriate or more appropriate to the district than the existing non-conforming use after consideration of factors such as, but not limited to, the nature of the use itself, volume and type of traffic, noise, vibration, odors, lighting, glare, hours of operation, building size and mass, and impervious area.
- c. Restored to other than a conforming use after damage from any cause unless the nonconforming use is reinstated within one year of such damage.
- d. Re-established, if such use has been discontinued for a period of one year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
- e. Nothing in this section shall be deemed to prevent normal maintenance and repair on a noncomplying building, provided that such action does not increase the degree of noncompliance.

**Section 302. Non-Conforming Lot**

Where a single lot of record at the time of passage of this Ordinance or amendment does not conform to the area and frontage requirements of the district in which it is located , such lot may be occupied by any use permitted in that district provided the use conforms to front, side and rear yard setbacks and all other applicable provisions of this ordinance.

**ARTICLE IV ESTABLISHMENT OF DISTRICTS**

**Section 401. Establishment of Districts**

The Town of Carroll is hereby divided into the following Districts:

- RES 1: Residential 1
- RES 2: Residential 2
- R-B: Residential – Business
- IND: Industrial
- RU: Rural

**Section 402. Zoning Map**

1. The Districts as established in Section 401 are shown on the map entitled **Town of Carroll New Hampshire Zoning Map** dated April 1, 2017 available at the Town Office. The map is part of this Ordinance.
2. When interpreting the Zoning Map in regard to the Residential - Business District, the portions shown as following US Route 3 and US Route 302 shall be interpreted as including all land within 500 feet of the road right-of-way.
3. When interpreting the Zoning Map in regard to the Residential 1 District, the portion shown as following Little River Road shall be interpreted as including all land within 200 feet east of the road right-of-way.

**Section 403. District Regulations**

This section lists the permitted uses, special exceptions, conditional uses, yard and building requirements, and any other provision specifically relating to the various districts.

**403.1 Uses**

A person shall not use any lot in any zoning district in the town of Carroll except as hereinafter specifically allowed. Those uses designated with a “P” are permitted and allowed by right. Those uses designated “SE” are allowed only with a Special Exception granted by the Zoning Board of Adjustment. Those uses designated “CU” are allowed only with a Conditional Use Permit granted by the Planning Board. Those uses designated “a” are allowed only as an accessory use to a lawfully existing principal use. “x” indicates not allowed.

<b>USES</b>	<b>RES 1</b>	<b>RES 2</b>	<b>R-B</b>	<b>IND</b>	<b>RU</b>
<b>a. RESIDENTIAL</b>					
1. Single family dwellings and private garages	P	P	P	x	P
2. Two family dwellings, with private garage	P	P	P	x	SE
3. Multi-family Dwelling	SE	P	SE	x	SE
4. Accessory dwelling unit (ADU)	CU	CU	CU	x	CU
5. Manufactured homes	P	x	x	x	P
6. Manufactured home parks	x	x	x	x	SE
7. Home business	SE	SE	P	x	SE

<b>b. INSTITUTIONAL</b>					
1. Churches	P	P	P	x	P
2. Day care centers	SE	P	P	x	SE
3. Hospitals, nursing homes and convalescent homes	SE	P	SE	x	SE
4. Libraries	P	P	P	x	P
5. Municipal buildings and facilities	P	P	P	x	P
6. Museums and cultural facilities	SE	P	SE	x	SE
7. Schools	P	P	P	x	P
<b>c. COMMERCIAL/SERVICES/INDUSTRIAL</b>					
1. Banks and other financial service institutions	x	P	P	x	x
2. Business and professional offices	SE	P	P	P	SE
3. Campgrounds	x	x	SE	x	SE
4. Contractor yard	x	x	x	P	x

<b>USES</b>	<b>RES 1</b>	<b>RES 2</b>	<b>R- B</b>	<b>IND</b>	<b>RU</b>
4. Convenience store with or without gasoline sales	x	SE	P	x	x
5. Entertainment venue	x	x	x	P	x
6. Excavations	x	SE	x	SE	SE
7. Gasoline service stations and motor vehicle repair service	x	SE	P	x	x
8. Heavy equipment sales	x	x	SE	P	x
9. Heliports	x	x	x	SE	x
10. Junkyards	x	x	x	SE	x



11. Light manufacturing facilities	x	x	SE	P	x
12. Lodging	P	P	P	x	P
13. Lumber mill	x	x	x	P	SE
14. Medical or health care services	x	x	P	P	x
15. Off-premises signs	SE	x	SE	SE	SE
16. Parking facilities, including serving off-site uses	x	SE	P	P	x
17. Pawn shops	x	x	SE	x	x
18. Personal services	x	a	P	x	x
19. Research laboratories	x	P	SE	x	x
20. Restaurants	x	P	P	x	x
21. Retail businesses and services including storage and distribution related thereto, exclusive of junkyards and gasoline sales, without drive-through services	x	P	P	x	x
22. Retail businesses and services including storage and distribution related thereto, exclusive of junkyards and gasoline sales, with drive-through services	x	SE	SE	x	x
23. Sale of motorhomes, campers, and premanufactured homes	x	x	SE	x	x
24. Sale of new cars, used cars or rentals or any combination thereof.	x	x	SE	x	x
25. Sale or rental of new or used OHRV	SE	SE	SE	SE	SE
26. Spas, health clubs	x	a	P	x	x
27. Storage facilities – personal	x	x	x	P	x
28. Storage of building material for retail trade	x	x	x	P	x
<b>USES</b>	<b>RES 1</b>	<b>RES 2</b>	<b>R- B</b>	<b>IND</b>	<b>RU</b>
29. Theatres and places of assembly exclusive of drive-in theatres	x	P	x	x	x
30. Theatres, clubs and halls	x	x	P	x	x
31. Warehouses for storage and distribution	x	x	x	P	x

32. Wholesale businesses	x	x	x	P	x
<b>d. RECREATION</b>					
1. Golf Course	x	P	x	x	x
2. Indoor recreation facility	x	P	P	x	x
3. Municipal recreation, including golf courses	x	x	x	x	P
4. Outdoor recreation facility	x	P	x	x	x
<b>e. UTILITY</b>					
1. Public utility facilities including substations, pumping stations, and sewerage treatment facilities	x	P	x	SE	P
2. Public water supply	x	x	x	x	P
3. Solar and wind energy generation	x	x	x	SE	SE
4. Telecommunications facility	SE	SE	SE	SE	SE
<b>f. OTHER</b>					
1. Accessory buildings or uses	P	P	P	P	P
2. Cemeteries	x	x	x	x	P
3. Agriculture, not including the raising and keeping of animals	P	P	P	P	P
4. Raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a, exclusive of piggeries, and the raising and keeping of livestock or equine accessory to any other use	SE	SE	SE	SE	SE
5. Forests and related uses	x	x	x	x	P
6. Planned Unit Development	CU	CU	CU	CU	CU

**403.2 Residential: RES 1**

The minimum lot size in this district shall be one acre. Multi-family buildings in this district shall have an additional area of 10,000 square feet for every 1,000 square feet of livable space in addition to the minimum lot area required for a single-family dwelling. Minimum frontage along the principal access shall be 150 feet. Minimum yard setback requirements are as follows:

**FRONT SETBACK: 30 Feet**  
**SIDE SETBACK: 20 Feet**  
**REAR SETBACK: 50 Feet**

The maximum building height shall be 2 1/2 stories or 33 feet, whichever is less.

#### **403.3 Residential: RES 2**

##### Residential Use Area Limitations:

The minimum lot size for a single-family or two-family dwelling shall be one acre. Minimum frontage shall be 100 feet. The maximum building height shall be 3 stories or 33 feet whichever is less. The minimum setback requirements are as follows:

**FRONT SETBACK: 30 Feet**  
**SIDE SETBACK: 20 Feet**  
**REAR SETBACK: 25 Feet**

All properties must comply with these minimum setback requirements unless alternative setback measurements are explained in the current property deed as well as the property deed when it was last transferred.

For a single-family or two-family dwelling on a lot of 5 acres or more, or for any multi-family dwelling regardless of lot size, a minimum of 25% of the total land area shall be set aside as permanently designated open space, which the owner, a homeowners' association, or a condominium association shall maintain for the use and enjoyment of the residents. If the dwellings are part of a planned unit development (PUD), open space shall be based on the total land area of the contiguous lots in the development.

##### Commercial Use Area Limitations:

For commercial uses the minimum frontage shall be 100 feet. Commercial development of 5 acres or more shall set aside a minimum of 25% of the total land as permanently designated open space. The maximum building height shall be 3 stories or 33 feet whichever is less. The minimum setback requirements are as follows:

**FRONT SETBACK: 40 Feet front setback**  
**ONE STORY BUILDING: 20 Feet side setback**  
**25 Feet rear setback**  
**TWO STORY BUILDING: 30 Feet side setback**

**THREE STORY BUILDING:**           **35 Feet rear setback**  
  **40 Feet side setback**  
  **40 Feet rear setback**

**403.4 Residential - Business: R-B**

The minimum lot size in this district shall be one acre. Multi-family buildings in this district shall have an additional area of 10,000 square feet for every 1,000 square feet of livable space in addition to the minimum lot area required for a single-family dwelling. Minimum frontage shall be 100 feet. The minimum yard setback requirements are as follows:

**FRONT SETBACK:**       **Commercial - 40 Feet**  
                                  **Residential - 30 Feet**  
**SIDE SETBACK:**       **20 Feet**  
**REAR SETBACK:**       **25 Feet**

The maximum building height shall be 2 ½ stories or 33 feet, whichever is less.

IN COMMERCIAL USE ONLY - the following minimum yard setbacks are required:

**ONE STORY BUILDING:**   **20 feet side setback**  
  **25 feet rear setback**  
  
**TWO STORY BUILDING:**   **30 feet side setback**  
  **35 feet rear setback**  
  
**THREE STORY BUILDING:** **40 feet side setback**  
  **40 feet rear setback**

(must meet the maximum height requirement of 33 feet)

**403.5 Industrial: IND**

The minimum lot size shall be four acres. For each square foot of industrial space there shall be two square feet of open space. The minimum setbacks are as follows:

**FRONT SETBACK:**           **100 feet**  
  
**SIDE AND REAR SETBACK:** **25 feet or 50% of the building height, whichever is greater,**  
  **except when abutting a residential district where it shall be a**  
  **minimum of 50 feet.**

The maximum building height shall be 50 feet, and associated appendages such as stacks, towers, water supplies and the like shall not exceed 90 feet. Adjustments to these heights on an individual basis may be authorized as a Special Exception.

#### **403.6 Rural: RU**

The minimum lot size in this district shall be two acres. The minimum lot size for single-family dwellings in this district shall be one acre where municipal water is available and shall meet the setback requirements as stated in Residential 1. Multi-family buildings in this district shall have an additional area of 10,000 square feet for every 1,000 square feet of livable space in addition to the minimum lot area required for a single-family dwelling.

The minimum frontage required along the principal route of access shall be 200 feet.

The minimum yard setback requirements are as follows:

<b>FRONT SETBACK:</b>	<b>40 feet</b>
<b>SIDE SETBACK:</b>	<b>30 feet</b>
<b>REAR SETBACK:</b>	<b>50 feet</b>

The maximum building height shall be 2½ stories or 33 feet, whichever is less.

### **ARTICLE V GENERAL PROVISIONS**

The following provisions shall apply to all districts except where listed.

#### **Section 501. Principal Use and Building**

There shall be only one principal use and one principal building on a lot unless otherwise approved as part of a Planned Unit Development. A business complex or commercial property with related uses shall be considered a single principal use for this purpose.

**A garage is to be used for storage of vehicles and shall in no way be used for residential purposes.**

#### **Section 502. Required Area**

Space required under these regulations to satisfy area, yard or other open space requirements in relation to one building shall not be counted as part of a required open space for any other building.

#### **Section 503. Corner Lots**

In the Residential 1, Residential-Business and Rural Districts, the side yard of a corner lot shall have a width equal to the minimum front yard setback required in each district.

On a corner lot regardless of the district, within the triangular area formed by the intersection of two street property lines and a third line joining them at points twenty-five feet away from their intersection, there shall be no obstruction to vision between the height of three feet and ten feet above the surface of each street.

#### **Section 504. Temporary Uses and Structures**

- a. Temporary permits may be issued to a lot owner by the Selectmen or their designee to allow said owner to live in a camper or recreational vehicle during the active construction of a dwelling for a period not exceeding one year. Documentation of disposal of waste in compliance with NHDES regulations must be provided to the Select Board or their designee each month. Such permits may be renewed upon application for an additional period of one year as long as construction is active.
- b. A registered camper or recreational vehicle on a private lot with or without a single-family dwelling may be used as a seasonal dwelling for up to fourteen (14) days per year without a permit. On an undeveloped lot only, one or more registered camper(s) or recreational vehicle(s) may be utilized as a seasonal dwelling for greater than fourteen (14) days per year by the lot owner and nonpaying guests upon issuance of a permit from the Select Board or designee. Proof of a primary residence (other than the undeveloped lot which is the subject of the permit) shall be required. Documentation of disposal of waste in compliance with NHDES regulations must be provided to the Select Board or their designee each month.

