

LAND USE ORDINANCE
For The
Lower Bartlett Water Precinct
Bartlett, New Hampshire

An ordinance to promote the health, safety, morals, convenience and general welfare of the community by regulating and restricting the use and construction of buildings and premises in the Lower Bartlett Water Precinct, Bartlett, New Hampshire.

ARTICLE I

Preamble

In pursuance of authority conferred by Chapter 31, Sections 60-89 N.H. Revised Statutes Annotated, 1955, as amended, and for the purpose of promoting the health, safety, morals, prosperity, convenience of general welfare, as well as efficiency and economy in the process of development, of the inhabitants of the Lower Bartlett Water Precinct, Bartlett, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights of way, by preserving the rural charm now attached to our village, the promotion of good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means, now therefore the following Ordinance is hereby enacted by the voters of the Lower Bartlett Water Precinct, Bartlett, New Hampshire in legal meeting convened

ARTICLE II

Districts

This Ordinance shall apply to all the land within the boundaries of the Lower Bartlett Water Precinct. For purposes of the Ordinance, the Lower Bartlett Water Precinct shall be divided into two (2) districts as shown on the official zoning map on file with the clerk of the precinct and dated April, 1980.

1. General Rural Residential District. (To include all the land within the Lower Bartlett Water Precinct lying outside of the General Commercial District).
2. General Commercial District. (To include all of the land lying within the Lower Bartlett Water Precinct situated westerly of New Hampshire Route 16 and between said Route 16 and the tracks of the Maine Central Railroad. Rural Residential usage may be permitted in the General Commercial District).

ARTICLE III

General Provisions

The following provisions shall apply throughout the Lower Bartlett Water Precinct zoning districts:

1. Junk yards, dumps, etc. No owner or occupant of land in any of the said districts shall maintain a junk yard or place for the storage of discarded machinery, vehicles, glass, paper, cordage, refuse, or other waste or discarded material. This provision shall not, however, prohibit the storage of material and equipment used seasonally.
2. Dangerous or unsightly ruins. No owner or occupant of land in any of said districts shall maintain thereon any structure ruined by fire, storm or otherwise abandoned during construction or dangerously dilapidated by reason of age, but within one year of the occasion of the damage to the structure or within one year of its becoming unsafe, the owner or occupant thereof shall either repair, reconstruct, renovate or replace the same, returning it to a safe condition, or shall demolish the same to the ground level, removing any remaining dangerous or unsightly materials and shall fill all excavations, cellars, pits, wells, and holes to ground level.
3. Sand pits, gravel banks, etc. The excavation and removal of clay, sod, loam, sand, gravel, stone or earth materials of any sort from the premises in any of the said districts is hereby prohibited; provided, however, that nothing herein shall prevent the ordinary excavation, grading or re-grading of premises by or in behalf of the owner in connection with any construction project lawfully undertaken thereon or in connection with the routine grading, improvement or beautification of the said premises, and in such case the area shall be regraded, reloaded, reseeded, or otherwise recovered to assure that the premises shall be left in sightly condition and protected against erosion.
4. Land fill. Land fill is permitted on premises in any of the said districts provided that said land fill is not in conflict with rules and regulations of the N. H. Water Supply and Pollution Control Commission, or such other agency or department of the State of New Hampshire as may have jurisdiction with respect thereto. The materials used must be clean and solid.
5. Sanitary facilities. All sanitary, sewage, waste disposal of other like systems of any sort situated within any of the said districts shall comply with the following requirements:
 - a. No privy, cesspool, septic tank, or sewage disposal system shall be constructed or maintained unless it is in accordance with the standards set and enforced by the N.H. Water Supply and Pollution Control Commission, or such other agency or department of the State of New Hampshire as may have jurisdiction with respect thereto.
 - b. All dwellings and sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the N.H. State Department of Health and the N.H. Water Supply and Pollution Control Commission, or such other agency or department of the State of New Hampshire as may have jurisdiction with respect thereto.
 - c. The above paragraphs shall not pertain to installations in effect at the time of enactment of this Ordinance provided the same meet the requirements of the State Health officials.
6. Obnoxious uses generally prohibited. Any use of the premises within any of the said districts that is unreasonably obnoxious or injurious to the public or to persons occupying other premises in the vicinity by reason of the creation or emission of odor, dust, smoke, refuse matter, fumes, noise, ashes, vibration or similar conditions, or that unreasonably interferes with the comfort, peace, enjoyment, health or safety of the community, or is unreasonably disturbing or annoying to occupants of neighboring land or to the public, is hereby prohibited.
7. Mobile homes, trailer parks, and commercial camping areas. Within any of the said districts the use of land for the accommodation of trailers, mobile homes, and commercial camping areas shall be as provided below, and not otherwise:
 - a. Any owner or occupier of land may accommodate thereon the use of an occupied single travel trailer or camper of a non-resident and non-paying guest for a temporary period not exceeding two (2) weeks.

