

TOWN OF BARTLETT, NH  
ZONING ORDINANCE

RIDGELINE AND HILLSIDE  
OVERLAY DISTRICT  
ORDINANCE

(AS AMENDED THROUGH  
MARCH 14, 2017)

**NOTE:**

The Town of Bartlett enacted a Telecommunications Ordinance on 3/12/2002 which is a separate document although a part of this Ordinance. Requests for copies must be made separately.

The Town of Bartlett enacted a Floodplain Development Ordinance in 1979 (latest revision date 3/12/13) which is a separate document although a part of this Ordinance. Requests for copies must be made separately.

# **TOWN OF BARTLETT ZONING ORDINANCE**

## **ARTICLE I. AUTHORITY AND PURPOSE**

A. We, the citizens of the Town of Bartlett, enact this Ordinance in order to help preserve a rural, tranquil, and open environment free from sound, visual, air and water pollution while at the same time promoting and encouraging the orderly and wise development of a viable economy for the benefit of all. It is our intent that the administrators of this Ordinance keep in mind the spirit as well as the letter of this document.

B. This Ordinance is enacted pursuant to authority contained in RSA 674:16. Its purpose is to promote the health, safety, prosperity, general welfare, as well as efficiency and economy in the process of development, of the inhabitants of the Town of Bartlett, New Hampshire, by securing safety from fire, and other dangers, providing adequate areas between buildings and various rights-of-way, by preserving the rural charm, promoting good civic design and wise and efficient expenditure of public funds, making adequate provision for public utilities and other public requirements, by encouraging the wise and appropriate use of land, and by other means. Now therefore this Ordinance is hereby enacted by the voters of the Town of Bartlett, New Hampshire, in legal meeting convened.

## **ARTICLE II. TITLE**

This Ordinance shall be known and may be cited as the “Zoning Ordinance for the Town of Bartlett, New Hampshire”. It is hereinafter referred to as “this ordinance”.

## **ARTICLE III. ZONING DISTRICTS**

### **A. DISTRICTS**

This ordinance with authority contained in RSA 674:20 the Town of Bartlett is divided into the following zoning districts:

<u>DISTRICT</u>	<u>SYMBOL</u>
Town Residential A	TRDA
Town Residential B	TRDB
Town Commercial	TCD
Town Industrial	TID
Town National Forest	TNFD
Ridgeline and Hillside Overlay	RHOD (Amd 3/12/01)

### **B. ZONING MAP**

The zoning districts listed in Article III A are bounded as shown on the map entitled “Bartlett Zoning Map” which map is made part of this Ordinance and is hereinafter referred to as the “Bartlett Zoning Map”. The Bartlett Zoning Map shall be certified as the official Zoning Map of the Town of Bartlett by the Town Clerk upon adoption of this Ordinance, or upon any amendment that affects the Zoning Map and, upon such certification, shall be filed with the Planning Board. The Bartlett Zoning Map is not an official map as defined in RSA 674:9-15.

## C. DISTRICT BOUNDARIES

- 1) Town Commercial District (TCD): Includes that land which fronts on, has direct access to, and is within 400 feet on either side of the rights-of-way of all of Routes 302 and/or 16 which are within the limits of the Town of Bartlett; also includes that land which fronts on Routes 302 and/or 16, has indirect access within 400 road feet, on an existing street, to Route 302 and/or 16, fronts on that existing street, and is unable or for other reasons including safety it is impractical to access directly to Route 302 and/or 16. Lots which front upon Routes 302 and/or 16 and immediately abut a lot which has direct access to Routes 302 and/or 16 may share and utilize that direct access and as such qualify as a commercial lot if all other requirements have been met. The direct access and indirect access, which qualifies a lot as commercial, are the only commercial accesses, which may be used. For lots of record on the date of enactment of this ordinance, the Commercial District shall include the total land area of any lot which fronts on Routes 302 and/or 16 and meets the access criteria. For the purposes of this section, a lot of record shall include all contiguous lots under single ownership where one of the contiguous lots fronts on Routes 302 and/or 16 and meets the access criteria. The bisection of any lot by a railroad shall not destroy the contiguity of the lot. (Amd 11/4/86)
- 2) Town Residential District B (TRDB): All of West Side Road in the Town of Bartlett bounded by the Saco River on the north and east and the White Mountain National Forest on the south and west except that portion designated as the Town Industrial District.
- 3) Town Industrial District (TID): Includes all of the land on West Side Road identified as MAP 6WSTSD PARCEL 371R00, 371R01, 399R00, 399R01 and 401R00.
- 4) Town National Forest District (TNFD): Includes all land in the Town of Bartlett, which is part of the White Mountain National Forest.
- 5) Town Residential District A (TRDA): Includes all land in the Town of Bartlett not included in the Town Commercial District, the Town Residential District B, the Town Industrial District, and the Town National Forest District.
- 6) Ridgeline and Hillside Overlay District (RHOD): Includes all areas within the town above an elevation of 800' above mean sea level. More detailed description is attached as an addendum to this Ordinance.