#### **Section 505. Off Street Parking**

- a. Two off-street parking spaces per dwelling unit shall be provided for single- and two-family dwellings. These parking spaces, whether outdoor or in a garage, shall be (10) feet wide by twenty feet long. For other land uses parking shall meet the requirements of the Town of Carroll Site Plan Review Regulations.
- b. All parking shall be designed to ensure that no backing out onto private or public roads will occur.
- c. Adequate off-street loading area shall be provided by all commercial, industrial and institutional uses. The area shall be located so that all vehicles that are maneuvering, loading and unloading shall be clearly out of the road right-of-way.

#### **Section 506. Signs**

- a. Every sign shall be constructed of durable material and shall be maintained in good condition and repair.

- b. There may be by right one on-premises, free-standing sign for each lot whose principal use is for commercial purposes and one on-premise for each business, which is affixed to the building housing the business. Additional signs for permanent or temporary uses shall only be allowed by the Board of Adjustment as a Special Exception.
- c. Any property owner given written notice that their sign(s) are in violation of existing code will be fined up to \$100.00 per day per violation until sign(s) conform to code. (7-day grace period)
- d. Purpose and intent. The principle guiding these regulations is that signing should not destroy or detract from the scenic vistas, compete unnecessarily with the natural environment which is a major asset to the town's tourist-based economy, or proliferate in number with competitive advertising sales campaigns. Therefore, recognizing that any business needs identification and that the public needs direction, the following regulations are written for the special needs of Carroll. These regulations are to encourage the use of street graphics which are compatible with the community character, readable and clear, non-distracting to vehicular traffic, and maintained in safe and good repair.
- e. Application permit requirements:
  - 1. No sign or advertising device, including advertising devices affixed to a vehicle and allowed to remain on the premises with the intent to serve as a sign, shall be erected on any premise or affixed to the outside of any structure or be visible from the outside of any structure except as specified herein.
  - 2. No sign shall be erected or placed in the Town of Carroll without a permit.
- f. Existing uses and nonconforming uses:
  - 1. Every sign lawfully in existence at the time of adoption of these regulations may continue in existence and be maintained but shall not be changed in any of its dimensions, such as height, diameter, width, thickness, circumference and perimeter, or moved or replaced unless it is made to comply with the provisions of these regulations and a permit obtained. Nevertheless, a pre-existing nonconforming sign may be reduced in overall height and/or the message portion reduced in square footage area, and in the latter, the message area surface may be changed so as to more nearly comply with the provisions of these regulations.
  - 2. Maintenance is considered to be only the following actions: repainting; other surface renewal; change of message on the same surface; or replacement of any sign surface, support framework or component with substantially similar construction material or component. A permit is required for any maintenance except repainting, other surface renewal or change of message on the same surface.
  - 3. Any nonconforming sign, the use of which has been discontinued voluntarily or involuntarily for a period of three (3) months, shall not be re-established, restored or repaired unless it is made to comply with this ordinance.
- g. The following signs do not require a sign permit:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, names of occupants of the premises or other noncommercial identification.
2. Street signs in conformance with the Town requirements.
3. Directional signs no greater than four (4) square feet in area, to indicate entrance and exit driveways, if they are one-way.
4. Any sign required by federal, county, state or local law.
5. Legal notices, "No Trespassing" signs, identification, information or directional signs shall be no greater than twelve (12) square feet.
6. Business name and directional signs no greater than three (3) square feet located over doorways.
7. Signs located on rolling stock of licensed common carriers or registered and inspected motor vehicles fit for highway use and not used to defeat the spirit of this ordinance.
8. National, state, provincial and religious flags for patriotic, religious or decorative uses. No unrelated message may be displayed on any flag.
9. Signs not exceeding one (1) square foot with any of the following messages: "Open," "Closed," "Vacancy," "No Vacancy."

h. Signs permitted in All Districts:

1. One (1) freestanding sign per lot, whose principal use is for commercial purposes, with not greater than one hundred (100) square feet of message area. Height of the message area shall not exceed fifteen (15) feet, with the total height, including structural supports, not to exceed twenty (20) feet. Height shall be determined by the height from undisturbed ground directly under the sign. Overall width, excluding structural supports, shall not exceed twelve (12) feet. Where two (2) or more businesses are located in a single building or within attached buildings or within a cluster of buildings sharing a common vehicular entrance and exit, only one (1) freestanding sign is permitted. Each business may have by right one on-premise, attached sign which is affixed to the building housing the business.
2. One (1) appendage may be added under the message face of a free standing or hanging sign. The appendage sign area is to be considered part of the total message area.
3. On lots where only a single business exists, one (1) identifying wall sign and/or wall graphic is allowed, not to exceed ten percent (10%) of the area of the building face to which it is attached.
4. Places of business serving food to the public at specified hours only or not solely in the restaurant business, or bar-restaurant serving continuously during the period they are open, may place an additional sign in front of their place of business advertising the hours meals are served. The message area is not to exceed six (6) square feet. The message of the sign will be portable and removed at the end of the serving period.

- i. The following temporary signs are allowed in all districts without a permit and are exempt from street line setback provisions as would otherwise apply hereunder in the respective districts. All other signs which are temporary by manner of placement on the lot or by construction or readily movable, and not exempted from permit specifically under this subsection, shall otherwise only be erected and located on any lot in conformity with the full provisions of the Zoning Ordinance.



1. One (1) non--illuminated sign per lot advertising only the sale or lease of the premises thereon shall not exceed six (6) square feet in message area.
  2. Window signs attached to the exterior or interior of a window, provided that the sign area does not exceed fifty percent (50%) of the total window area per wall face.
  3. Special promotional signs for public or institutional events no larger than forty (40) square feet of message area, special promotional signs or banners for public or institutional events that cross a public or private road no larger than two hundred (200) square feet of message area.
  4. Signs erected for an election, primary or referendum, provided that they are erected in accordance with State of NH law, if applicable, or, if not applicable, erected no sooner than twelve (12) weeks before the date of the election, primary or referendum and removed no later than two (2) weeks after that date.
  5. One (1) sign on premises identifying garage, barn or lawn sales but only on the day or days of the sale and two (2) preceding days, not to exceed (12) square feet.
  6. For construction in progress: one (1) sign identifying the owner, architect, contractor and/or developer, to be removed within one (1) month of completion of the project, not to exceed twelve (12) square feet in size.
- j. Illumination:
1. No sign visible from a public street shall be permitted of the flashing, blinking or alternating type, or digital type operating by alternating lighting, giving information of a public service type message and/or advertising services or products.
  2. All illuminated signs shall be so arranged as to direct or shield the light away from public streets and adjoining structures.
  3. Signs may be illuminated either by internal or external light sources.
  4. Signs, whether illuminated or not, shall not rotate, revolve or move mechanically in any way in whole or in part.
- k. No freestanding signs shall be attached or supported within the limits of the public right-of-way. No signs shall be placed in such a position as to endanger street traffic by obscuring a clear view of, or to cause confusion with, official street signs and signals. No privately-owned signs shall project over a public or private street or sidewalk, except hanging signs provided herein. No sign shall project above the parapet or eaves of a building.
- l. All surfaces and supporting structures of signs, whether erected prior to the effective date of this regulation or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. Failure to correct a violation within thirty (30) days after notice thereof shall constitute a violation subject to prescribed remedies, whereupon the designated town official may remove or cause to be removed said sign.
- m. Sign measurement:
1. The measurement of the area of a sign shall be the message area and shall be considered to include all lettering elements of a sign, accompanying designs and symbols, together with

background, whether open or closed, on which they are displayed, but not including any supporting framework or bracing which is incidental to the sign and which is not designed to attract attention.

2. Where the sign consists of letters, symbols or devices affixed to the surface of a building, the area shall be measured by a single continuous perimeter drawn to enclose the extreme limits of the letters, symbols or devices.
3. The area of one (1) side of a double-faced sign shall be regarded as the total area of the sign. For double-faced signs, each face must be attached directly to the other.

n. All signs, including exempted and temporary signs must be on the lot to which they apply, except for off premise signs which shall be directional in nature and conform to Chapter 236 Laws of NH.

## **Section 507. Outdoor Lighting**

### **507.1 Statement of Purpose and Intent**

The purpose of this section is to preserve the rural character and dark skies of the Town of Carroll. Appropriately regulated and properly installed, outdoor lighting will maintain and complement the Town's character and contribute to the safety and welfare of the residents of the Town and its visitors. This ordinance is intended to enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, providing for lighting that will complement the character of the Town, reduce glare, minimize light trespass, reduce the cost and waste of unnecessary energy consumption and prevent the degradation of the night sky. The goal of this lighting ordinance is to recognize the benefits of outdoor lighting and provide clear guidelines for its installation.

### **507.2 Applicability**

Except as provided in Section 507.4 below, Section 507.3 shall apply to commercial, industrial, agricultural, and residential structures and uses. Whenever an existing outdoor lighting fixture or installation is being modified, extended, expanded or added to, that fixture or installation shall be subject to the requirements of this Ordinance. Owners or operators of non-conforming fixtures and installations are encouraged to bring their outdoor lighting into voluntary compliance with these requirements.

### **507.3 Requirements**

- a. All outdoor light fixtures shall be fully shielded so that no direct light is projected above a horizontal plane passing through the light source.
- b. All outdoor lighting shall be designed, located, shielded and maintained in such a manner as to prevent light trespass or glare onto adjacent properties and public ways.

- c. Lighting fixtures used to illuminate any outdoor advertising sign, street sign, or directive sign shall be mounted on top of the sign structure, shielded in such a manner as to prevent light trespass and/or glare and directed to the target area to avoid light spillage.
- d. Exterior commercial and industrial lighting shall be designed to adequately illuminate the site and parking areas without causing glare, excessive illumination or light trespass on neighboring properties or streets.
- e. Flood or spot lamps must be aimed no higher than 45 degrees above straight down (half way between straight down and to the horizontal plane).
- f. For purposes of this section "light trespass" occurs when the light emitted directly from the lamp or fixture shines beyond the property boundary. For purposes of this section "glare" means any light, direct or indirect, which reduces a normal viewer's ability to see at any location beyond the property boundary.

#### **507.4 Exceptions**

The requirements contained in Section 507.3 above shall not apply to the following structures and uses:

- a. Existing non-conforming structures and uses and those existing non-conforming structures and uses where the fixtures and installations are being replaced but not modified, extended, expanded or added to.
- b. All temporary lighting required for construction projects related to road construction and repair, installation of sewer and water facilities and other public and private infrastructure.
- c. All temporary emergency lighting needed by the police or fire departments or other emergency services including vehicular luminaries.
- d. All hazard warning luminaries required by Federal regulatory agencies except that those luminaries shall be in conformance with the federally required minimum lumen output requirement for the specific task concerned.
- e. Seasonal/decorative lighting displays using multiple low wattage bulbs.

#### **Section 508. Manufactured Homes**

Each manufactured home shall stand on material providing stability to bear the weight of the home at all times of the year and having adequate gradient or crown to provide for proper surface drainage.

#### **Section 509. Lot Size Averaging**

##### **509.1 Purpose**

In any District, the Planning Board may approve reduced lot sizes, frontage requirements, and/or internal setbacks when in the Board's judgment, flexibility in subdivision design will promote the most appropriate use of land and the protection of productive agricultural or forest land, scenic

views, historic sites, shorelines, wetlands, important habitat areas, and other resources of importance to the community, while minimizing the alteration of the natural topography of the land, in accordance with the goals and objectives of the Master Plan.

### 509.2 Density

The total number of lots approved will be determined based on the number that would be otherwise approved under a conventional subdivision plan. The applicant may choose to either:

1. Submit a concept plan showing lots, road rights-of-way, and stormwater management areas, and any other areas which would not be incorporated in individual lots as necessary to meet the usual minimum standards for the district without the need for any lot area or lot dimension variances, and accounting for development limitations such as steep slopes, wetlands, septic suitability, available water supply, adequate driveway access to each lot, and compliance with the Town of Carroll subdivision regulations, or
2. After accounting for areas that must be subtracted from the acreage figure utilized to calculate the developable area pursuant to other sections of this ordinance if any, subtract a percentage of the property in accord with the table below to account for roads, drainage and other utilities prior to dividing by the minimum acreage required per unit for the district.

<b>Zoning District Lot Size</b>	<b>% Deduction for Roads and Utilities</b>
2 acres or more	10%
less than 2 acres	15%

### 509.3 Dimensions and Arrangement of Lots

The minimum lot size, frontage and internal setbacks shall be determined by the Planning Board based on the character of the land and neighborhood, the adequacy of the soils to support on-site wastewater disposal and wells [unless on public water supply and/or wastewater disposal], safety of access, traffic and pedestrian circulation, impervious surface, and other issues relating to the future use and enjoyment of the property.