- b. Trailer parks, mobile home parks and commercial camping areas are prohibited. Mobile homes are prohibited except insofar as the same may be permitted as "manufactured housing" in the General Rural Residential District.
 - c. Nothing herein shall prohibit any owner or occupier of land in any of the said districts from parking or storing a travel trailer or camper owned or rented by such person upon his premises in said districts during the period of non-use.
8. Signs. Signs shall not be erected or maintained in any of said districts otherwise than in accordance with the following provisions of this Article, as well as in accordance with the special provisions of the Ordinance which are applicable to each individual district, and any sign erected or maintained shall first receive a permit of approval from the zoning board or its representative duly appointed for this purpose.
- a. No sign in any of the said districts shall be so placed relative to any vehicular right of way as to obstruct a clear view or to create a condition dangerous to vehicles or pedestrian traffic, nor shall any sign be so placed or designed to create confusion with official street signs and signals.
 - b. Any sign erected and maintained in any of the said districts shall be constructed of durable materials and shall be maintained at all times in good condition and repair.
 - c. Nothing herein shall prevent the use of ordinary and appropriate highway construction warning blinkers, flares or other signals, or prevent the appropriate use of traffic control lights and signals.
9. Drive-in theaters. No drive-in theater or outdoor movie shall be permitted in any of the said districts.
10. Lumber operations. Timber may be cut and harvested in any of said districts for commercial purposes only after a prior permit has been obtained from the zoning board, which shall impose such terms and conditions upon the issuances of said permits for the protection of the public health, safety and welfare, including the protection of the peace and beauty of the community, as it may deem proper. Clear cutting shall not be permitted within a distance of one hundred fifty (150) feet from the nearest public right of way line, but selected cutting may be carried out to any such right of way line provided that there be left uncut within such one hundred fifty (150) foot strip a reasonable growth of substantial trees. Any permit issued may make appropriate requirements for removal of brush and protection against the hazard of fire. Nothing herein shall prevent ordinary clearance of a lot for the purpose of construction of buildings or structures.
11. Public and private roads. All public and private roads shall conform to the Town of Bartlett road specifications as to the width, pitch and contour.

ARTICLE IV

District No.1 - General Rural Residential District

Land within Zoning District No.1, the General Residential District may be occupied and used and buildings and structures thereon may be erected, altered, occupied, and used only for the following purposes and subject to the following provisions:

- 1. Permitted Uses. The following uses are hereby permitted:
 - a. Single and two-family dwellings, to include manufactured housing, with or without private garages and accessory buildings subject, however, to the requirement that there shall be provided with each new building or structure, either garage or off-street parking space for not less than two (2) private passenger cars for each family intended to reside upon the premises.

- b. Churches and religious institutions, hospitals, municipal buildings, and public or private parks, playgrounds and schools.
 - c. Forestry, horticultural and general gardening and farming activities, provided, however, that no storage or use of manure, or odor or dust producing substances shall be permitted within one hundred (100) feet of any property line, and that any forestry, horticultural, garden or farm use which is unreasonably injurious, obnoxious, or offensive to the neighborhood is prohibited.
2. Uses requiring special permits. The following uses are permitted only upon the condition that a prior permit has been obtained from the Board of Adjustment after its finding that a Special Exception from the strict terms of the Ordinance should be granted pursuant to Article VII below, that any other necessary facts exist as herein below specified, and further upon such terms and conditions as the Board may reasonably impose to carry out the purposes and spirit of the Ordinance.
- a. Offices for doctors, lawyers, dentists, architects and members of other recognized professions, offices for real estate and insurance agents and brokers; facilities for the display and sale of antiques; facilities for the conduct of usual home occupations such as hairdressing and dressmaking, or for the practice of home handicrafts, pottery, weaving and cabinet making; provided, however, that any such business uses of premises in this district shall be incidental to the ordinary and customary use of the premises for residential purposes, that not more than a single such business shall exist upon any single lot, and that no more than four (4) persons, in addition to the owner or occupant of the premises, shall be employed or engaged in such business activity thereon.
 - b. Greenhouses, nurseries, and other like facilities for the public display and sale of garden, food, and handicrafts products primarily produced on the premises.
 - c. Golf courses, health and racquet clubs, ski clubs, hotels, motels, restaurants and inns.
 - d. Nursing and convalescent homes.
 - e. Boarding, lodging, rooming and tourist homes, tourist courts and cabins.
 - f. Residential dwellings for more than two (2) families including apartments, condominiums and townhouses, provided that (i) a minimum of thirty thousand (30,000) square feet of land must be provided per dwelling unit where there is a private water supply. and a minimum of twenty thousand (20,000) square feet of land per dwelling unit where there is a public water supply, and (ii) off-street parking facilities or garage space must be provided so that, at least, two (2) parking spaces are provided for each family unit contained in any such dwelling. The foregoing notwithstanding, all multi-family dwelling units must conform to the requirements of the N. H. Water Supply and Pollution Control Commission, or to the requirements of any other agency or department of the State of New Hampshire as may have jurisdiction with respect thereto.
3. Signs. No signs shall be displayed in the district other than the following which, subject to the provisions of Article III, Paragraph 8, may be permitted.
- a. Advertising signs, not exceeding two (2) in number, each having an exposed area not in excess of four (4) square feet on each side, relating solely to any business, professional, or other permitted enterprise conducted on the premises.
 - b. Signs, not exceeding two (2) in number, each having an exposed area not in excess of four (4) square feet, pertaining to the availability of all or a part of the premises for lease or sale.
4. Lot Area and Frontage Requirements. No lot in this district shall have an area of less than one (1) acre, and no lot in this district shall have frontage of less than 100 feet; provided, however, that the

requirements of this paragraph as to minimum lot size and frontage shall not apply to any lot which is a duly recorded and lawful lot of record at the time of the adoption hereof.

5. Building Set-Back or Yard Requirements; and Building Height Requirements.

- a. All buildings and structures upon any lot in this district shall conform to the following minimum set-back requirements:
 - (1) Front line set-back. There shall be between the nearest edge of the right of way and the extreme front of any building or structure a minimum distance of fifty (50) feet.
 - (2) Side line and back line set-back. There shall be between the property of any abutter and any building or structure a minimum distance of fifteen (15) feet.
- b. All buildings or structures upon any lot in this district shall conform to the following maximum height requirement: No building or structure shall be in excess of thirty-five (35) feet in height.