## **ARTICLE IV. GENERAL PROVISIONS**

- A. Effective Date and Amendments: This Ordinance shall take effect immediately upon its adoption by regular Town Meeting or Special Town Meeting. It may be amended by majority vote of any legal Town Meeting in accordance with the provisions of RSA 675:3.
- B. Relationship to Other Ordinances: Nothing contained in this Ordinance shall be construed as repealing or modifying any other ordinance or regulation of the Town of Bartlett, except as may be specifically repealed or modified by this Ordinance, but shall be in addition thereto. Nor shall anything in this Ordinance be construed as repealing or modifying any private restrictions placed upon property by covenant, deed, or other private agreement, or any restrictive covenants running with the land to which the town is a party, but shall be in addition thereto. Whenever the provisions of this Ordinance differ from those prescribed by any statutes, other ordinances, other regulations or

restrictions, or the Lower Bartlett Water Precinct Zoning Ordinance, or the Kearsarge Lighting Precinct Zoning Ordinance, that provision which imposes the greater restriction or higher standard shall apply. The Town of Bartlett passed a Telecommunications Ordinance on 3/12/2002 which is a separate document but considered a part of this Ordinance.

- C. Severability: If any section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such invalidity shall not affect the validity of the remaining portion of this Ordinance.
- D. Ordinance Compliance: Planning Board Subdivision approval will not signify compliance with this Ordinance. Compliance with this Ordinance or with rulings of the Zoning Board of Adjustment can only be determined by the Board of Selectmen.
- E. Technical Studies and Surveys: The Board of Selectmen, Zoning Board of Adjustment, and/or Planning Board may require technical studies, surveys, and any plot plans as necessary to assist it in administering and enforcing the provisions of this Ordinance. The cost for such studies or plans will be borne by the applicant and/or appellant. (Amd 11/4/86)
- F. Sand Pits and Gravel Banks: The excavation and removal of clay, sod, loam, sand, gravel, stone, or earth materials or minerals of any sort is regulated by Town Ordinance "Excavations of Gravel Pits", a copy of which is available for inspection at the Town Hall.
- G. Flood Areas: Building in floodway and floodplain areas is regulated by Town Ordinance "Established Building Regulations in the Floodplain", a copy of which is available at the Town Hall.
- H. Assessing Residential Property: Residential property will be assessed as residential property irrespective of its zoning district location.
- I. Air and Water Quality: No activity will be permitted, that to a significant degree, threatens adversely the quality of air or the quality, purity, or permanency of any watercourse or body of water. This provision applies to seasonal and all-season bodies of surface water and to subsurface or groundwater.
- J. Quartering of Domestic Animals: Livestock, horses, fowl, and other domesticated animals will be kept in safe and suitable quarters. Safe and suitable quarters include adequately fenced grounds.
- K. Junk Yards and Dumps: An owner or occupant of land in any of the said districts who shall maintain a junk yard or place for the storage of discarded machinery, vehicles, glass, paper, cordage, refuse, or other waste or discarded material shall take the necessary steps including fencing and/or trees and shrubs to shield such junk yard or dump from the view of any abutter or public way.
- L. Dangerous or Unsightly Ruins: No owner or occupant of land in any of said districts shall maintain thereon any structure ruined by fire or 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.
- M. Land Fill: Land fill is permitted provided that said land fill is not in conflict with rules and regulations of the NH Department of Environmental Services, 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. (Amd 03/12/13)