The factors considered by the planning board when evaluating the proposed arrangement of lots shall include, but not be limited to, the following:

- Arrangement of roads, stormwater facilities, wastewater and other utilities in conformance with the natural features of the parcel, minimizing changes to the topography.
- Minimization of impervious cover.
- Protection of stream corridors and other important habitat areas.
- Protection of wetlands.
- Feasibility of continued or future agricultural use.
- Feasibility of continued or future forest management.

- Relationship to neighboring property, including conservation easements, or natural, cultural, recreational or scenic features.

The setbacks from abutting properties not part of the application shall not be reduced. Front setbacks may be reduced only when on an internal subdivision road approved by the Planning Board as part of the subdivision application. When frontage requirements are reduced, the Planning Board may require shared driveways.

#### **509.4 Permanently Protected Area**

The lot size averaging plan will concentrate development away from the most important resource areas and from those areas of the property that are most environmentally sensitive as described in Section 509.1.

For each lot less than the minimum size normally required for the District, one or more lots larger than the minimum shall be provided in order to maintain an average lot size no smaller than the minimum lot size normally required for the District. Permanent protection from further development shall be provided for an area equal to or exceeding the sum of the areas by which individual lots are reduced below the minimum normally required for the District. Further subdivision of the lot or lots that are larger than the minimum lot size normally required for the District to compensate for other lots that are smaller than the minimum lot size normally required for the District, or use for other than one dwelling unit, noncommercial outdoor recreation, conservation, agriculture, forestry or other principal use or building as otherwise permitted by the Zoning Ordinance, shall be prohibited. The protected land shall be shown on the final plat and the conservation restriction recorded with the Register of Deeds.

#### **509.5. Management of Permanently Protected Area**

Pursuant to RSA 674:21-a, Planning Board approval of a final lot size averaging subdivision plan shall result in the creation of a conservation restriction incorporating the conditions of approval, including the maximum number of lots and the location, size and permissible uses of the land area that is to remain undeveloped. If the undeveloped area is to be held in common, all covenants, deed restrictions, organizational provisions for a homeowner's association or equivalent, and any other agreements regarding the method of ownership, management or maintenance of the protected area shall be established prior to Planning Board approval of the subdivision plan. By mutual agreement of the Planning Board and subdivider, the conservation restriction may take the form of a conservation easement to the town or private conservation group, or other instrument approved by the Planning Board.

### **Section 510. Prohibiting Uses Which are a Nuisance or Detrimental to Other Property or the Public**

#### **510.1 General Prohibition on Nuisance Uses**

No land within the Town of Carroll shall be used in a manner which constitutes a public or private nuisance, or which is otherwise unduly disorderly, unsightly, obnoxious, offensive or detrimental to the public welfare or to the owners or occupants of adjacent property.

### **510.2 Emissions**

No use shall emit odors, dust, smoke or noise which cause a hazard or danger to the health, comfort, safety or welfare of any person or which have a tendency to cause injury or damage to property, businesses, or vegetation.

### **510.3 Structures or Uses Damaged or Under Construction**

Any structure damaged by fire, wind, or other causes beyond the owner or occupant's control shall, within a reasonable time, be either repaired or razed, with all debris completely removed, and all excavations filled to ground level. No structure or use, whether conforming or nonconforming, shall be allowed to be maintained in a damaged or unfinished condition for more than one year, unless a special exception is granted by the Zoning Board of Adjustment, provided, however, that this one year provision shall not be construed as permitting an owner or occupant to maintain a building or structure in violation of Section 510.5.

### **510.4 Littering, Waste and Illegal Dumping**

- a. No person shall dump, deposit, throw or leave, or cause or permit the dumping, depositing, placing, throwing, leaving or maintaining of any waste, garbage, refuse, litter as defined by RSA 236:91,II, on any public or private property in the Town of Carroll, whether or not such person is the lawful owner or tenant in possession of such property, unless such litter or junk is placed into receptacles designed for the secure storage of such materials.
- b. Any receptacle in which such materials are to remain for more than three consecutive days shall have lids which are impenetrable by animals. No such materials shall be deposited outdoors in trash bags, whether standing alone or beside or on top of another type or receptacle, unless such bags are to be properly deposited or transported elsewhere the same day.
- c. Any person utilizing outdoor trash receptacles, including those commonly referred to as "dumpster," shall keep the top of the receptacle and surrounding area clean and free of loose garbage or other waste.
- d. By the Town, to any properly licensed salvage yard or junkyard, or to waste products normally generated by properly licensed or permitted excavations or mining operations, or by farming, logging, or sawmill operations otherwise in compliance with applicable laws.

- e. This section shall not be construed to diminish the Town's authority to enforce any other applicable laws, or to utilize other applicable legal remedies, as provided by other ordinance or state or federal law.

### **510.5 Property Maintenance Standards**

No building or structure in the Town of Carroll, or any part thereof, whether primary or accessory, shall be maintained in such a manner that any of the following conditions exist:

- a. Missing, broken or boarded windows or doors;
- b. Collapsing or deteriorating exterior walls, roofs, stairs, porches, handrails, railings, basement hatchways, chimneys, flues, or floors;
- c. Exterior walls which contain holes, breaks, or loose or rotting materials;
- d. Foundation walls which contain open cracks and breaks;
- e. Overhangs such as canopies, marquees, signs, awnings, stairways, fire escapes, standpipes or exhaust ducts which contain substantial rust, rot or other decay;
- f. Infestations of rats or other vermin;
- g. Fences with broken or rotted boards or which are otherwise in a dilapidated condition;
- h. In the case of any premises regularly occupied by persons other than the owner(s), any condition which violates the minimum standards set forth in RSA 48-A:14.
- i. Any other condition similar to the above, which reflects a level of maintenance with a similar tendency to adversely affect the occupants of a structure, adjoining property, or the character of the neighborhood.

### **510.6 Enforcement**

In addition to any other applicable remedy at law, the provisions of this section may be enforced by written order or notice of violation, issued by the Board of Selectmen, or their designee; provided that any construction, interpretation or application of the terms of this ordinance implicated by such notice or order shall be subject to appeal to the Zoning Board of Adjustment, as set forth in Section 804.2 of this Ordinance and RSA 676:5. Nothing in this section shall in any way diminish the authority of the Town to enforce the State Building Code, State Fire Code, laws pertaining to the Health Officer under RSA 147, or any other applicable ordinance or state or federal law.

## **ARTICLE VI OVERLAY DISTRICTS**

### **Section 601. Village Overlay District**

#### **601.1 Purpose**

In addition to the general purpose of the Carroll Zoning Ordinance as set forth in Section 102, this section is adopted pursuant to RSA 674:16, and RSA 674:21, Innovative Land Use Controls. This

section is intended to promote beneficial consolidation of land development within an existing unique and historic White Mountain resort setting with a corresponding increase in open space, to permit efficient layout of roads and buildings, to improve the delivery of public safety services, to encourage transportation alternatives and a pedestrian-friendly village area, and to promote mixed commercial and retail uses and a community environment within the Village Overlay District. The provisions of this section are intended to complement the Concept Plan (Planned Unit Development) provisions of this Ordinance, but not to alter or affect any existing Concept Plan adopted thereunder.

### **601.2 Village Overlay District**

The Village Overlay District is an overlay district which is superimposed over the existing underlying RES 2 District in order to allow flexibility from those requirements otherwise applicable in the RES 2 District. The boundaries of the Village Overlay District shall be as depicted on the Village Overlay District Map dated December 18, 2007 and that is on file in the Town offices.

Mixed uses (a combination of permitted uses or those allowed by special exception as set forth in Section 403) may be combined on a single lot or on multiple lots within the Village Overlay District and within individual buildings within the Village Overlay District. Any building that combines commercial with any other use shall be deemed a commercial use for purposes of calculating area limitations under Section 403.

### **601.3 Flexible Requirements for Parking and Transportation, Roadway Engineering Standards, Building Height, and Signage**

Any requirements otherwise applicable for the RES 2 District pertaining to parking and transportation, roadway engineering, building height, and signage shall not apply to the Village Overlay District, provided that an applicant for final subdivision approval or site plan review, shall, as part of the application, identify those requirements which would otherwise apply, and the specific degree of variation and flexibility which is being proposed. For building height, an applicant must specify each particular building that is proposed to exceed 33' in height. The Planning Board shall approve the proposed flexible approach in these four areas if the applicant demonstrates, to the Board's satisfaction, that the proposal is protective of the safety and welfare of residents and the public, including the scenic qualities of the RES 2 District, will not adversely impact Town services, and is otherwise consistent with the purposes of this section. Reasonable costs for public safety equipment necessitated by a subdivision or site plan approval under this section may be imposed by the Planning Board.

### **Section 602 Airport Overlay District**

**602.1.** This Airport Overlay District, prepared under the authority of RSA 424:5, provides additional height limits for the purpose of protecting the safety of persons and property in the vicinity of Runway 9-27, a general aviation type airport with runway and primary surfaces as follows:



- a. Paved Runway: 2640' x 60'
- b. Primary Surface: 3040' X 250' (200 feet beyond each end of the paved runway)
- c. Field Elevation: 1459' MSL
- d. Airport Reference Point: (ARP)

71-32-48.2953W Longitude Estimated  
 44-15-50.6307N Latitude

- e. Runway description: A paved landing area 2640' long x 60' wide whose centerline is generally on an East-West orientation.

**602.2.** Federal Aviation Regulations (FARs), Part 77 effective May 1, 1965, as amended, establishes the standards used to determine the limit of height of obstructions in and surrounding airports.

**602.3. Surfaces Defined:**

- a. Primary Surface: A horizontal surface longitudinally centered on the Runway, the elevation of which is the same as the elevation of the nearest point on the runway centerline, the highest point of which is 1459' MSL, (estimated). The length of this surface is 3040' long and 250' wide as it extends 200 feet beyond each end of the runway.
- b. Horizontal Surface: A horizontal plane 150' above the established airport elevation and is to be 1609', the perimeter of which is constructed by swinging arcs of 5000' radii from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.
- c. Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 (1 ft. vertically to 20 ft. horizontally) for a horizontal distance of 4000'.
- d. Approach Surfaces: Surfaces longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface (Runway 090-270). The inner edges of these surfaces are the same width as the primary surface, 250', and expand uniformly along the runway centerline extended to a width of 1250' at a horizontal distance of 5000'. The slope of these surfaces is inclined at a ratio of 20 to 1 (1 ft. vertically to 20 ft. horizontally) from the primary surface.

e. Transitional Surface: These surfaces extend outward and upward at right angles to the runway centerline and runway centerline extended at a slope of 7 to 1 (1 ft. vertically to 7 ft. horizontally) from the edge of the primary surface and from the sides of the approach surface.

**602.4.** The height of all obstructions shall be limited to the height or elevation that will not protrude into or be above the elevation of the surfaces described in Section 602.3.

**602.5.** No provision of Section 602.3 shall limit the height of a structure or tree to less than 30' above the ground upon which it is located.

**602.6.** The Airport Reference Point (ARP) is located on the centerline of the runway approximately 1320' from each end of the runway and has an elevation of 1459' MSL.

**602.7** Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

**Section 603. Aquifer Protection Overlay District**

**603.1 Purpose**

The purpose of the Aquifer Protection Overlay District is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

**603.2. Aquifer Protection District**

The Aquifer Protection District is an overlay district which is superimposed over the existing underlying zoning districts and it imposes additional requirements and restrictions to those of the underlying, base district zoning. In all cases, the more restrictive requirement(s) and permitted uses shall apply. The Aquifer Protection District shall include the wellhead protection areas shown on the latest mapping available from NHDES, and the areas shown as stratified-drift aquifers on the latest

mapping available from U.S. Geological Survey and/or the New Hampshire Department of Environmental Services.

The Planning Board may adjust the mapped boundary of the District upon the recommendation of a professional geologist using 1: 24,000 scale surficial geology map prepared by the New Hampshire Geological Survey, other existing data (including wells, borings, or other excavations of sufficient depth), or appropriate field-testing methods.

### **603.3. Existing Nonconforming Uses**

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including ENV-Ws 421, Best Management Practice Rules.

### **603.4 Exemptions**

The following uses are exempt from the specified provisions of this Ordinance as long as they are in compliance with all local, state and federal requirements:

1. Any private residence is exempt from all Performance Standards.
2. Any business or facility where regulated substances are not stored in containers with a capacity of 5 gallons or more is exempt from Performance Standards 5 through 8.
3. Storage of heating fuels for onsite use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard 5.
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by vehicle is exempt from Performance Standards 5 through 8.
5. Storage and use of office supplies are exempt from Performance Standards 5 through 8.
6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 5 through 8.
7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI is exempt from all provisions of this Ordinance.
8. Household hazardous waste collection projects under New Hampshire Code of Administration Env-Wm 401-03 (b)(1) and 501.01 (b) are exempt from Performance Standards 5 through 8.
9. Underground storage tank systems and above-ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under this ordinance.

### **603.5 Permitted Uses**

All uses permitted by right or allowed by Special Exception in the underlying district are permitted in the Aquifer Protection District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Section 603.4.