ARTICLE V

District No.2 - General Commercial District

Land lying within Zoning District No. 2, the General Commercial District, may be used and occupied and buildings and structures thereon may be erected, altered, occupied and used only for the following purpose and subject to the following provisions:

- 1. Permitted Uses. The following uses of land and buildings within this District are hereby permitted:
 - a. Shops, stores, restaurants, and general retail businesses, provided that the following are prohibited:
 - (1) Shopping centers and malls; gasoline service stations; auto repair shops; bowling alleys; roller skating rinks; discount houses or discount sales outlets; recreational ranges such as golf driving ranges, baseball or archery ranges, miniature golf facilities, and the like; fast food restaurants; wholesale and distribution enterprises; fuel oil businesses; water slides; alpine slides.
- 2. Uses Requiring Special Permits. The following uses of premises in this district are permitted only upon the condition that a prior permit has been obtained from the Board of Adjustment after its finding that a Special Exception from the strict terms of the Ordinance should be granted pursuant to Article VI below, that any other necessary facts exist as herein below specified, and further upon such terms and conditions as the Board may reasonably impose to carry out the purpose and spirit of this Ordinance.
 - a. Enterprises selling or dispensing alcoholic beverages.
 - b. Enterprises providing public entertainment.
 - c. Enterprises engaging in light manufacturing and/or light assembly.
- 3. Signs. No public advertising signs shall be displayed in this district other than the following which, subject to the provisions of Article III, Paragraph 8, may be permitted:
 - a. Two (2) Identification signs not to total over forty-eight (48) square feet in area per sign. Such signs must be affixed to the main building in a permanent manner so as to have a single exposed surface, must by their terms be restricted to identifying the name of the enterprise or proprietor

thereof, and must not be: self (internally) luminated: neon flashing: or displayed above the upper functional roof line.

- b. In addition, three (3) directional driveway signs not to total over three (3) square feet each or over six (6) feet in height shall be permitted. Directional signs may be illuminated.
- c. One free-standing sign for each two hundred (200) feet of frontage and for each additional two hundred (200) feet of frontage, containing not over sixty-four (64) square feet in area, not exceeding twelve (12) feet in any dimension, and being no higher at the upper dimension than eighteen (18) feet above the traveled surface of the highway.
- d. Not more than two (2) signs, each having an exposed area not in excess of four (4) square feet, pertaining to the availability of all or a part of the premises for lease or sale.

Notwithstanding any of the foregoing, no sign shall be used to advertise any off-premises activity.

4. Lot Area and Frontage Requirements. No lot in this district shall have an area of less than one (1) acre, and no lot shall have a frontage of less than two hundred (200) feet; provided, however, that the requirements of this paragraph as to minimum lot size and frontage shall not apply to any lot which is a duly recorded and lawful lot of record at the time of the adoption hereof.

5. Building Set-Back or Yard Requirements, and Building Height Requirements.

a. Front line set-back. There shall be between the nearest edge of the right of way for Route 16 and the extreme front of any structure or building a minimum distance of seventy-five (75) feet. The same seventy-five (75) foot set-back shall be maintained for any property within the district fronting on a service road serving Route 16.

The first twenty-five (25) feet from the right of way for Route 16, or from any service road serving Route 16, shall be a green belt, upon which grass, trees, or other natural or planted growth shall be maintained. This green belt shall not, however, prohibit the location and maintenance of reasonably adequate entry and exit ways to permit access to and from Route 16 across the green belt.

b. Side line and back line set-back. There shall be between the property line of any abutter and any building or structure a minimum distance of fifteen (15) feet.

c. Height restrictions. All buildings or structures upon any lot in this district shall conform to the following maximum height requirements: No building or structure shall be in excess of thirty-five (35) feet in height, or in excess of four (4) stories above natural grade for the lot.

6. Parking. Adequate off-street parking shall be required for all uses, to be determined by the Water Commissioners when an application is made for a building permit.

ARTICLE VI

Non-Conforming Uses of Land, Buildings and Structures

Existing non-conforming uses exempt. Any non-conforming use of land or of a building or structure thereon may continue in its present use, except that the non-conforming use may not be:

1. Changed to another non-conforming use.

2. Re-established after discontinuance unless a declaration of intent to re-establish is filed with the Zoning Board within one (1) year of discontinuance.
3. Extended or enlarged: provided, that existing businesses may expand or add accessory services that pertain to their primary business if expansion or addition is of such character that it conforms to the provisions of this Ordinance, to be determined by the Water Commissioners at the time application is made for a building permit.

ARTICLE VII

Administration and Enforcement

1. The Board of Commissioners Constituted Zoning Board to Administer Ordinance. The Board of Commissioners of the Lower Bartlett Water Precinct is hereby constituted the Zoning Board hereunder. It shall be the duty of the said Zoning Board to take such action, including the institution and prosecution of all actions, civil or criminal, as may be necessary to enforce the provisions of this Ordinance, including suits for injunctions against violations and for court decrees for the removal or alteration of structures or conditions violating this Ordinance. The Zoning Board shall have no power to authorize any departure from the terms of this Ordinance whether in the nature of special exception, variance or otherwise. (But see Paragraph 4 below, Board of Adjustment.) The Zoning Board may expend such funds as may be raised and appropriated by the Precinct for legal and other expenses related to this Ordinance.
2. Permits. Application for a prior permit from the Zoning Board shall be made as hereinabove required, as well as for any of the following:
 - a. For the erection or relocation of any new principal building or of any structure herein regulated.
 - b. For any action which would constitute a special exception or variance from the terms of this Ordinance, including, without limiting the generality of the foregoing, a change in the nature of the use of any building, structure or premises to a non-conforming use from a conforming or a different non-conforming use or the addition of a new non-conforming use, or the expansion of an existing non-conforming use or a change in lot size or shape which would result in a violation of area or frontage regulations.
 - c. The installation, construction, or reconstruction of any privy, cesspool, septic tank, or sewage or waste disposal system, all of which shall have first received the prior approval of the New Hampshire Water Supply and Pollution Control Commission, or any other state agency or department having jurisdiction with respect thereto.
3. Rules and Regulations. The Zoning Board shall have power to adopt such rules and regulations governing its own procedure as well as governing the filing and processing of applications for permits and the initiation of appeals in matters arising under this Ordinance as it may deem proper. The Zoning Board shall have the power to designate the Chairman of the Board of Commissioners, or other member(s) of said Board, as having authority to issue permits on its behalf consistently with the provisions of this Ordinance.
4. Board of Adjustment. The Board of Commissioners shall make appointments to a Board of Adjustment, which shall conform in membership to the applicable provisions of the statutes of the State of New Hampshire.