- N. Waste Disposal Systems: Any person who is proposing to construct a building from which waste will be discharged and which will not be connected to municipal sewage must, prior to construction, submit waste disposal plans and obtain approval from the New Hampshire Department of Environmental Services (NHDES) in accordance with procedures established by the Board of Selectmen. For the purposes of this section, the word building includes but is not limited to tents, barns, and mobile homes. (Amd 03/12/13)

Any person proposing to construct a waste disposal system must, prior to construction, submit waste disposal plans and obtain approval from the NHDES in accordance with procedures established by the Board of Selectmen. (Amd 03/12/13)

Any person proposing to change the use or expand the use of a building or take any other action which will increase or potentially increase the amount of waste to be discharged into a septic system must submit waste disposal plans and obtain approval for a replacement, modified or expanded system from the NHDES in accordance with procedures established by the Board of Selectmen prior to changing or expanding the use.

No building will be occupied or otherwise used until such time as operational approval for an approved septic system (obtained as required elsewhere in this paragraph) has been granted by the NHDES and a Permit to Occupy has been issued by the Town of Bartlett. (Amd 11/4/86 and 03/12/13)

- O. Fire Protection: In all districts: all residential developments, motels, hotels, inns, lodging houses, group homes, nursing homes, convalescent homes, and rest homes, when not otherwise provided for, shall make provisions for an all-season source of water for fire suppression purposes in accordance with criteria established by the Board of Selectmen with the advice and guidance of the Fire Chiefs. (Amd 3/9/93)

- P. Outdoor Lighting: The following provisions apply to the placement of outdoor lighting:

- 1) In the TCD and TID for commercial and industrial enterprises, installation of outdoor lighting shall be governed by the following criteria:
  - (a) Each light source intended to light a site shall be on the site which it serves. For example, light sources such as flood lights mounted on utility poles within the public right of way for the purposes other than street lighting shall be prohibited.
  - (b) Light fixtures shall meet one of the following criteria:
    1. Fixtures located 10-ft or less from the Green Area setbacks shall be a “full cut-off” fixture defined as one that controls glare and skyglow by directing light below the horizontal plane of the fixture, **OR** (Amd 3/9/04)
    2. Fixtures located more than 10-ft from the Green Area setback can have a maximum of up to 60 degrees of cut-off, **OR** (Amd 3/9/04)
    3. The maximum initial lumens generated by each fixture shall not exceed 2000 lumens, which is roughly equivalent to a 150-watt incandescent bulb.

- (c) Lighting under canopies shall be recessed and shall have flush mounted lenses or shall be indirect lighting where light is focused upward and then reflected down by the underside of the canopy. If the lighting is indirect, the light fixture shall be shielded so that the direct illumination is focused exclusively on the underside of the canopy.
  - (d) Light fixtures, except those under canopies, shall not be mounted more than fifteen (15) feet above grade. (Amd 3/9/04)
  - (e) Lighting intensity shall be adequate to serve the needs of the business to avoid light trespass. Any new outside lighting whether for area illumination, building illumination, or other purpose, will project no more than three (3) percent of its light rays above the horizon from the lamp, its lens structure or any associated reflector. For the purpose of this section, the needs of the business do not include excessively high lighting levels that make the site a beacon to attract attention.
  - (f) New signs or newly lit signs may be illuminated only by continuous indirect white light, with illumination from above, and with light sources shielded so that they will not constitute a nuisance or hazard caused by glare to neighbors, pedestrians, or drivers. An exception to overhead sign lighting can be made if the illumination is confined to the area of the sign.
- 2) In the TRDA and TRDB residential districts, this ordinance does not apply to single lots. Lighting common to more than one lot, for example streetlights in a private development, must adhere to this ordinance.