### **603.6. Conditional Use Approval Required**

Planning Board approval must be obtained prior to commencing any of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time provided that an adequate plan is in place to prevent, contain, and minimize releases from catastrophic events such as spills or fires which may cause large releases of regulated substances.
2. Any use that renders impervious more than 15% or 2,500 square feet of any lot, whichever is greater.

In granting such Conditional Use approval the Planning Board must first determine that the proposed use is not a prohibited use and will be in compliance with the Performance Standards as well as all applicable local, state and federal requirements. The Planning Board, at its discretion, may require that a performance guarantee or bond be posted in an amount with surety conditions satisfactory to the Board to ensure completion of construction of any facilities required for compliance with the Performance Standards.

### **603.7 Prohibited Uses**

The following uses are prohibited in the Aquifer Protection District:

1. The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.
2. The siting or operation of a solid waste landfill.
3. The outdoor storage of road salt or other deicing chemicals in bulk.
4. The siting or operation of a junkyard.
5. The siting or operation of a snow dump.
6. The siting or operation of a wastewater or septage lagoon.

### **603.8 Performance Standards**

The following Performance Standards apply to all uses in the Aquifer Protection District unless exempt under Section 603.4:

1. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall be prepared which the

Planning Board determines is consistent with the New Hampshire Stormwater Manual, current edition, published by NHDES.

2. Stormwater management plans shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary.
3. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Foods, August 1998, and any subsequent revisions thereto.
4. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains and outside drains.
5. Facilities where regulated substances are stored must be secured against unauthorized entry by means (a) of door(s) and/or gates(s) which is (are) locked when authorized personnel were not present and must be inspected weekly by the facility owner.
6. Outdoor storage areas for regulated substances must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems.
7. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property.
8. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.

### **603.9. Maintenance and Inspection**

1. For uses requiring Conditional Use approval from the Planning Board for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded at the Coos County Registry of Deeds so as to run with the land on which such structures are located. The narrative description shall comply with the requirements of RSA 478:4-a.
2. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Select Board or designee at reasonable times with prior notice to the landowner.

3. All properties within the Aquifer Protection District known to the Select Board or designee as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities where all regulated substances storage is exempt from this Ordinance, shall be subject to inspections as provided herein.
4. The Board of Selectmen may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Board of Selectmen as provided for in RSA 41:9-a.

## **Section 604. Flood and Erosion Hazard Area Overlay District**

### **604.1 Authority**

The Flood and Erosion Hazard Area Overlay District is adopted under the authority granted pursuant to RSA 674:16, Grant of Power, RSA 674:21, Innovative Land Use Controls, and 674:56, Flood Hazards.

### **604.2 Purpose**

The purpose of the Flood and Erosion Hazard Area Overlay District is to protect the health, safety and welfare of residents by promoting the most appropriate use of land in Flood Hazard Areas and Fluvial Erosion Hazard Areas, as follows:

- a. Uses which will result in no increase in base flood levels, flows, peaks or velocity.
- b. Uses which will not increase the potential for flood damage to the owner's property or that of others.
- c. Uses which will protect the benefits provided to the community by the floodplain.
- d. Uses which will result in no increase in erosion and/or sedimentation or other degradation of water quality.
- e. Uses which will not increase the risk to public safety, or to emergency personnel during flood events, or result in an increase in the cost of public services above costs incurred when not in a floodplain or fluvial erosion hazard area.
- f. Uses which will allow the Ammonoosuc River to maintain or re-establish its natural equilibrium to avoid the need for costly and environmentally degrading stream channelization and bank stabilization measures.

### **604.3 Findings**

Certain areas of the Town of Carroll are subject to periodic flooding, causing a serious threat to the health, safety and welfare of residents. These areas are shown on the Flood Insurance Rate Maps for Coos County, NH dated February 20, 2013 and described in the Flood Insurance Study for the County of Coos, NH dated February 20, 2013.

Certain areas of the Town of Carroll were identified as being subject to a High or Very High risk of erosion in the report ***Ammonoosuc River Geomorphic Assessment, Floodplain Conservation, and River Corridor Planning***, Dr John Field, October 2011, which was reviewed by NHDES. **604.4 Boundaries**

The Flood and Erosion Hazard Area Overlay District is an overlay district superimposed over the existing conventional zoning districts in the town of Carroll. It is comprised of Flood Hazard Areas and Fluvial Erosion Hazard Areas.

a. Flood Hazard Areas

The provisions of this subdistrict as noted shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study for the County of Coos, NH" dated February 20, 2013 or as amended, together with the associated Flood Insurance Rate Maps dated February 20, 2013 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

b. Fluvial Erosion Hazard Areas

The provisions of this subdistrict as noted shall apply to areas identified in the maps accompanying ***Ammonoosuc River Geomorphic Assessment, Floodplain Conservation, and River Corridor Planning*** as subject to High or Very High risk of erosion.

### **604.5 Applicability**

All proposed development in the Flood and Erosion Hazard Area Overlay District shall require a permit.

The Select Board or their designee shall review all building permit applications for new construction, additions to existing structures, and substantial improvement to determine whether the proposed site is within the Flood and Erosion Hazard Area Overlay District. If the site is determined to be within the Flood and Erosion Hazard Area Overlay District, the Select Board or their designee shall review the application to ensure that the proposal is in compliance with all provisions of the District including all applicable standards contained in Section 604.11 Development Standards.

- a. For all new, expanded or substantially improved structures located in Zone A the applicant shall furnish the following information to the Select Board or their designee:
  1. The as-built elevation (in relation to North American Vertical Datum (NAVD)) of the lowest floor (including basement) and include whether or not such structures contain a basement.
  2. If the structure has been floodproofed, the as-built elevation (in relation to NAVD) to which the structure was floodproofed.
  3. Any certification of floodproofing.
  
- b. The Select Board or their designee shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

- c. The Select Board or their designee 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.
- d. The Select Board or their designee shall determine the base flood elevation in the following order of precedence according to the data available:
  1. In Zone A the Select Board or their designee shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
  2. In Zone A where a base flood elevation is not available or not known, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.

### 604.6 Definitions

The following definitions shall apply only to this Flood and Erosion Hazard Area Overlay District, and shall not be affected by the provisions of any other ordinance of the Town of Carroll.

Addition: An expansion of a structure outside of the footprint of the original building.

Area of Special Flood Hazard: The land in the floodplain within the Town of Carroll subject to a one percent or greater possibility of flooding in any given year. The area is designated on the FIRM as Zones A.

Avulsion: The geomorphic process in which an active river channel shifts location or creates a new active channel. May occur very rapidly during a catastrophic flow event or over a long period of time.

Base Flood: The flood having a 1 percent possibility of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): The elevation of the base flood compared to the North American Vertical Datum of 1988.

Basement: Any area of a building having its floor subgrade on all sides.

Building: "Structure."

Channel: The area that contains continuously or periodic flowing water that is confined by banks and contained within a defined streambed.

Development: 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.

FEMA: The Federal Emergency Management Agency.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

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



Flood Insurance Study: 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.

Floodplain or Flood-prone Area: Any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

Flood proofing: 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.

Floodway: see “Regulatory Floodway.”

Fluvial Erosion: The wearing away of river beds and banks by the action of water, which can be accelerated to rates harmful to life, property, and infrastructure during high flow conditions.

Fluvial Erosion Hazard (FEH) Area: The land area adjacent to stream channels subject to fluvial erosion processes or other channel adjustments.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 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: The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non- elevation design requirements of this ordinance.

Manufactured Home: A structure, transportable in one or more sections that 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.

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level: 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 Map are referenced.

New Construction: 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: 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.
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory Floodway: 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 base flood elevation more than a designated height.

Special Flood Hazard Area: See "Area of Special Flood Hazard."

Start of Construction: 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.

Structure: 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.

Substantial Damage: 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: Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50 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 that 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.”

Top of Bank: The vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow its banks and enter the floodplain. For steep and narrow river and stream valleys, top of bank can be, but is not always, the same as the top of slope (or break in topographic profile).

Violation: The failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

Water Dependent Use: 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.

#### **604.7 Permitted Uses**

The following uses are permitted in the Flood and Erosion Hazard Area Overlay District provided they are consistent with the purposes of this ordinance and do not involve the placement, expansion or construction of permanent structures or other materials that could impede floodwaters or become flood-carried debris:

- a. Agricultural activities consistent with current best management practices as published by the New Hampshire Department of Agriculture, Markets, and Food, including maintenance or improvement of existing crop or pasture land for continued agricultural use, as defined in Env-Wt 101.20 and described in Env-Wt 303.04(u).
- b. Forest Management consistent with current accepted best management practices. As specified in Logging Operations (Env-Wt 304.05):
  1. All skid trails, truck roads and log landings shall be located far enough from streams or ponds so that waterborne soil particles will settle out before reaching the streams or ponds.
  2. Skid trails and truck roads shall be laid out using appropriate erosion control devices, as outlined in the *Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire*, Department of Resources and Economic Development, April 1996, updated February 2000, so that the grade approaching a stream or pond is broken, and surface water is dispersed. Crossings of streams and wetlands shall be kept to a minimum and shall be located to minimize impact in accordance with Env-Wt 302.04(b) and (c).
- c. Outdoor recreation, such as play areas, boating, hunting, fishing, trails for motorized or non-motorized use.
- d. Wildlife or fisheries management.
- e. Scientific research and educational activities.
- f. Home occupations and home businesses in existing residences consistent with other sections of this Ordinance.

- g. Replacement water and sewer systems, including on-site systems, provided that the applicant shall provide the Select Board or their designee 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.
- h. Substantial improvement not involving an addition.

#### **604.8 Prohibited Uses**

Except where otherwise noted, the following uses are prohibited in both the Flood Hazard Area and the Fluvial Erosion Hazard Area:

- a. New buildings or other structures except as allowed below by Conditional Use Permit.
- b. Processing or storage of excavation materials in the Flood Hazard Area.
- c. Storage of construction or other materials which would impede flow of floodwaters or become a hazard downstream during a flood event.
- d. Filling in Flood Hazard Areas.
- e. Grading in Flood Hazard Areas that results in obstruction of flood flows or reduces flood storage capacity.
- f. Grading and excavation conducted in such a manner as to potentially increase the possibility of channel avulsion within the Fluvial Erosion Hazard Area.
- g. Dumping.
- h. Wastewater or septage treatment facilities.
- i. Storage of floatable, or toxic, hazardous, or regulated substances. (Quantities typical for household use are permissible if stored 3 feet or more above base flood elevation.)
- j. Unsecured tanks.
- k. Junkyards.
- l. Landfills.
- m. Subdivision of land that would create a parcel that had inadequate developable land outside the Flood Erosion Hazard Area.

#### **604.9 Uses by Conditional Use Permit**

The Planning Board may grant a Conditional Use Permit for the following uses in the Flood Hazard Area and the Fluvial Erosion Hazard Area if determined, based on evidence provided by the applicant, to be in conformance with all of the applicable standards provided in Section 604.11 below and the purposes of the Flood and Erosion Hazard Area Overlay District listed in Section 604.2 above:

- a. Water impoundments for the purpose of creating a waterbody for wildlife, fire safety, on-site detention of stormwater runoff and/or recreational uses.
- b. Water-dependent uses, such as docks, boathouses, and water powered projects.
- c. Additions to or replacements of existing structures, including manufactured homes. When possible, the addition or replacement of structures in the Fluvial Erosion Hazard Area should not result in a decreased distance between the structure and the top of the bank.

- d. Accessory structures to existing primary uses when it is not practicable to construct the accessory structure on a portion of the lot outside of the Flood and Fluvial Erosion Hazard Area Overlay District.
- e. One principal building on a preexisting lot of record with inadequate developable land outside Flood and Erosion Hazard Area Overlay District. When locating the structure outside the Fluvial Erosion Hazard Area is not possible, the structure should be sited to maximize the distance from the top of the bank.
- f. New or expanded septic systems if no suitable location exists for the system on a portion of the lot outside of the Flood and Erosion Hazard Area Overlay District.
- g. Construction, repair or maintenance of streets, roads, and other access ways, including driveways, footpaths and bridges, and utility right-of-way easements, including power lines and pipe lines, wastewater collection facilities and pump stations, if essential to the productive use of land adjacent to the Flood and Erosion Hazard Area Overlay District.
- h. Undertaking of a use not otherwise permitted in the Flood and Erosion Hazard Area Overlay District, if it can be shown that such proposed use does not involve the erection of structures or filling and is in accordance with all of the purposes of the District as listed in Section 604.2 and those of the underlying zoning district.

#### **604.10 Nonconforming Uses and Structures**

An existing use or structure as of the effective date of this amendment may continue, even though it does not conform to requirements of these regulations. Such non-conforming uses and structures may not be extended, enlarged, or re-established after being discontinued for more than one year. Nor may a non-conforming use and/or structure be modified to create another non-conforming use and/or structure unless it is determined by the Planning Board that the proposed use will not increase the degree of non-conformance with the standards contained in these regulations.