- a. General Powers. The Board of Adjustment shall have the following powers and duties, as well as all other powers and duties conferred from time to time upon such Boards by the statutes of the State of New Hampshire:
- i. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Board or any other person authorized by it to issue permits or make determinations in the enforcement of this Ordinance.
 - ii. To hear and decide according to the standards specified below all applications for special exceptions upon which this Ordinance requires the Board of Adjustment to pass.
 - iii. To authorize variances from the terms of this Ordinance in appropriate cases, according to the standards specified below.
 - iv. To make rules concerning procedure for appeals or petitions to the Board of Adjustment including the time within which such appeals or petitions may be made.
- b. Special Exceptions. Special Exceptions shall be subject to the following provisions:
- i. A use designated as a Special Exception in this Ordinance may be permitted upon application duly made to the Board of Adjustment if, in the opinion of the Board, such use in its proposed location meets the following requirements:
 - 1) The site is an appropriate location for the use or structure;
 - 2) The use will be compatible with neighboring land uses;
 - 3) The use will not create a nuisance or hazards;
 - 4) The use will not be detrimental to pedestrian and vehicular traffic movement in the neighborhood;
 - 5) Adequate and proper facilities will be provided to ensure the proper operation of the use;
 - 6) The use is compatible with the intent of this Ordinance.
 - ii. The applicant shall submit to the Board of Adjustment three (3) copies of a site plan showing the following elements where applicable:
 - 1) Location and height of existing and proposed buildings or structures;
 - 2) Proposed layout of outside facilities;
 - 3) Proposed layout of parking areas and loading bays;
 - 4) Proposed type and location of screening, of recreation and play areas, and of areas for outside storage of materials;
 - 5) Location of access, egress, and interior roadways;
 - 6) Location and adequacy of utilities, drainage, and provisions for public safety.

- iii. In granting any Special Exception the Board may prescribe any conditions and safeguards deemed necessary to prevent nuisance and promote harmony within the neighborhood. Such conditions and safeguards shall include but not be limited to the following:
 - 1) Lot area;
 - 2) Front, side, or rear yards;
 - 3) Height limitations;
 - 4) Screening buffers or planting strips, fences or walls;
 - 5) Modification of the exterior appearance of the structure;
 - 6) Limitations upon the size, number of occupants, method and time of operation, or extent of facilities.
 - 7) Consideration of number and location of driveways, accessways, or other traffic features in accordance with applicable law, regulation, or ordinance;
 - 8) Off-street parking, lighting and loading requirements.
- iv. The disregard of any condition or safeguard when made part of the terms under which a Special Exception is granted shall be deemed a violation of this Ordinance.

c. Variances. Variances shall be subject to the following provisions:

- i. The Board of Adjustment may authorize a variance from this Zoning Ordinance where unusual difficulty or special hardship would be imposed by the literal application and rigorous enforcement of this Ordinance. Such variance may be granted only by reason of extraordinary physical conditions peculiar to the land or structure for which the variance is sought which are not substantially duplicated on adjoining property or within the same zoning district.
- ii. Each petitioner for a variance shall submit statements in writing and records and photographs where necessary demonstrating the following which shall become part of the record of the petition:
 - 1) The nature of the property for which the variance is sought and the physical circumstances that would occasion a hardship;
 - 2) That such circumstances are peculiar to the property under appeal and are not substantially duplicated on adjoining property or within the same zoning districts;
 - 3) That the relief sought would not adversely affect property adjoining or in the same zoning district and would not endanger the public health, safety, convenience nor impair the integrity of this Ordinance.
 - 4) That the specific variance sought is the minimum variance required for reasonable relief to the owner and that it is necessary for a reasonable use of the property.
- iii. In authorizing a variance the Board of Adjustment may require such additional information as it deems necessary and impose restrictions such as but not limited to those specified in subparagraph (iii) of paragraph (b) above applicable to Special Exceptions.

- d. Expiration of permits. A permit granted for a Special Exception or a variance shall expire one (1) year from the date of issuance thereof unless the use shall have commenced within that period or construction shall have begun and significant progress been made towards completion in accordance with the permit.
- e. Denial of Permits. An application for a Special Exception or variance, once denied, shall not be resubmitted for consideration within six (6) months from the date of denial; provided, however, that the Board of Adjustment may, In appropriate circumstances, waive this prohibition.
- f. Penalties. Any person or corporation, whether as principal, agent, occupant, employee, or otherwise, who violates any of the provisions of this Ordinance, shall be fined \$10.00 for each offense. The violator shall be notified by certified mail of the existence of the offense, and each day that the violation continues following the violator's receipt of said notice shall be deemed a separate offense.

ARTICLE VIII

Amendments

This Ordinance may be amended in the manner permitted from time to time by the statutes and law of the State of New Hampshire.

ARTICLE IX

Saving Clause

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

ARTICLE X

When Effective

This Ordinance shall take effect upon passage.

ARTICLE XI

Definitions

Condominium means a multi-unit residential building designed for separate ownership of each unit.

Frontage means the length of the lot bordering on a public right of way.

Front yard means a space extending for a full width of a lot between the extreme front line of a building and the nearest edge of the right of way.

Gravel pit means any place where mineral aggregate is mined, worked or removed from the premises, for the purpose of sale or use.

Incinerator means a commercial waste facility or one providing a community waste service.

Hotel or Inn means any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in an individual room or apartment.

Junk means any old metals, bottles, cotton or woolen mill waste, unfinished cloth, unfinished cotton or woolen yarns, old paper products, two or more unregistered vehicles which are unfit for use on highways, used parts and materials of motor vehicles and other secondhand articles, the accumulation of which is detrimental or injurious to the neighborhood.