Q. Site Plans – In accordance with the provisions of NH RSA 674:43, the Bartlett Planning Board is hereby authorized to review and approve or disapprove site plans for the development, change, or expansion of use of non-residential tracts where the total square footage of the footprint of the building or buildings is greater than 5,000 sq. feet. The Town Clerk will file with the Register of Deeds of Carroll County a certificate of notice showing that the Planning Board has been so authorized, giving the date of such authorization. (Added 3/9/04)

**ARTICLE V. SIZE LIMITATIONS**

A. Maximum building height:

- 1) Will not be more than thirty-eight (38) feet representing the vertical distance from the lowest point of finished ground level adjoining the building to the high point of any roof or parapet **AND**
- 2) Will not be more than thirty (30) feet representing the vertical distance from the lowest point of finished ground level adjoining the building to any eave (eave being that point where the roof meets the outside wall, i.e., the overhang will be excluded). Finished ground level or grade means that level or grade which blends naturally with the surrounding terrain. Retaining walls and/or artificial grades created by fill may not be used to modify the measured height of a building. The height limitations of radio and television antennas, silos for storage of feed crops, church towers, cupolas, water storage structures, chimneys, radio towers, telecommunication towers, ski area tramways, flagpoles, or ski area crash fences and any other similarly slender, unoccupied structures shall not exceed sixty (60) feet in height from the lowest point of finished ground level except by obtaining a special exception under Article XVIII-D-1-U. (Amd 3/11/97)

On any ridgeline or ledge where the sky is the backdrop when viewed from Route 16 or Route 302, structures will be located and limited in height so as not to allow any portion of the building to have the sky as a backdrop as seen from said highways. (Added 3/9/04)

- B. **Maximum Building Footprint:** The maximum footprint of any individual building at finished ground level shall not exceed 25,000 square feet. The calculation of the footprint shall include all enclosed areas and all attached roofed structures associated with the building, including but not limited to decks, porches, patios, storage sheds, vehicular parking areas, and maintenance areas. Covered exterior walkways intended to provide pedestrian access between separate buildings shall not be included. (Added 03/14/06)

**ARTICLE VI. MINIMUM LAND AREA REQUIRED** (Entire Article amended 3/8/11)

The following Minimum Land Area Required (MLAR) standards regulating lots sizes and the density of development are established for the purpose of promoting public health and welfare and preserving the traditional rural character of the town. This article provides instructions for determining the Minimum Land Area Required for all residential, commercial and industrial uses in applicable districts.

- A. Minimum Land Area Required shall be determined by soil types as shown in Table 1, below.

Table 1. Minimum Land Area Required (MLAR) and Sewage Loading Factors (SLF) by soil group

Slope		Soil Group				
		1	2	3	4	5
0-8% or A/B	MLAR	30,000 ft <sup>2</sup>	39,000 ft <sup>2</sup>	48,000 ft <sup>2</sup>	43,500 ft <sup>2</sup>	90,000 ft <sup>2</sup>
	SLF	1.0	1.3	1.6	1.45	3.0
8-15% or C	MLAR	33,000 ft <sup>2</sup>	43,000 ft <sup>2</sup>	53,000 ft <sup>2</sup>	48,000 ft <sup>2</sup>	N/A
	SLF	1.1	1.43	1.76	1.6	
15-25% or D	MLAR	36,000 ft <sup>2</sup>	46,800 ft <sup>2</sup>	62,000 ft <sup>2</sup>	52,000 ft <sup>2</sup>	N/A
	SLF	1.2	1.56	2.08	1.73	
25-35% or E	MLAR	39,000 ft <sup>2</sup>	50,700 ft <sup>2</sup>	72,000 ft <sup>2</sup>	57,000 ft <sup>2</sup>	N/A
	SLF	1.3	1.69	2.4	1.9	

Soil groups shall be as follows:

- Group 1 soils shall be well-drained to excessively well-drained soils with rapid permeability.
- Group 2 soils shall be well-drained soils with moderate permeability.
- Group 3 soils shall be moderately well-drained and well-drained with hardpan.
- Group 4 soils shall be bedrock relatively close to the surface.
- Group 5 soils shall be poorly-drained soils.
- Group 6 soils (not shown in Table 1) shall be very poorly-drained soils.

Group 6 soils and areas with slope greater than 35% shall not be counted in determining the Minimum Land Area Required.

B. Residential Uses

- 1) The Minimum Land Area Required for each 3-bedroom dwelling unit shall be determined by soil type as shown in Table 1.
- 2) Dwelling units with less than 3 bedrooms will be calculated as 3 bedrooms.