Reconstruction of an existing structure will be allowed if for the same use, within the same building footprint, and of the same or smaller dimensions as existed within 12 months prior to reconstruction, provided the construction meets all applicable development standards of this ordinance.

#### **604.11 Development Standards**

##### **a. General Standards within the Flood Hazard Area**

1. All development, including new construction, additions, substantial improvements and fill shall be:
  - i. 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.
  - ii. Constructed with materials resistant to flood damage.
  - iii. Constructed by methods and practices that minimize flood damages.
  - iv. Designed to result in no increase in flood levels during the flood event.

2. The Select Board or their designee 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 in the floodway unless a registered professional engineer certifies that the proposed development will not result in any increase in base flood levels.
3. All new construction and additions to any residential or nonresidential structure shall have the lowest floor, including basement, together with attendant utility and sanitary facilities, elevated to no lower than three feet above the base flood elevation.
4. All utilities, including electrical, heating, ventilation, plumbing, air conditioning, and other service facilities, including ductwork, shall be elevated or made of flood resistant materials up to three feet above base flood elevation, and designed and located to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new buildings and additions to existing buildings must be constructed on foundations that are approved by a licensed professional engineer, or constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the level which is three feet above the base flood elevation and has appropriate protection from erosion and scour. The fill design must be approved by a licensed professional engineer.
6. For all new construction, fully enclosed areas located in a special flood hazard area that are below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements:
  - (a) Constructed with flood damage-resistant materials;
  - (b) Used solely for the parking of vehicles, building access, or storage;
  - (c) Constructed with the floor of the enclosed area at or above grade on at least one side of the structure; and
  - (d) Install flood openings in the enclosure walls so that they are 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:
    - i. A minimum of two flood openings on different sides of each enclosed area 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;
    - ii. The bottom of all flood openings shall be no higher on the enclosure wall than one foot above either the interior or exterior grade, whichever is higher; and
    - iii. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
7. All recreational vehicles shall either: be on the site for fewer than 180 consecutive days; be fully licensed and ready for highway use; or meet all standards of Section 604.5 and the elevation and anchoring requirements for “manufactured homes” in Section 604.11

- d. 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.
  8. Where new or replacement water and sewer systems, including on-site systems, are proposed in a special flood hazard area the applicant shall provide the Select Board or their designee 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.
  9. The space occupied by fill, including mounded septic systems, or structure below the level which is three feet above the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. All such excavations shall be constructed to drain freely to the watercourse.
  10. Proposed structures to be located on slopes in special flood hazard areas shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.
  11. The activity must be sited and designed to minimize disruption to shorelines and their banks.
- b. Additional Standards for Watercourses in Flood Hazard Area
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 Select Board or their designee, 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 Select Board or their designee, including notice of all scheduled hearings before the Wetlands Bureau.
  2. The applicant shall submit to the Select Board or their designee certification provided by a registered professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- c. Standards for Substantial Improvements in Flood Hazard Area, Not Involving Additions
1. Residential structures to be substantially improved shall have the lowest floor (including basement) elevated to or above the base flood elevation.
  2. Nonresidential structures to be substantially improved shall 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 floodproofed 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.
3. For all structures to be substantially improved, fully enclosed areas located in a special flood hazard area that are below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements:
    - (a) Constructed with flood damage-resistant materials;
    - (b) Used solely for the parking of vehicles, building access, or storage;
    - (c) Constructed with the floor of the enclosed area at or above grade on at least one side of the structure; and
    - (d) Install flood openings in the enclosure walls so that they are 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:
      - i. A minimum of two flood openings on different sides of each enclosed area 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;
      - ii. The bottom of all flood openings shall be no higher on the enclosure wall than one foot above either the interior or exterior grade, whichever is higher; and
      - iii. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. Additional Standards for Manufactured Homes in Flood Hazard Area  
 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 least three feet 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.
- e. Additional Standards for Conditional Use Permits in Fluvial Erosion Hazard Area
1. No reasonable alternative location for the proposed development outside of the Fluvial Erosion Hazard Area is available.
  2. The proposed development will not increase the susceptibility of the property to fluvial erosion damage.
  3. The proposed development will not increase the potential for damage to other private or public properties or public infrastructure due to fluvial erosion.
  4. The proposed development will not increase the potential of materials being swept onto other lands or into the stream by fluvial erosion, thereby causing damage to others from fluvial erosion.



5. The proposed development will not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
6. The development plans include maintenance of an undisturbed buffer of native tree, shrub and undergrowth vegetation to be maintained, restored or allowed to naturally regenerate on the property to the maximum extent practicable. The width of the buffer shall be no less 25 feet or greater, as recommended by the reviewing qualified professional or the Conservation Commission, if site conditions warrant additional stabilization of land and soil.

#### **604.12 Variances and Appeals**

- a. Any order, requirement, decision or determination of the Select Board or their designee made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5. Decisions of the Planning Board may be appealed to superior court as set forth in RSA 676:5,III.

In flood hazard areas, the following requirements shall apply:

- b. 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 the variance will not:
  1. Result in any increase in base flood elevations, flows, peaks or velocity.
  2. Increase the potential for flood damage to the owner's property or that of others.
  3. Result in increased erosion and/or sedimentation or other degradation of water quality.
  4. Increase the risk to public safety or emergency personnel during flood events, or increase the cost to the public by virtue of its location in a flood hazard area. The variance must additionally be the minimum necessary, considering the flood and erosion hazard, to afford relief.
- c. The Zoning Board of Adjustment shall notify the applicant in writing that:
  1. The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and,
  2. Such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- d. The Town shall:
  1. Maintain a record of all variance actions, including their justification for their issuance, and
  2. Report such variances issued in Flood Hazard Areas in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## **Section 605. Shoreland Protection Overlay District**

### **605.1 Purpose**

The purpose of the Shoreland Protection Overlay District is to establish regulations for the design of riparian buffers to protect the flowing streams and shorelines of Carroll to reduce and prevent shoreline erosion; protect the water quality of these resources; to protect Carroll's riparian and aquatic ecosystems; and to provide for the environmentally sound use of the town's land resources.

### **605.2 Findings**

The residents of Carroll find that shoreland protection and riparian buffers adjacent to flowing waters provide numerous environmental benefits. Shoreland vegetated buffers serve to:

- a. Reduce erosion and control sedimentation;
- b. Restore and maintain the chemical, physical and biological integrity of the water resources; c. Provide infiltration of stormwater runoff;
- d. Remove pollutants delivered in stormwater runoff;
- e. Stabilize lake and stream banks;
- f. Maintain base flow of streams;
- g. Contribute food and habitat for the aquatic ecosystem;
- h. Moderate the temperature of near shore waters;
- i. Provide and enhance terrestrial wildlife habitat; and,
- j. Enhance scenic value and recreational opportunities.

### **605.3 Applicability**

The Shoreland Protection Overlay District is an overlay district superimposed over the existing conventional zoning districts of Carroll. It includes within its boundary all lands within 10 feet of the ordinary high-water mark of all streams 2nd order or higher.

### **605.4 Prohibited**

Within the Shoreland Protection Overlay District there shall be no structures constructed or placed and no removal of vegetation except as otherwise provided for below.

### **605.5 Permitted**

1. A property owner may remove, or may have removed, any dead, diseased, or unsafe trees, limbs, saplings, or shrubs from the waterfront buffer subject to the following conditions:
  - (a) Prevent damage to surrounding healthy trees, limbs, saplings, and shrubs;
  - (b) Minimize damage to ground cover;
  - (c) Prevent soil erosion and sedimentation to the water body;

2. Normal trimming, pruning, and thinning of branches to the extent necessary to maintain the health of the planted area as well to protect structures, maintain clearances, and provide views is permitted provided such activity does not endanger the health of the plant.
3. A water dependent structure, meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, may be constructed as approved by NHDES.
4. Hydroelectric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and may be constructed as permitted by NHDES.
5. Public utility lines and associated structures and facilities, public roads, and public water access facilities including boat ramps may be constructed as permitted by NHDES.
6. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations, and disinfection stations may be constructed as permitted by NHDES.
7. Sewage treatment facilities may be constructed as permitted by NHDES.
8. A permanent 6-foot wide foot path as well as access to any docks, beaches, structures, existing open areas, and the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, are allowed.
9. Stream crossings necessary for forest management, including the transportation of forest products, in conformance with NHDES regulations and ***Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire*** (NH DNCR, latest edition).
10. Owners of lots and holders of easements on lots that were legally developed prior to the adoption of this amendment may maintain but not enlarge cleared areas, including but not limited to existing lawns, gardens, landscaped areas, beaches, and rights-of-way for public utilities, public transportation, and public access, and may repair existing utility structures within the waterfront buffer. Conversion to or planting of cleared areas with non-invasive species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required

#### **605.6 Additional Requirements**

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

1. No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf, or established vegetation except if applied by horticultural professionals who have a pesticide application license issued by the Department of Agriculture or as allowed under special permit issued by the division of pesticide control under rules adopted by the Pesticide Control Board under RSA 541-A, or fertilizers of any kind except those specified in RSA 483-B:9, II(d).

2. Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by NHDES in conjunction with a permitted use.
3. No natural ground cover shall be removed except as necessary for construction of a permitted use or for normal maintenance of a lawfully existing clearing or structure.

## **Section 606. Wetlands Conservation Overlay District**

### **606.1 Purpose**

The purpose of the Wetlands Conservation Overlay District is to protect the public health, safety and general welfare by promoting the most appropriate use of land and the protection of wetland ecosystems and water quality in accordance with the goals and objectives of the master plan.

### **606.2 Findings**

The wetlands and buffers in the town of Carroll are a valuable natural resource requiring careful management to maintain their usefulness to public health, safety and welfare. The town of Carroll finds that wetlands and buffers:

- a. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection.
- b. Protect persons and property against the hazards of flood inundation by ensuring the continuation of the natural flow patterns of streams and other watercourses.
- c. Provide for nutrient attenuation and augmentation of stream flow during dry periods.
- d. Preserve and protect important wildlife habitat and maintain ecological balance.
- e. Prevent the expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of abuse or inharmonious use of wetlands.
- f. Protect the wetlands, watercourses, surface and groundwater supplies and waterbodies of the town/city from degradation.
- g. Preserve and enhance those aesthetic values associated with the Wetlands Conservation Overlay District.

### **606.3 Applicability**

- a. The Wetlands Conservation Overlay District is an overlay district superimposed over the existing conventional zoning districts in the town of Carroll. All proposed development, removal of vegetation, and alteration of the land surface within all protected wetlands as defined as:
  - At least 2 acres in size
  - Shall not consist of a water body only
  - Shall have at least 4 wetland functions as listed above in Section 606.2, one of which should be wildlife habitat

- Identified on the most recent National Wetlands Inventory produced by the U.S. Fish and Wildlife Service are subject to this ordinance

The following vegetative buffers shall be required and maintained:

- 30-foot buffer on wetlands 2 to 5 acres
- 60-foot buffer on wetlands greater than 5 acres but less than 10 acres
- 100- foot buffer on wetlands 10 acres or greater

b. Wetlands constructed for stormwater treatment, agricultural use, waste treatment or other such purpose are exempt from the provisions of the Wetlands Conservation Overlay District.

c. **Boundary Disputes.** When a boundary of the Wetlands Conservation Overlay District is disputed by either the Planning Board or an applicant, the Planning Board, at the applicant's expense, may engage an independent certified wetlands scientist to determine the location of the Wetland Conservation Overlay District limit on the properties affected. The delineation shall be consistent with DES Wetlands Bureau Rules, as amended. The Planning Board shall make the final determination of the wetlands limit based on its consultant's report. The Wetlands Conservation Overlay District boundary shall be considered to be amended to incorporate the results of any such studies.

#### **606.4 Permitted Uses**

The uses listed below are presumed to be consistent with the protection of wetland functions and values when in accord with the following and so are allowed in the Wetlands Conservation Overlay District without a Conditional Use Permit. These uses will not:

- Require the erection or construction of any structure.
- Alter the natural surface configuration by re-contouring or grading of the land.
- Involve filling, dredging, or draining of the wetland.
- Change the flow of water.
- Result in the pollution of the wetlands, surface water, or groundwater.
- Involve substantial clearing of vegetation, except for the purposes of agriculture or forest management in accord with current best management practices.

Permitted uses include:

- a. Passive recreation such as hiking, fishing, hunting on foot, non-motorized boating.
- b. Wildlife or fisheries management.
- c. Scientific research and educational activities.
- d. Agriculture in the wetland buffer, consistent with best management practices published by the NH Department of Agriculture, Markets and Food.
- e. Forest management in the wetland buffer, consistent with best management practices published by the NH Department of Resources and Economic Development and UNH Cooperative Extension.