Light Manufacturing and/or Light Assembly means a use involving the manufacture or assembly of a product not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment.

Manufactured Housing means any and all forms of modular, unitized or prefabricated housing as well as mobile homes which are brought to and assembled on a building site, placed on a foundation, and tied into all conventional and necessary utility systems and which are intended to be used as a permanent dwelling unit. Manufactured housing does not include housing or mobile homes which are fully constructed on the site.

Mobile Home means a single complete and livable prefabricated dwelling unit, transported on wheels, and requiring connection to water, power and sewage disposal systems for proper occupancy.

Non-conforming Building or Structure means a building or structure, the use of which in whole or in part does not conform to the use regulations of this Ordinance.

Non-conforming Use means a use in any building or structure which does not conform to the use regulations of this Ordinance.

Record lot means land designated as a separate and distinct parcel in a deed legally recorded and filed in the Registry of Deeds, Carroll County, New Hampshire.

Right of way means and includes all town, state and federal highways and the land on either side of same as covered by statutes to determine the widths of the rights of way. For purposes of set-back and yard requirements, it also includes any private way used as a means of access to two or more residential, institutional or commercial buildings.

Sand Pit means any place where sand is mined, worked or removed from the premises for the purpose of sale or use.

Shopping Center or Mall means any lot on which two (2) or more retail businesses are conducted.

Sign means any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure or produced by painting or on posting or placing any printed, lettered, pictured, figured, or colored material on any building, structure or surface; provided, however, that signs placed or erected by the Precinct, Town, State, or Federal Government for the purpose of showing street names or traffic regulations or for other municipal or governmental purposes shall not be included herein, nor shall this include signs which are part of the architectural design of the structure.

Ski Club means any building or portion thereof where lodging is offered to cooperative membership, and/or transient guests for compensation or for free and in which there are more than five (5) sleeping rooms with no cooking appliances in an individual sleeping or apartment.

Structure. The word structure as used in this Ordinance may include buildings. The word may also mean anything constructed or erected with a fixed location on or in the ground, or attached to anything having a fixed location on or in the ground.

Tourist Court, Cabins, Motel means one or more detached or semi-detached buildings containing guest rooms or apartments with automobile storage space serving such rooms or apartments provided in connection therewith, which group is designed or used primarily for the accommodation of automobile travelers, including groups designated as tourist cabins, courts, and motel developments.

Tourist Home means any place consisting of a room or a group of rooms located on one premises where transient accommodations for sleeping or living purposes are provided for a price, with no cooking facilities in an individual room or apartment.

Trailer Park or Mobile Home Park means land area occupied or designed for occupancy by two or more trailers in use for living purposes.

**LOWER BARTLETT WATER PRECINCT
AMENDMENT NO. 1 TO LAND USE ORDINANCE**

ARTICLE XII

GROUNDWATER PROTECTION DISTRICT

A. AUTHORITY AND PURPOSE

Pursuant to the authority conferred by Chapter 414 of the 1976 Laws of the State of New Hampshire, and RSA 674:16-21, the Lower Bartlett Water Precinct adopts a Groundwater Protection District and accompanying regulations in order to protect, preserve and maintain existing and potential groundwater supplies and related groundwater recharge areas within the Lower Bartlett Water Precinct. The objectives of the Groundwater Protection District are:

To protect the public health, safety, and general welfare of the citizens of Lower Bartlett Water Precinct through the protection of the potential future utilization of aquifers located within the boundaries of the Lower Bartlett Water Precinct.

To prevent development and land use practices that would increase risk of contamination or reduce the recharge of aquifers located within the Lower Bartlett Water Precinct.

To provide for future growth and development of the land within the Lower Bartlett Water Precinct and its New Hampshire Public Utilities Commission-franchised service area, by insuring the future availability of public and private water supplies.

To encourage uses that can appropriately and safely be located in the areas that contribute groundwater to aquifers located within the Lower Bartlett Water Precinct.

To incorporate by reference and encourage implementation of recommendations and map dated April 24, 2003 by Provan & Lorber, Inc. entitled Recommended District Boundaries and Groundwater Protection Areas respectively, as amended on map entitled "Plan of Land in Bartlett, NH showing the boundaries of the Lower Bartlett Water Precinct and the Groundwater Protection District Boundaries" by Thaddeus Thorne – Surveys, Inc. drafted 12/16/04 in order to protect the existing and future viability of the Lower Bartlett Water Precinct's existing and future water supply sources.

B. DEFINITIONS

For the purpose of this article, the following terms shall have the meaning given herein:

- (1) **Agricultural Chemicals:** Any substance or mixture of substances defined as an insecticide, herbicide or pesticide under RSA 430:29, any successor statute thereto, and any regulations promulgated pursuant to RSA 430, or successor statute.
- (2) **Aquifer:** A geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for Lower Bartlett Water Precinct water supplies.