- 3) For dwelling units with more than 3 bedrooms, the Minimum Land Area Required shall be proportionately increased as determined by the formula:

$$\text{MLAR} = \frac{\text{Number of bedrooms}}{3} \times \text{MLAR from Table 1}$$

- 4) A one-bedroom Accessory Dwelling Unit shall be calculated as one-half of a three-bedroom Dwelling Unit, and a two-bedroom Accessory Dwelling Unit shall be calculated as two-thirds of a three-bedroom Dwelling Unit. (Please refer to Section XIX Definitions for a full description of Accessory Dwelling Unit requirements). (Added 3/14/17)

C. Commercial and Industrial Uses

- 1) The minimum lot size for commercial and industrial uses shall be 40,000 square feet.
- 2) For all commercial and industrial uses, not more than 75% of a lot, tract or parcel of land's capacity for septic disposal will be utilized. All plans and/or proposals for the commercial and industrial utilization of land will include a determination from the New Hampshire Department of Environmental Services of the maximum number of gallons-per-day allowable under its current criteria against which the 75% will be applied.
- 3) For commercial and industrial uses other than Full-service Motels, Hotels, Tourist Courts and Cabins, the Minimum Land Area Required shall be determined by soil type according to the following formula:

$$\text{MLAR (acres)} = \frac{\text{Maximum gallons/day}}{2000 \text{ gal./day/acre}} \times \text{Sewage Loading Factor from Table 1}$$

Maximum gallons/per day for commercial and industrial uses shall be determined according to Table 1008-1 in the New Hampshire Code of Administrative Rules Chapter Env-Wq 1000, or any subsequent rule adopted in replacement of this rule.

- 4) Full-service Motels, Hotels, Tourist Courts and Cabins. Minimum Land Area Required for Full-service Motels, Hotels, Tourist Courts and Cabins shall be determined as follows:
  1. The Minimum Land Area Required for each unit containing three bedrooms shall be determined by soil type as set forth in Table 1.
  2. The Minimum Land Area Required for each two-bedroom unit shall be two-thirds of the area required for a three-bedroom unit.
  3. The Minimum Land Area Required for each one-bedroom unit shall be one-half of the area required for a three-bedroom unit.
  4. For units with more than three bedrooms, the Minimum Land Area Required shall be increased according to the formula from Section VI.B.3.

- D. Where more than one soil type is present in a parcel proposed for subdivision or development, the contribution of each soil type shall be summed as follows:

For residential dwelling units:

$$\text{Maximum number of units} = \frac{\text{Area (ft}^2\text{) of soil A}}{\text{MLAR from Table 1}} + \frac{\text{Area (ft}^2\text{) of soil B}}{\text{MLAR from Table 1}} + \text{etc.}$$

For commercial and industrial development:

$$\text{Maximum gallons/day} = \text{gal/day allowed for Soil A} + \text{gal/day allowed for Soil B} + \text{etc.}$$

- E. Relationship between State and Local Regulations. Where both State and local regulations are applicable, the most stringent regulation shall take effect. If the State regulation addresses an issue not included in the local regulation or if the local regulation addresses an issue not included in the State regulation, that regulation shall automatically apply.
- F. For all proposed subdivision of land, and for commercial development requiring Site Plan Review, a High Intensity Soil Survey (HISS) map will be prepared and submitted to the Planning Board prior to granting of final approval. A High Intensity Soil Survey a map of a parcel of land being considered for subdivision or development, on a perimeter survey, with a scale of one inch not to exceed one hundred feet and contour intervals of two feet or less, where soils are identified and mapped in accordance with the high intensity soil mapping standards adopted by the Carroll County Conservation District. High Intensity Soil Survey maps will be prepared by a soil scientist certified by the New Hampshire Board of Natural Scientists. The Planning Board may waive the requirements of this section in those cases where a HISS is determined not to be necessary to assess the capacity of the land to accept the proposed subdivision or commercial development. The initiative for waiving the requirements contained herein may come from the Planning Board or the developer/subdivider. A request for waiver received from the developer or subdivider must be properly documented and is subject to verification if necessary by the Planning Board. The Planning Board may use such professional services and advice as it deems necessary in administering the provisions of this section with costs to be borne by the developer/subdivider.
- G. Single house lots of record are exempt from the provisions of this Article. (Amd 7/28/87, 11/8/88)
- H. Notwithstanding the foregoing, and notwithstanding the New Hampshire Code of Administrative Rules governing lot size by relation to soil type, minimum land area requirements shall not be reduced because of community and/or off site water supply or sewage disposal system. (Added 9/12/2006; Amd 3/8/11)