## **606.5 Prohibited Uses**

The following uses may not be established or expanded within the Wetlands Conservation Overlay District:

- a. Structures, except as provided in 606.6 Conditional Uses.
- b. Use of fertilizer on lawns, except lime or wood ash.
- c. Bulk storage or handling of chemicals, petroleum products or hazardous materials. d. Sand and gravel excavations.
- e. Impervious surfaces, unless associated with a use approved as a Conditional Use.
- f. Activities which result in soil compaction such as parking vehicles or heavy equipment, unless associated with a use approved as a Conditional Use.
- g. Underground tanks.

## **606.6 Conditional Uses**

All activities in the Wetland Conservation Overlay District not listed in 606.4. Permitted Uses, above are presumed to impair the wetland functions and values unless proven otherwise by the applicant as provided below. The following uses may be granted a Conditional Use Permit by the Planning Board:

- a. Primary structures in the wetland buffer on legally preexisting lots if it is demonstrated that no practicable alternative exists elsewhere on the lot.
- b. Accessory structures in the wetland buffer associated with legally preexisting primary structures if it is demonstrated that no practicable alternative exists elsewhere on the lot.
- c. The construction, repair, or maintenance of streets, roads, and other access ways, including driveways, footpaths, bridges, and utility right of way easements including power lines and pipe lines, if essential to the productive use of land adjacent to the Wetlands Conservation Overlay District. These uses shall be located and constructed in such a way as to minimize any detrimental impact upon the wetlands and consistent with current state recommended design standards, and only if no viable alternative is available.
- d. Agricultural activities consistent with best management practices as published by the NH Department of Agriculture, Markets and Food.
- e. Forestry activities consistent with best management practices as published by the NH Department of Resources and Economic Development and NH Cooperative Extension. As specified in Logging Operations (Env-Wt 304.05), all skid trails, truck roads and log landings shall be located 50 feet from streams or ponds and designed using appropriate erosion control devices. Stream and wetlands crossings shall be kept to a minimum in size and number.
- f. Water impoundments for the purpose of creating a waterbody for wildlife, fire safety, or recreational uses. Conditional Use Permits may be granted for impoundments for on-site detention of stormwater runoff in buffers only.

- g. Construction of a trail for nonmotorized recreation in compliance with NHDES Minimum Impact Project requirements.
- h. Other uses that the applicant proves will not interfere with the wetlands functions and values, water quality or value as wildlife habitat, pursuant to Section 606.2. Findings.

**606.7 Nonconforming Uses**

Expansion of a nonconforming use or structure in the wetland buffer may be granted a Conditional Use Permit by the Planning Board provided that: 1. the encroachment upon the wetland is not increased, and 2. any potential increased impact upon the wetland functions will be mitigated.

**606.8 Conditional Use Permit**

- a. Application for a Conditional Use Permit shall be made on forms supplied by the Planning Board and shall include a site plan containing the following information on one or more sheets at a scale of 1 inch = 100 feet or larger, and a report demonstrating compliance with the requirements listed below in Section 606.8.B:
  - 1. North arrow and date.
  - 2. Property lines.
  - 3. Locus map showing adjacent wetlands and other significant hydrological features.
  - 4. Names and addresses of abutting property owners and holders of conservation restrictions and easements.
  - 5. Wetland limit and wetland buffer.
  - 6. Soil types.
  - 7. Vegetation types.
  - 8. Topographic contours at no greater than 5-foot intervals.
  - 9. Surface drainage patterns, intermittent and year-round.
  - 10. Existing and proposed development, removal of vegetation, and alteration of the land surface.
  - 11. Computation of the area to be impacted, in square feet of surface area and cubic yards of cut and fill.
  - 12. Stormwater management proposed during and after construction.
- b. The Planning Board shall provide an opportunity for Conservation Commission comment and shall consider all relevant facts and circumstances in making its decision on any application for a permit and shall make findings that the project is both consistent with the purposes of this ordinance and minimizes impacts to the wetland and buffers, including but not limited to the following:
  - 1. The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and compensates for any adverse impact to the functions and values of wetlands and wetland buffers, including but not limited to the capacity of the wetland to:
    - (a) Support fish and wildlife

- (b) Prevent flooding
  - (c) Supply and protect surface and ground waters
  - (d) Control sediment
  - (e) Control pollution
  - (f) Support wetland vegetation
  - (g) Promote public health and safety
  - (h) Moderate fluctuations in surface water levels.
2. The proposed activity will have no negative environmental impact to abutting or downstream property and/or hydrologically connected water and/or wetland resources, including:
    - (a) Erosion
    - (b) Siltation
    - (c) Turbidity
    - (d) Loss of fish and wildlife
    - (e) Loss of unique habitat having demonstrable natural, scientific, or educational value (f) Loss or decrease of beneficial aquatic organisms and wetland plants.
    - (g) Dangers of flooding and pollution.
    - (h) Destruction of the economic, aesthetic, recreational and other public and private uses and values of the wetlands to the community.
  3. The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer.
  4. The proposed activity utilizes applicable best management practices.
  5. Federal and/or state permit(s) have been received for the proposed activity in accordance with N.H. Administrative Rules Env-Wt 100-800 and the Federal Clean Water Act Section 404 Permit.
  6. Where applicable, proof of compliance with all other state and/or federal regulations has been received.
- c. The Planning Board, in acting on an application for a conditional use permit in the Wetlands Conservation Overlay District, may attach conditions to its approval including but not limited to requirements for more extensive buffers, additional plantings in areas to be revegetated, performance guarantees, and a reduction in proposed impervious surfaces.

**606.9 Identification of Buffer**

The entire length of the upland limit of the wetland buffer shall be marked with highly visible construction tape prior to, and maintained for the full duration of, any construction-related activities.

**ARTICLE VII SPECIAL LAND USES**



## **Section 701. Telecommunications Facilities**

### **701.1 Findings**

The Town of Carroll finds that regulation of the placement, spacing installation, location and number of both wireless and conventional telecommunications facilities, consistent with federal and state policies and law, is in the public interest (a) in order to reduce the potential adverse impacts of such facilities upon the unique natural assets of the Town, including its scenic mountain views, its recreational trail network accessing the White Mountain National Forest and its wilderness environment; (b) in order to minimize the number and height of towers, avoid congestion in their location and lessen their intrusive effect; (c) in order to conserve and enhance property values; and (d) in order to ensure the optimum location of such facilities.

### **701.2 Intent**

- a. In compliance with Section 253 of the Act, the Town hereby states that it does not intend to create barriers to the ability of any entity to provide interstate and intrastate telecommunications services.
- b. The Town hereby states its intent not to discriminate against or favor providers of telecommunications facilities and services.

### **701.3 Purposes and Guidance Standards**

The purposes of this Article, which shall serve as standards for guiding its administration, are as follows:

- a. To preserve the authority of the Town to regulate the siting of telecommunications facilities and to determine the optimum location for such facilities in order to provide telecommunications services to the community quickly, effectively and efficiently;
- b. To enable the Town to take such steps as may be needed to reduce any adverse impacts such facilities may create, including but not limited to, impacts upon aesthetics, environmentally sensitive areas, recreational uses of wild lands, health and safety and property values;
- c. To encourage the use of innovative siting and configuration options, including siting possibilities beyond the political jurisdiction of the Town; to require cooperation and colocation between competitors and the exhaustion of all other reasonable alternatives before the construction of new towers is permitted: and
- d. To ensure that there is an adequate assumption of responsibility for maintenance, repair and safety inspections of operational facilities, for the prompt and safe removal of abandoned facilities and for the removal or upgrade of facilities that are technologically outdated.

### **701.4 Regulation of Telecommunication Facilities**

- a. In accordance with RSA 674:16(11) and 674:21, authorizing the adoption of innovative land use controls, the location, siting, establishment, erection, installation or operation of a telecommunications facility within the Town of Carroll is hereby declared to be a use, either a primary or accessory use, which is allowed only when authorized by special use permit.
- b. Responsibility for issuance of special use permits shall be vested in the Carroll Planning Board and made part of its Site Plan Review jurisdiction.
- c. Except to the extent of any inconsistency with federal or state law, and subject to the standards contained in this ordinance, the Carroll Site Plan Review Regulations shall operate with regard to communications structures, equipment and facilities as they do with regard to any other use to which they apply; provided, however, that the Planning Board may make and adopt special provisions of those Regulations for the governing of such structures, equipment or facilities.
- d. Unless such special provisions of the Site Plan Review Regulations explicitly provide otherwise:
  1. towers, antennas or other telecommunications facilities shall be located and designed so as to preserve the ability of the public to enjoy the mountain scenery surrounding the Town, including, particularly, views of the Presidential Range of the White Mountains;
  2. the use of alternative technologies, co-location, stealth technology and/or other camouflaging such as placement inside part of a proposed or existing structure to reduce the visual impact shall be thoroughly studied and determined to be infeasible before the construction of any new towers are approved;
  3. no telecommunications tower shall exceed 180' in height;
  4. telecommunication towers, antennas and other electrical and mechanical equipment shall be made with neutral finish or color or others treated so as to reduce their visual impact;
  5. towers shall only be artificially lighted if required by some applicable authority, and such lighting shall be designed so as to cause the least impact upon surrounding properties or the community;
  6. towers shall not contain any permanent or temporary signs, writing, symbols or other graphic representation of any kind, except as may be allowed or required by the Planning Board in the interests of public safety;
  7. towers shall be set back a distance of 125% of the height of the tower from the nearest lot line or any off-site structure;
  8. towers, guys, accessory structures and other telecommunications facilities and equipment shall comply with setback requirements applicable to commercial uses;
  9. towers over 90 feet in height shall not be located within three miles of any existing tower that is over 90 feet in height;
  10. towers shall be enclosed by security fencing at least 6 feet in height and shall be equipped with appropriate anti-climbing devices; and
  11. access for motorized vehicles to sites where telecommunications facilities are located shall conform to Town requirements relating to driveways whenever possible, but if the Planning Board determines that such conformity is not feasible, it may permit such access subject to any conditions it deems reasonably necessary to minimize the impact of the access route upon the surrounding environment.

- e. For purposes of determining whether the installation of a tower or antenna complies with Town regulations, including but not limited to set-back, lot coverage and other requirements, the boundaries and dimensions of the entire lot shall control, even though the tower or antenna may be located on a leased parcel within the lot.
- f. The installation or operation of telecommunications equipment or facilities shall not be considered, or permitted, as an extension of a nonconforming use.

#### **701.5 Applicability**

- a. Antennas or towers located on property owned, leased or otherwise controlled by the Town shall be permitted as of right and shall not be required to receive a special use permit, provided that a license or lease authorizing such antennas or towers shall have been issued by the Board of Selectmen and Site Plan Approval shall have been granted by the Planning Board.
- b. Telecommunications facilities shall not be considered infrastructure, essential services or public utilities and the siting of such facilities shall constitute a use of land to be regulated by this ordinance and Town regulations.

#### **701.6 Performance Standards and Abandonment**

- a. All towers, antennas and other telecommunications facilities and equipment shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state governments having controlling regulatory authority and if such standards or regulations are changed, the owners or operators of such facilities or equipment shall ensure that it complies with the revised standards or regulations within 6 months of the effective dates of the revision, unless a more stringent compliance schedule is mandated by the controlling authority; and failure to comply in accordance with the applicable schedule shall constitute abandonment and shall be grounds for the removal of such facilities or equipment at the owner's expense through execution of the posted security.
- b. The owner of the tower, antenna or other telecommunications facilities and equipment shall be responsible for ensuring that such facilities and equipment at all times conform to Town regulations and meet the applicable standards published by the Electronics Industries Association, as such standards may be amended from time to time; and if, upon inspection, the Selectmen determine that such regulations or standards are not being met, or that the facilities or equipment pose a danger to person, property or the community, they shall notify the owner of the defects in writing and if the owner shall not, within 30 days, remedy such defects, his failure to do shall constitute abandonment and shall be grounds for the removal of the facilities and equipment at the owner's expense through execution of the posted security.
- c. 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

provides proof of quarterly inspections, such antenna or tower shall be removed in accordance with the following procedure:

1. The Planning Board shall hold a public hearing after due notice to abutters and to the last known owner/operator of the antenna or tower.
2. If, at such hearing, the Planning Board determines that the antenna or tower is, in fact, abandoned, it shall issue a declaration of abandonment to the owner/operator.
3. Within 90 days of issuance of such declaration, the owner shall remove the abandoned structure and, if he shall not, the Town may execute the security and have the structure removed at the owner's expense.
4. If there are two or more users of a single tower, the provisions of this subsection shall not become effective until all users cease using such tower.

### **701.7 Waivers**

In accordance with Section 253 of the Act, and with RSA 674:21 (V)(g), if any entity believes that the procedure or standards contained in this ordinance or in Site Plan Review Regulations have created a barrier to its ability to provide interstate or intrastate telecommunications services, it may apply to the Planning Board for administrative relief in accordance with the waiver provisions of the Site Plan Review Regulations and the Planning Board may grant such waivers if it determines that:

1. strict adherence with such regulations is not required to effectuate the purposes of this ordinance;
2. strict compliance would create practical difficulty and unnecessary inconvenience; or
3. strict compliance would potentially cause a conflict with the Act.