- (3) **Best Management Practice:** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the risk of contamination of groundwater, as developed by the New Hampshire Department of Environmental Services or other governmental agency.
- (4) **Change of Use:** Any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration. (NH RSA 674:19)
- (5) **Drainage Facility:** any man-made feature used to convey and/or receive stormwater generated onsite. Among others, these features may include: curbing, swales, level spreaders, catchbasins, piping, swirl concentrators, and ponds.
- (6) **Dwelling Unit:** One or more living or sleeping rooms arranged for the use of one or more individuals living as a single family housekeeping unit, with cooking, living, sanitary and sleeping facilities.
- (7) **Feedlot:** Lots, pens, ponds, sheds, or buildings engaged in the fattening, raising, breeding, holding or slaughtering of animals, typically for the commercial production: including but not limited to dairy, equine, cattle, swine, poultry/egg, or fur-bearing animal farms or zoos.
- (8) **Groundwater:** All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water.
- (9) **Groundwater Protection District:** See Page 4, Section C (1) and (2)
- (10) **Groundwater Recharge:** The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.
- (11) **Groundwater Withdrawal Facility:** A structure comprised of, or containing, the necessary components to recover groundwater.
- (12) **Hazardous Substance(s):** Any element or substance, including but not limited to asbestos and Oil, which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (the "EPA") or the list of toxic pollutants designated by Congress or the EPA or which are defined as hazardous, toxic, pollutant, infectious, flammable or radioactive by any other Federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance or material, as now or at any time hereafter in effect, or which pose an actual or potential hazard to water supplies or human health if such a substance were discharged to land or waters.
- (13) **Impervious surface-general:** A man-made surface which restricts the movement of precipitation and stormwater runoff from entering the ground.
- (14) **Impervious surface-protective:** A surface through which Hazardous Substances cannot pass when spilled. These may include concrete unless unsealed cracks or holes are present. Asphalt; earthen, wooden or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces-protective.

- (15) **Junk Yard:** A place for the storage of discarded machinery, vehicles, glass, paper, cordage, refuse, or other waste or discarded material. (Town of Bartlett Zoning Ordinance)
- (16) **Mining of Land:** The removal of geologic materials for the purpose of extracting topsoil, sand and gravel, metallic ores or bedrock and excavation as defined in RSA 155-E.
- (17) **Motor Vehicle(s):** Every fuel-powered motorized device, in, upon or by which any person or property is or may be transported or drawn, including, but not limited to: cars, trucks, motorcycles, all-terrain vehicles, snowmobiles, recreation vehicles, and construction equipment, except lawn and garden equipment and snowblowers.
- (18) **Motor vehicle dealers:** Persons or businesses engaged in the sale and/or rental of motor vehicles.
- (19) **Oil:** Petroleum products and their by-products of any kind, and in any form, including, but not limited to, petroleum, fuel, sludge, crude, oil refuse or oil mixed with wastes and all other liquid hydrocarbons regardless of specific gravity and which are used as motor oil, lubricating oil, or any oil used for heating or processing.
- (20) **Open Space Subdivision/Cluster Development:** A residential subdivision of a tract of land where housing units are grouped on lots of reduced dimensions or in the case of condominium development where units are clustered so as to occupy a reduced portion of the total land area. The remaining land in the tract which is not built upon is reserved as permanently protected open space (Town of Bartlett Zoning Ordinance)
- (21) **Recharge Impoundments:** Areas designated to receive and contain stormwater runoff so that it may infiltrate into the ground.
- (22) **Salvage Yard:** A person or firm who has an established place of business at which he/she is engaged in the business of buying second-hand motor vehicles for the purpose of taking the same apart or buying and selling parts of second-hand motor vehicles or tires for the assembling of second-hand motor parts. (NH RSA236:112-Vc)
- (23) **Seasonal high water table (SHWT):** The upper limit of the ground water in a soil that becomes seasonally saturated with water.
- (24) **Waste/Leachable Wastes:** Waste materials, including but not limited to solid wastes, liquid wastes, sewage sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment, and specifically excluding wastes from functional, approved septic systems.
- (25) **Waste/Solid Waste:** Any discarded or abandoned material including refuse, putrescible material, septage or sludge, as defined by New Hampshire Solid Waste Rules HEP 1901.3. Solid waste includes solid, liquid, semi-solid or gaseous waste material.
- (26) **Water Dependent Commercial Use:** Commercial facilities that use water for manufacturing and/or processing.

C. DISTRICT BOUNDARIES

- (1) Location. The Groundwater Protection District shall include all parcels of land located within the boundaries shown on the map entitled "Plan of Land in Bartlett, NH showing the boundaries of the Lower Bartlett Water Precinct and the Groundwater Protection District Boundaries" by Thaddeus Thorne – Surveys, Inc. drafted 12/16/04, , and incorporated herein by reference.
- (2) The Groundwater Protection District is a zoning overlay district, which imposes additional requirements and restrictions to those of the underlying zoning district. In all cases, the more restrictive requirements shall apply.
- (3) Appeals. When the actual boundary of the Groundwater Protection District is in dispute by any landowner or abutter actually affected by said boundary, the Lower Bartlett Water Precinct Board of Commissioners, at the landowner's/abutter's expense and request, may engage a professional geologist or hydrogeologist to prepare a report addressing the location and extent of the aquifer, recharge areas, and areas with confining geologic conditions that could reasonably be believed to convey contaminants to such recharge areas, relative to the property in question. This report shall include, but not be limited to the following:
 - (a) A two-foot interval topographic layout prepared by a licensed land surveyor of the subdivision and/or area to be developed;
 - (b) A high intensity soils map of the subdivision and/or area to be developed prepared by a soils scientist qualified in hydrologic studies including a written report of his/her on-site field inspection and test boring data;
 - (c) The Groundwater Protection District boundary shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line;
 - (d) Evidence, including groundwater contour maps, derived from a pumping test(s) or a sufficient number of test borings, test pits, observation wells and groundwater elevations, and/ or particle trace analysis to clearly demonstrate that the area in question does not meet the definition of aquifer, recharge area, or area that is reasonably likely to convey contaminants to these areas; and
 - (e) Any additional mapping, hydrogeologic reports or information which becomes available as a result of recent or on-going scientific investigations of the locations and extent of aquifers performed by the U. S. Geological Survey, New Hampshire State agencies or boards, the Lower Bartlett Water Precinct or agents of any of the above.
- (4) The Board of Commissioners may, based upon any findings or reports submitted pursuant to subsection (C) above, reduce the boundary or area designation of the Groundwater Protection District to more correctly define the aquifer(s), recharge area(s), and areas that contribute to the recharge areas, on a site-specific, case-by-case basis.