### **701.8 Security Bonds**

- a. Before, and as a condition of, the approval of a Site Plan filed in connection with the installation of any telecommunications facility, the Planning Board may require the developer or installer to file with the Town a bond in an amount adequate to cover the costs of removing the facility, together with any structures or equipment appurtenant thereto, and of returning the site to its condition prior to such installation.
- b. The provisions of the Site Plan Review Regulations relating to performance bonds shall apply to a bond required under this Section; provided, however, that it shall remain on file with the Town, and shall not be released unless the installation has been decommissioned, dismantled and removed.
- c. The Planning Board shall require the owner/operator of any antenna or tower to provide, annually, proof that it is maintaining adequate liability insurance covering accident or damage.

### **Section 702. Excavations**

### **702.1. Purpose**

The regulations of this Section are intended to conserve valuable natural resources, secure public safety, protect adjoining land uses, insure a second use for excavated sites, and to promote the general welfare of the Town of Carroll.

### **702.2. Applicability**

The regulations apply to excavation, grading, filling or removal of any earth, loam, topsoil, sand, gravel, clay or stone on public or private land in the Town of Carroll. Such activity which (1) occurs on a lot for which a building permit has been issued or (2) involves a volume of less than 1,000 yards and material is used on the property that it is taken from are excluded from the requirements of this article.

### **702.3. Regulator/Conflicts**

Pursuant to RSA 155-E:1, the Planning Board shall be the regulator authorized to issue excavation permits pursuant to RSA 155-E and this article of the Ordinance. In the event of any conflict between the provisions of RSA 155-E, the more restrictive provisions shall apply.

### **702.4. Plan Requirement**

As a condition for the granting of an excavation permit, the owner or operator of a site on which resources are proposed to be excavated, graded, filled or removed, shall submit and have approved by the Planning Board a plan for site operation and reclamation. Five (5) copies shall be submitted to the Board. The excavation permit must be granted before any work commences. This plan must include information on the following items:

- a. Locational map of property on which activity will occur, with property lines, roads, and abutters' names.
- b. Map at scale of one-inch equals 100 feet of the entire property with (1) delineation of the areas to be excavated, graded, filled or removed (2) topography (3) existing vegetation and (4) waterways.
- c. Description and volume of resources to be excavated, graded, filled or removed on a year-to-year basis for a period of 10 years or the duration of the project.
- d. Map and description of necessary roads, access ways, buildings and structures proposed.
- e. Depth of seasonal high and average water tables.
- f. Provisions for safety, traffic control and visual screenings.
- g. Provisions for removal or storage of debris.
- h. Provisions for continuous slope stability throughout the operation.
- i. Provisions for sediment and erosion control throughout the operation.
- j. A plan for final reclamation of the site within 12 months after the expiration date of the permit, or of the completion of the excavation, whichever occurs first, in accord with 155-E:5 Minimum and Express Reclamation Standards. The reclamation plan shall include detailed

information on topography, re-vegetation, drainage, stability and soil characteristics in sufficient detail so as to form the basis for the amount of the bond (see Section 702.7).

This plan shall be developed by a certified engineer or surveyor. Informal meetings between the Planning Board and the owner or operator may be held prior to official submission of the plan. The Conservation Commission may request one meeting with the owner or operator during the review period. One copy each of the original shall be provided to the Board of Selectmen and the Conservation Commission.

#### **702.5. Standards**

The requirements which follow apply to every excavation, grading, filling, or removal of earth resources permitted under this article:

- a. Hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, excluding legal holidays.
- b. A buffer zone of 200 feet shall be maintained between any permitted activity and public rights-of-way and adjacent properties.
- c. A buffer zone of 150 feet shall be maintained between any body of water (e.g., wetlands, ponds, streams, etc.) and any activity, structure or equipment.
- d. No slopes steeper than one vertical to two horizontals shall be allowed to exist for more than five days.
- e. No activity shall occur below the seasonal high-water table depth without the specific approval of the Planning Board and Conservation Commission.
- f. If the proposed re-use of the excavated area is for building, the minimum elevation of the bottom of excavation shall be four feet above seasonal high-water table or conforming to the original grade prior to any excavation or disturbance of the earth. Minimum slope shall be 1:4.
- g. If the proposed re-use of the excavated area is for vegetation (open space), the minimum elevation of the bottom of excavation shall be two feet above the seasonal high-water table or conforming to the original grade prior to any excavation or disturbance of the earth. Minimum slope shall be 1:2.

#### **702.6. Decision Process**

Within 30 days after receipt of a completed plan, the Planning Board shall hold a public hearing. The Board shall notify all abutters by mail. Within 60 days after the public hearing, the Planning Board shall make the final decision. If the Plan is approved and excavation permit granted, the Board should attach any conditions deemed necessary and appropriate to the purpose of this regulation, relating to considerations listed below, road and waterway setbacks, and bond requirements.

The Board shall make a decision based upon the following considerations:

- a. Public safety.
- b. Noise and air pollution.

- c. Traffic-related problems.
- d. Water quality.
- e. Water supply.
- f. Slope stability.
- g. Impact on adjoining land uses.
- h. Visual impact.
- i. Other factors which are relevant to the public health and welfare of the community.

The Board shall consult with the Coos County Conservation District, the Board of Selectmen and the Conservation Commission in the review of specific details of the submitted plan.

#### **702.7. Bonding**

- a. A bond must be posted each year of operation whose monetary value is determined by the area to be excavated that year and the current market value of loam, seed and labor to restore the area to be ecologically self-supporting through permanent vegetation cover.
- b. In addition, the bond shall be sufficient in monetary value to repair any town road found damaged due to the hauling of gravel, sand, earth, etc., associated with any permitted activity.
- c. The bond shall be held by the Town Treasurer and shall only be returned after reclamation is complete and approved by the Planning Board and Conservation Commission.

#### **702.8. Inspection**

An authorized agent for the Town shall have the right to inspect the operations to ensure compliance with the approved plan and these regulations.

#### **702.9. Duration of Permit**

The excavation permit and approved plan shall have a duration of no more than 10 years. The Planning Board shall require reapplication.

#### **702.10. Existing Activity**

- a. Owners or operators of property on which resources are being excavated, graded, filled or removed before the effective date of this regulation shall obtain a temporary approval within 2 months of that date. Temporary approval shall be granted by the Board of Adjustment upon receipt of a map showing property lines, present area of activity, anticipated exterior limits and names of abutters.
- b. Within 6 months after receiving temporary approval, the owner or operator must submit a plan as described in Section 702.4 and is then subject to all the provisions of this article.

## **Section 703. Manufactured Home Parks**

### **703.1. Planning Board**

Subdivision approval by the Planning Board is required for Manufactured Home Parks.

### **703.2 Regulations**

- a. A manufactured home park shall have an area of at least 10 acres and there shall be at least ten (10) manufactured home spaces available at first occupancy.
- b. Manufactured home parks shall provide for individual home spaces, driveways, park and recreational open space.
- c. Each individual manufactured home site shall have at least 10,000 square feet of area, with at least 70 feet of frontage on an approved right-of-way and a depth of at least 100 feet.
- d. Each manufactured home site shall have at least parking spaces for two cars on site.
- e. A portion of the total land area of the manufactured home park shall be dedicated for recreational and/or open space for use by the park's residents.
- f. Setbacks for each individual living unit shall be at least 30 feet from the right-of-way and 20 feet from the side and back lot lines. All accessory buildings shall also meet these setback regulations.
- g. All utilities (i.e., electric, telephone, gas, etc.) shall be provided to each site by the developer. It shall be the responsibility of the individual site owner/lessee to connect to the required utilities.
- h. Manufactured home parks shall have public water and sewerage, if available.
- i. If public water and sewerage are not available, the density of the manufactured home park will be determined by the NH Department of Environmental Services (NHDES) recommendations for lot sizes for on-site water and septic systems based on the specific soil type found in the proposed park site. The Planning Board may use such additional professional services and advice it deems necessary to determine the final density of the proposed manufactured home park. The cost of this information will be borne by the developer.
- j. All access rights-of-way to the park shall be built to the Town/State roadway standards. The Planning Board reserves the right to waive these standards if over-riding circumstances require it.



- k. A green strip at least 10 feet in width shall be maintained adjoining the boundaries of the property and planted with trees or shrubs to provide a permanent screen.
- l. All State of New Hampshire requirements for manufactured home parks shall be met.

**Section 704. Planned Unit Developments**

**704.1 Concept Plan**

a. The Planning Board may issue a Conditional Use Permit for a Planned Unit Development in any District in which it is allowed in Article IV. For the purpose of providing a guideline for an overall development under this Ordinance, and to ensure that individual sections of the Planned Unit Development are developed in a well-planned relationship to each other and to the total plan, it is a requirement of this Ordinance that prior to the submission of Subdivision Plans for particular sections of the Planned Unit Development, an applicant shall submit a Concept Plan covering all the land to be developed by said applicant illustrating the following site information, basic planning assumptions and development objectives:

- 1. The anticipated distribution of permitted uses on the land to be developed.
- 2. The proposed general layout of major road systems.
- 3. The proposed major common open space systems.
- 4. A description of the major water, sewer and drainage systems.
- 5. The topography of the land in intervals of not more than 600 feet per inch.
- 6. A map describing the area to be developed.
- 7. A statement establishing the anticipated overall density of dwelling units for the total project.
- 8. A statement establishing the anticipated percentage of land uses for the total project.

b. Action on Concept Plan

The Planning Board shall review the Concept Plan following the procedures provided in RSA 676:4 Board’s Procedures on Plats, as amended.

c. Review Standards

In reviewing the Concept Plan, the Planning Board shall consider whether or not said Plan effectively addresses the following:

- 1. The availability of essential services to future residents.
- 2. The adequacy of the proposed major road system and its ability to handle traffic generated by the proposed development.
- 3. The preservation of appropriate open space for recreational and scenic purposes.
- 4. The effects of the proposed development upon the needs of the Town as a whole.

d. Approval - Effect

Approval of the Concept Plan shall not constitute approval of any particular Subdivision Plan or Site Plan subsequently submitted, but said approval shall constitute an approval of the stated dwelling unit density and percentages of land use to be applied to the total development. The location of permitted uses as shown on the approved Concept Plan may be subsequently altered by Subdivision Plans and Site Plans provided that any such alteration does not violate the approved number of dwellings, land use percentages and other conditions of approval.

**704.2. Subdivision Plans**

a. Content

Any applicant owning land within the district for which a Planned Unit Development Concept Plan approval has been obtained must, prior to the erection of any buildings or sale of any subdivided lots, submit to the Planning Board an application for approval for a Subdivision Plan covering that portion of the land for which final approval is sought setting forth the following:

1. Subdivision plat or plats showing proposed lot and parcel lines drawn to the scale provided in the Subdivision Regulations of the Town of Carroll.
2. Location of existing and proposed public roads and rights-of-way and their relationship to similar public facilities in proximity to the area shown in the plan.
3. Location of easements.
4. Location of existing water courses.
5. Designation of land use to be applied to each parcel and total number of acres devoted to each permitted use.
6. The density of land use to be allocated to parts of the area to be developed.
7. The use, approximate height, bulk, and location of buildings and other structures.
8. The location, function, ownership and manner of maintenance of common and open space.
9. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of land, buildings and structures including proposed easements for public utilities.
10. Maximum number of dwelling units to be erected.
11. Location and design of public utilities which will serve the property.
12. Designation of ownership of adjoining parcels.
13. The provisions for parking of vehicles.

b. Action on Subdivision Plans and Site Plans

The Planning Board shall act on the Subdivision Plans and Site Plans according to the same procedure provided by statute for its acting on other subdivision and plat applications submitted to it.

### 704.3. Development Standards

The standards to be applied by the Planning Board in reviewing a Subdivision Plan or Site Plan are the following:

a. Site Improvements

1. There shall be provided within the planned development area a sanitary sewage disposal system or individual on-lot systems which shall be of sufficient size and type to collect and dispose of all sewage from the development area, in accordance with the laws, ordinances and regulations of the Town of Carroll and the State of New Hampshire.
2. There shall be provided within the planned development area a potable water system or individual on-lot systems of sufficient capacity and design to supply potable water.
3. There shall be provided within the planned development a drainage system in accordance with the Subdivision Regulations.
4. Within the planned development area, the dimensions and specifications of all roads and parking areas, whether or not dedication of them to the Town of Carroll is contemplated, shall conform to all applicable Town and State requirements.

b. Environmental

1. The topography of the site must be suitable for the proposed development and engineered to prevent erosion.
2. To the fullest extent possible, all-natural features such as lakes, streams, rock outcrops, topsoil, trees and shrubs shall be preserved and incorporated into the final landscaping design of the development.
3. Common open space shall be selected so as to preserve ecological resources to the fullest extent possible.

c. Maintenance of Common Open Space

The Subdivision Plan shall contain such provisions for the ownership and maintenance of the common open space as reasonable to ensure its continuity and conservation. The program to accomplish this objective may include but shall not be limited to one or more of the following alternatives.

1. The creation of organization(s) comprised of property owners within the development. Such organization shall not be dissolved nor shall it dispose of any common open space which it may own by sale or otherwise, without first offering to dedicate same to the Town. The Planning Board shall consider the covenants and restrictions in the plan relating to such organization to determine the adequacy of the organization from the perspective of meeting its obligations and properly maintaining facilities. The Planning

Board may also examine for these purposes the articles and bylaws of such organization, as well as restrictions to be placed in deeds confirming the organization's rights and duties. The applicant developer shall maintain control of land to be controlled by such an organization and shall be responsible for its conservation and/or maintenance until development sufficient to support the organization has occurred.

2. Dedication of all or some of the common open space to the Town or other governmental entity or authority or charitable organization.
3. Continuing ownership by the original developer, his successors, or assigns of common open space (including improvements thereon).

d. Dimensional Requirements

In issuing a Conditional Use Permit for a Planned Unit Development, the Planning Board may reduce or waive minimum lot size, minimum setbacks, maximum percentage of lot coverage and minimum lot width. However, all dwelling units shall be so sited as to have access to a street, court or walkway adequately designed for maintenance and emergency services and for the safety and convenience of residents.

e. Subdivision Regulations of the Town of Carroll

The Subdivision Regulations of the Town of Carroll shall apply to development under this Ordinance except insofar as they are inconsistent with any provision of this Ordinance. Moreover, notwithstanding any provision of the Subdivision Regulations, it is recognized that:

1. Where a road is divided into separate roadways, in each direction, the minimum right of-way requirement for a road may be appropriately reduced for each separate roadway.
2. In areas of steep terrain, a switchback type of road alignment may be used and the 150 feet centerline radius requirement may be modified accordingly.
3. The reference of the word "blocks" in the Subdivision Regulations shall not preclude design of roads in accordance with topography and natural features, it being recognized that streets should intersect as near to right angles as possible.
4. In areas not served by a public water system, a private well may be used to supply lots and dwelling units, there being no requirement that each lot or dwelling unit have its own individual well. Where such common use is made, the right of the individual lots and dwelling units to use such well shall be appropriately secured and protected.

**704.4. Staging**

a. Sections of Subdivision Plan

When the development shown in a Subdivision Plan is to take place over a period of years, the developer shall include in said plan a schedule of construction for the various sections of the plan. If the schedule is approved by the Planning Board as being reasonable, the applicant shall be entitled to proceed in accordance with the schedule without seeking further approval of his final plans, it being understood that the applicant can always proceed ahead of the schedule.

b. Application of Area and Density Requirements

Recognizing that all of the land whose development is described in the Concept Plan will not be developed at the same time and that flexibility in the overall development should be maintained consistent with the standards contained in the Ordinance, the Planning Board of the Town of Carroll may allow for a greater density or intensity of land use for any section of development for which it gives final approval than would be permitted for the overall development. However, such greater density or intensity of land use for any section shall be offset by a smaller concentration in other sections or by an appropriate reservation of common open space on the remaining land by a grant of easement or covenant. To maintain development flexibility, such reservation shall, as far as practicable, defer the precise location as such common space until an application for final approval is submitted.

c. Reliance on Subdivision Approval

It is recognized that the applicant, upon receiving Subdivision approval may construct public improvements designed to serve as part of all of the approved development, even if construction is to proceed by sections. To the extent that an applicant in good faith relies on final approval to construct substantial improvements, it is recognized that he will obtain a vested right to proceed with his finally approved plans for the areas affected by these substantial improvements.

d. Performance Guarantees

As a condition of approval of Subdivision Plans, or before undertaking any construction following approval of a Subdivision Plan, the applicant shall make such performance bond or bonds as may be determined by the Planning Board to be reasonably required to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of said plan before completion.

**Section 705. Accessory Dwelling Units**

Where permitted by Conditional Use Permit, an Accessory Dwelling Unit (ADU) shall comply with the following:

1. Only one (1) ADU shall be permitted per single family dwelling.
2. An ADU shall have an independent means of access, either through an independent exterior door or through a common space such as a hallway to an exterior door. For accessory dwelling

units located within or attached to the principal dwelling unit, there must be an interior door between the two units.

3. All ADUs must be attached or within a single-family dwelling or accessory building.
4. The area of an ADU may not exceed 30% of the total floor area of the single-family dwelling, including the ADU, or 750 feet, whichever is larger.
5. At least one parking space is required to accommodate the ADU.
6. The ADU must maintain the aesthetic continuity with the principal dwelling unit as a single-family dwelling.
7. A camper, recreational vehicle or manufactured home may not be used as an accessory dwelling unit.

## **ARTICLE VIII ADMINISTRATION AND ENFORCEMENT**

### **Section 801. Board of Selectmen**

It shall be the duty of the Board of Selectmen to enforce and administer the provisions of the Ordinance. The Board of Selectmen may appoint a Building Inspector, Code Enforcement Officer, or other designee to issue any and all building permits requested when in their opinion the proposed permit meets all the requirements of the Ordinance.

### **Section 802. Zoning & Building Permit**

**802.1** A Zoning & Building Permit shall be required prior to:

A-1: For Commercial construction all new or altered structures

A-2: For home construction all new or altered structures except:

1. One story detached accessory building limited to 200 square feet that has no plumbing and is not to be used as living space for people and provided that the siting of the structure meets set back requirements.
2. Fences not over 6 feet high.
3. Water tanks supported directly on grade, if the capacity does not exceed 5,000 gallons and the ratio of height to diameter does not exceed 2 to 1.
4. Sidewalks and driveways not over 30 inches above grade.
5. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
6. Swings and other playground equipment.
7. Prefabricated swimming pools less than 24 inches deep.
8. Window awnings, supported on the exterior wall, that do not project more than 54 inches from the exterior wall.

9. Interior improvements that do not increase the footprint of the building and do not increase the value of the structure by more than 25%.

A-3: The movement of a building or sign.

A-4: The construction of additional signs as stipulated in Section 506 beyond those allowed by right.

A-5: The construction or alteration within any existing building which will add to the number of dwelling units.

A-6: A change in use with the property.

A-7: Adding a use to the property.

B-1: Any alteration or restoration that effects a Commercial Building compliance with fire and/or public safety codes, or alters the structure or footprint of the building, shall require a building permit.

**802.2** Two copies of an application shall be submitted and shall include a plan showing:

- a. The shape, dimensions, area and location of lot involved.
- b. The buildings or structures to be erected, constructed, moved or expanded.
- c. Any private driveway entering upon a right-of-way.
- d. Outhouses will have an impermeable holding tank constructed of either plastic or concrete.

Proof shall be submitted that all approvals required for individual sewage disposal systems have been obtained.

**802.3** The Board of Selectmen or designee shall act upon any application within 30 days after it has been received. If a permit is denied, the reasons for denial shall be clearly stated. The Board of Adjustment may by appeal, Special Exception or variance direct the issuance of a permit.

**802.4** A Zoning & Building Permit shall be valid for one year. A one-year extension may be granted upon application to the Board of Selectmen or designee.

**802.5** No permit shall be transferable to a subsequent owner.

**802.6** A Certificate of Occupancy will be required before renting, leasing, or using building for which Zoning & Building Permit was granted. A Certificate of Occupancy shall be granted only if:

- a. All Zoning and Town Ordinances were adhered to.
- b. All Zoning & Building Permit restrictions or requirements were complied with.

**802.7** The Selectmen or designee shall have the right to inspect a building and/or property after a Zoning & Building Permit is granted, and an inspection is required before a Certificate of Occupancy is granted.

**802.8** The Board of Selectmen will be responsible for establishing the fee structure for permit applications. The Board of Selectmen prior to signing the Certificate of Occupancy will collect the total sum.

### **Section 803. Enforcement and Penalty**

**803.1** If any violation of this Ordinance occurs, the Board of Selectmen shall institute, in the name of the Town of Carroll, any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate such violation.

**803.2** Any person who violates this Ordinance shall be subject to fines and penalties as provided by state law, including but not limited to RSA 676:15, 676:17, 676:17-a or 676:17-b. No action may be brought under this provision unless the alleged offender has had at least seven days' written notice that a violation exists.

**803.3** The Board of Selectmen may appoint a Building Inspector, Code Enforcement Officer or other designee who, upon such appointment, shall have such administrative duties and enforcement powers as specifically identified by the Selectmen as would otherwise be delegated to the Selectmen, Building Inspector, Zoning Administrator, or Code Enforcement Officer by this Ordinance or by state law.

### **Section 804. Board of Adjustment**

**804.1 Organization:** There is hereby created a Board of Adjustment and its five members shall be elected and the Selectmen shall appoint alternates. The Board of Adjustment shall have the terms and powers conferred by Chapter 31, New Hampshire RSAs, as it is or may be amended.

**804.2 Appeals:** The Board of Adjustment shall hear and decide any case in which it is alleged there is an error in any order, requirements, decisions or determinations made by any official in the enforcement of this Ordinance.

#### **804.3 Special Exceptions**

##### **a. General Provisions**

As defined by RSA 674:33, the Board of Adjustment has the power to hear and decide applications for Special Exceptions as provided by this Ordinance. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, as determined by the Board, authorize the Select Board or designee to issue a permit for such Special Exception use. Before an application is approved, the Board shall determine that the proposed use will conform to such requirements including:



1. Required Plan. A plan for the proposed development of a site for a Special Exception shall be submitted with the application and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and other pertinent information that the Board may deem necessary to determine if the proposed use meets the requirements of this Ordinance.
2. Expiration. A permit for a Special Exception shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than one year for any reason, and a new application shall be submitted for continuance for such Special Exception.
3. Existing Violations. No permit shall be issued for a Special Exception for a property where there is an existing violation of this Ordinance unless the granting of Special Exception will correct the violation.
4. Criteria for a Special Exception. In order for a Special Exception to be granted the proposed use shall not adversely affect:
  - i. The capacity of existing or planned community facilities.
  - ii. The character of the area affected including, but not limited to, consideration of such factors as the nature of the proposed use itself, noise, vibration, volume and type of traffic, lighting, glare, odors, hours of operation, amount of impervious surface, or building size and mass.
  - iii. Traffic on roads and highways in the immediate vicinity.

b. Standards Applicable to Special Exceptions

If deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the Town as a whole, the Board of Adjustment shall impose standards in granting a Special Exception. These additional standards may include the following:

1. Increasing the required lot size or yard dimensions in order to provide a buffer between the proposed use and that of adjacent properties.
2. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
3. Controlling the location and number of vehicular access points to the property.
4. Increasing the street width adjacent to the property.
5. Increasing the number of on-site off-street parking or loading spaces required.
6. Limiting the number, location and size of signs off premise.
7. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
8. Specifying a time limit for initiation of construction, alteration, or enlargement of a structure to house an exception.

9. Providing for specific layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize effect on adjoining property.
10. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Board of Adjustment.
11. Specifying standards for operation of this Special Exception so that it will be no more objectionable to the neighborhood by reasons of traffic, noise, odors, and vibrations, flashing lights or hours of operation than will be the operation of a permitted use at this site.
12. Specifying that in case of the remodeling of existing structures into two-family or lodging house use that the remodeling of the structure would be done in such a manner that it will not substantially change the exterior appearance of the structure.
13. Requiring such additional, reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance and to protect the best interests of the surrounding property and the neighborhood.
14. *Housing and Space Guidelines for Livestock*, UNH Cooperative Extension, latest edition, and *Manual of Best Management Practices (BMPS) for Agriculture in New Hampshire*, New Hampshire Department of Agriculture, Markets, and Food, latest edition.

#### 804.4 Variances

The Board of Adjustment may authorize a Variance from the terms of this Ordinance where the Board finds that all of the following conditions apply:

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished; and
5. The literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - (a) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
    - ii. The proposed use is a reasonable one.
  - (b) If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to enable a reasonable use of it.

**804.5 Validity:** Any special exception or variance granted by the Board of Adjustment shall be valid only two years unless an extension is approved by the Board of Adjustment for good cause.

**804.6 Acceptance:** Acceptance of the terms of a variance or special exception must be submitted in writing to the Board of Adjustments within 60 days or shall be deemed invalid.

#### **804.7 Equitable Waivers of Dimensional Requirements**

- a. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by the zoning ordinance, the Zoning Board of Adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the Board makes all of the following findings:
1. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
  2. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;
  3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and
  4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.
- b. In lieu of the findings required by the Board under subparagraphs a.1. and 2., the owner may demonstrate to the satisfaction of the Board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.
- c. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearing's and appeals shall be governed by RSA 677:2 through 14.
- d. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the

ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

## **ARTICLE IX MISCELLANEOUS**

### **Section 901. Severability**

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

### **Section 902. Effective Date**

This Ordinance and subsequent amendments thereto shall take effect immediately upon adoption.

### **Section 903. Validity**

Whenever the provisions of this Ordinance or rulings made under the authority thereof differ from or appear to be in conflict with any other ordinances or regulation, that provision or ruling which imposes greater restriction or higher standard shall govern.