D. USE REGULATIONS – GROUNDWATER PROTECTION DISTRICT

- (1) **Minimum Lot Size.** The minimum lot size shall be governed by the dimensional controls outlined in the applicable underlying zoning district; provided, however, that at a minimum, lot size shall not be less than one (1) acre. Open Space Subdivisions/Cluster Developments are encouraged in the Groundwater Protection District, provided septic systems are designed to minimize potential contamination to groundwater, to the maximum extent possible, and are located as far as is practicable from the existing Lower Bartlett Water Precinct wells. Land areas within the Groundwater Protection District shall be calculated as providing one (1) acre of land for per dwelling unit.
- (2) **Maximum Lot Coverage.** Within the Groundwater Protection District maximum impervious surface site coverage may not exceed thirty-five percent (35%) of the lot size. To the extent feasible, all runoff from impervious surfaces shall be recharged to the aquifer on-site. All recharge impoundments shall have vegetative cover for surface treatment and infiltration and shall comply with (b) and (c) below. Maximum impervious surface site coverage greater than thirty-five percent (35%) but less than seventy-five (75%) is permitted, provided that the following performance standards are met and the plans and specified materials are approved by the Board of Commissioners or its designated agent:
 - (a) The developer shall submit a stormwater drainage plan prepared by a professional engineer licensed in the State of New Hampshire. Such a plan shall provide for the on-site retention and infiltration of *all* development generated stormwater runoff from a two (2) year storm event, such that the post-development discharge volume to the aquifer is, at a minimum, equal to the pre-development discharge to the aquifer.
 - (b) The stormwater drainage plan shall provide pretreatment for the removal of eighty percent (80%) of sediment, oil and gasoline from parking lot runoff for the two (2) year design storm peak flow by the use of a watertight oil/water separator or other easily accessed and maintainable device, prior to retention and percolation of the runoff into the ground.
 - (c) The applicant is required to perform and provide documentation of regular scheduled maintenance to the structure according to design or manufacturer's specification. A certified copy of the maintenance record should be provided annually or upon request.
- (3) **Site Drainage.** The Board of Commissioners, at its option and expense, may engage a professional engineer to approve the design and the construction of any drainage facility. Drainage facilities shall, at a minimum, be designed in accordance with best management practices as described in Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire. All stormwater treatment and drainage facilities within the Groundwater Protection District shall be cleaned/serviced in accordance with design specifications, but not less than once per year as a minimum on the anniversary date of installation.

- (4) **Use of Deicing Chemicals.** There shall be minimal use of deicing chemicals on all public and private highways, roads and parking lots within the Groundwater Protection District. The use of these chemicals shall be free of sodium and chloride to the greatest extent possible.
- (5) **Prohibited Uses.** In addition to all other uses not permitted in the underlying zoning district, the following uses shall not be permitted in the Groundwater Protection District overlay district except where permitted to continue as a nonconforming use:
- (a) The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.
 - (b) The siting or operation of a dump, landfill, transfer station, and/or other type of solid waste facility.
 - (c) The disposal, storage, and/or staging of any and all manner of solid waste, including but not limited to, construction materials, vegetative debris, sludge, biosolids, and stumps, except as temporary storage of material generated on site pending removal or as part of the process of improving the subject parcel; and provided that no such waste is buried on the site.
 - (d) The storage of Hazardous Substances, except as permitted in accordance with all applicable federal, state and local laws and regulations promulgated thereunder, including but not limited to, those set forth in New Hampshire Code of Administrative Rules Part Env-Ws 421, and in accordance with Best Management Practices.
 - (e) The siting or operation of a wastewater or septage lagoon.
 - (f) The disposal or discharge of all leachable wastes from all residential, commercial or industrial uses except as provided under Section 6(a) "Permitted Uses", page 8
 - (g) The retail or wholesale sale or commercial storage (underground or aboveground) of Oil. The placement of tanks underground for the storage of Oil shall not be allowed in new construction in the Groundwater Protection District. All new or replacement vessels for storage of Oil shall either be in a basement with no floor drains or aboveground with durable sheltered containment adequate to retain 110% of the total tank(s) volume. Propane fuel or other non-liquid fuel supplies may be used and stored underground or aboveground.
 - (h) The outdoor unenclosed or uncovered storage of road salt and other deicing chemicals.
 - (i) The siting or operation of a snow dump containing deicing chemicals brought from any other parcel, whether inside or outside the Groundwater Protection District.

- (j) The siting or operation of a feedlot where animals are kept for commercial purposes in excess of the suggested best management practices as recommended by the New Hampshire Department of Agriculture.
- (k) The siting or operation of motor vehicle sale, rental, service and/or repair facilities, including but not limited to, motor vehicle dealers, service and other fueling stations, repair shops, autobody shops, car washes and all other related automotive and motor vehicle facilities.
- (l) The siting or operation of any type of junk or salvage yard.
- (m) The siting or operation of cleaning and processing services, including but not limited to: dry cleaning facilities, laundromats, beauty salons, photographic processing or printing facilities.
- (n) The siting or operation of injection wells that dispose of Hazardous Substances in the ground.
- (o) The siting or operation of a new excavation site unless incidental to a permitted use and with the exception of any existing excavation legally permitted under the excavation regulations of the Lower Bartlett Water Precinct at the time of adoption of this ordinance. (See: Nonconforming earth, sand, and gravel excavations).
- (p) The commercial storage of fertilizers, animal manure and compost unless in accordance with all applicable federal, state and local laws and regulations promulgated thereunder, and Best Management Practices, including, but not limited to, the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, August 1998, and subsequent revisions, and for an agricultural use already in existence at the time of this ordinance.
- (q) Any Groundwater Withdrawal Facility extracting water for non-residential purposes in excess of 10,000 gallons per day up to 57,600 gallons per day (40 gpm). Ref. RSA 485-C:20.
- (r) The storage of Agricultural Chemicals unless on an impervious surface-protective designed to prevent such materials from coming into contact with precipitation.

- (6) **Permitted Uses.** The following uses are permitted provided they are conducted in accordance with the purposes and intent of this Article:
- (a) For all permitted uses requiring a septic system, the Board of Commissioners shall be authorized to require that the septic design plan be reviewed and approved by the Lower Bartlett Water Precinct's Engineer for compliance with applicable rules, laws, and best management practices.
 - (b) Maintenance, repair of any existing structure in conformance with the provisions of this Article.
 - (c) The expansion of a nonconforming use as long as it complies with the Nonconforming Use section of this Article and Article VI, Nonconforming Uses of Land, Buildings and Structures, of the Lower Bartlett Water Precinct Land Use Ordinance, provided however that such expansion presents no tangible increased risk of contamination or quantity reduction to the groundwater at the site. If such use is determined to be an imminent hazard to public health and safety by the Lower Bartlett Water Precinct Board of Commissioners or its designee, such nonconforming use may not be expanded or changed unless to a more conforming use.
 - (d) The use of fertilizers and Agricultural Chemicals in connection with gardening, nursery, forestry, harvesting, residential composting, grazing and recreational activities provided that the use thereof is conducted in accordance with all applicable federal, state and local laws and regulations and Best Management Practices, including, but not limited to Best Management Practices for such activities established by the Carroll County Conservation District. Notwithstanding the foregoing, the use of fertilizers and Agricultural Chemicals in the Groundwater Protection District must not cause a tangible increased risk of contamination or decreased quantity to the aquifer as determined by the Lower Bartlett Water Precinct and its consultants.
 - (e) Water Dependent Commercial Uses permitted in the underlying zone are required to interconnect to the Precinct's water distribution system. Wells shall be permitted for groundwater monitoring and sampling.
 - (f) Any Groundwater Withdrawal Facility extracting water for non-residential purposes may be approved only upon a determination that no adverse impact upon the Lower Bartlett Water Precinct water supply will result.
 - (g) Above-ground storage for on-site use of Oil of not greater than 2,000 gallons per site, when handled and stored in accordance with all applicable federal, state and local laws and regulations and Best Management Practices either in a basement with no floor drains or with sheltered containment adequate to retain 110% of the total tank(s) volume. Propane fuel or other non-liquid fuel supplies may be used and stored underground or aboveground.
- (7) **Nonconforming earth, sand, and gravel excavations.**

- (a) Any sand and gravel excavation facility within the boundaries of the Groundwater Protection District that has all necessary local, state and federal permits and is in operation at the time of the adoption of this Article may continue to operate provided such facility continues to operate in full compliance with all governing local, state and federal regulations. Upon expiration of such facility's excavation permit such sand and gravel excavation facility must apply for and receive a conditional use permit from the Board of Commissioners in accordance with the excavation regulations. Such conditional use permit shall be based on the submission of the following reports and agreements:
 - (i) Quarterly reports on depth of excavation, spills, and timetable for excavation and reclamation.
 - (ii) A development agreement requiring incremental reclamation and other proposed conditions for an exception to the minimum distance from SHWT requirement.
- (b) Any sand and gravel excavation facility within the boundaries of the Groundwater Protection District that is no longer in operation or is considered to be an abandoned use, as of the effective date of this Article, shall be reclaimed within one (1) calendar year of the date this Article is adopted or within one (1) calendar year of the date of abandonment, whichever is earlier.
- (c) At no time shall excavations occur below four (4) feet above the SHWT. Compliance with the above requirements shall be determined by the submission of an annual report showing the SHWT as established by test pits (1 per acre of excavation area distributed evenly throughout the excavation area, but no less than 3 in total) and certified by a licensed New Hampshire Soil Scientist.
- (d) All refueling and vehicle maintenance activities shall be done, to the extent practical, outside of the Groundwater Protection District. If such activities are done within the Groundwater Protection District, such activities shall be completed on an impervious surface-protective or other facility consistent with NHDES Fact Sheet WD-WSEB-22-6, and approved by the Lower Bartlett Water Precinct Board of Commissioners or its designee.

F. DESIGN AND PERFORMANCE STANDARDS

1. Where portions of a site are partially located outside of the Groundwater Protection District, potential pollution sources such as on-site waste disposal systems and impervious surfaces should be located outside the District and down gradient of the Lower Bartlett Water Precinct's wells to the extent feasible.

2. Any change of use for a site shall require an application to and approval by the Board of Commissioners.
3. All activities, uses and construction shall be undertaken in such a manner so as to protect the groundwater resources that lie within the Lower Bartlett Water Precinct.

**ADDENDUM TO MAP ENTITLED
"Plan of Land in Bartlett, NH showing
the boundaries of the Lower Bartlett Water Precinct
and the Groundwater Protection District Boundaries"
by Thaddeus Thorne - Surveys, Inc.
drafted 12/16/04**

DISTRICT BOUNDARIES:

- The southern boundary of the Groundwater Protection District is bounded on the east by Merriman State Forest;
- then proceeds westerly on the southern property line of Meadowgreen Realty Trust to the land of the Lower Bartlett Water Precinct;
- then follows the southerly boundary of Lower Bartlett Water Precinct land until it intersects with Alpstrasse Road and Wildview Drive;
- then follows the center line of Alpstrasse Road to Route 16A;
- then turns north to the southerly edge of the 12-inch water main right-of-way easement;
- then continues westerly over Route 16/302 and the Maine Railroad to the land of Triple K Properties;
- then north to the land of Lower Bartlett Water Precinct;
- then westerly along the south boundary of the Lower Bartlett Water Precinct to the Well Head Protection Area, continuing on a straight line through the Well Head Protection Area, and then along the same south boundary of the Lower Bartlett Water Precinct to the thread of the Saco River;
- then north to the confluence of the East Branch River and following the thread of the East Branch northeast to the northern most point of the Lower Bartlett Water Precinct boundary;
- then south along the eastern boundary of Lower Bartlett Water Precinct to the point of beginning.