#### **ARTICLE VII. MINIMUM FRONTAGE**

For the purpose of promoting health and the general welfare of the community and to regulate density of development, the following minimum frontages are established:

Town Commercial District, Town Residential District B and Town Industrial District – the minimum frontage in these three districts is 200 feet on Route 302, Route 16 and/or West Side Road for commercial and industrial enterprises. (Amd 3/12/96). In all districts, minimum frontage for a residential property is 50 ft. The requirements of this paragraph as to minimum frontage shall not apply to any lot which is a duly-recorded and lawful lot of record at the time of adoption of this Ordinance. (Amd 11/8/88)

**ARTICLE VIII. DENSITY**

(Intentionally blank – this Article has been incorporated as Article VI.C.2 as amended 3/8/11)

**ARTICLE IX. GREEN AREAS**

For the purpose of promoting health and the general welfare of the community and to preserve an environmentally esthetic community, the following green areas are established (trees, other natural growth, and landscaping including flowers, shrubbery, and lawns shall be preserved and maintained in order to present an esthetically pleasing environment). For the purpose of this section, the front area is defined as the area of the lot which determines its frontage, the back area is directly opposite the front area, and the side areas are all other areas of the lot. (Amd 3/12/96). Where it is necessary to create a green area to meet this requirement a combination of trees, shrubbery, flowers, and lawn/grass will be planted and maintained to ensure a buffer between properties except in such limited uses such as ski trails or golf course fairways, where the strict application of this requirement would be inconsistent with the permitted use and serves no beneficial purpose. (Amd 3/9/04)

**A. Commercial and Industrial enterprises in the Town Commercial District, Town Industrial District, Town Residential District B:**

- 1) Front Area – In the setback area from the centerline of Routes 16, 302, and West Side Road, the green area will begin at the right-of-way boundary line and will be located between the side green areas. A minimum of 50% of the green area will extend back a minimum of 25 ft. and a maximum of 50% of the green area will extend back a minimum of 10 ft. The green area requirement will be fulfilled by planting and maintaining a combination of lawn/grass, shrubbery, flowers and/or trees to create and maintain an esthetically pleasing environment, while still allowing visibility for commercial enterprises. Normal entrance and exit road or driveways are excluded from these requirements up to a total of 66 feet combined, and will be located at least 100 feet apart. No more than 25% of this area can be lawn/grass. No activity or use whatsoever is permitted on the roadside of this green area. (Amd 3/9/04)
- 2) Side and Rear Areas:
  - a) Starting at right-of-way of highway, a minimum of 25’ side setback of forest growth will be maintained naturally. Where natural growth has been cut, trees shall be replanted and natural growth shall be allowed to return. One driveway entrance/exit, up to 30’ in width, will be allowed through the side green area provided it is located no closer than 75’ from right-of-way of highway.
  - b) A minimum of 10’ of rear setbacks of forest growth will be maintained naturally. Where natural growth has been cut, trees shall be replanted and natural growth shall be allowed to return. One driveway entrance/exit, up to 30’ in width, will be allowed through the rear green area. (Amd 3/9/04)
- 3) The green area requirements of this section may be satisfied by lawn and/or grass along the common boundaries of contiguous lots, where the abutting lot is controlled by the same entity or person through a Special Use Permit from the US Forest Service. Upon termination of the Special Use Permit, the green area provision of Article IX Sections A-1, 2, and 4 shall apply. The lapse, termination, or expiration of the permit shall not result in a vested, grandfathered non-conforming use. (Added 3/14/00)

- 4) Side and rear areas for pre-existing, non-conforming commercial uses in the Town Residential District A- A minimum of 25 feet of the side setbacks and 10 feet of the rear setbacks will be created and/or maintained by leaving natural growth. (Amd 3/9/04)
- B. Residential Developments in All Districts: In the setback from the centerline of Rt. 16, 302, and West Side Road or other access roads, the green area will begin at the right-of-way boundary and extend back a minimum of 25 ft. (where rights-of-way cannot be determined, the right-of-way is assumed to be 66 ft). For all other outside property boundaries, the green area will encompass the entire setback area (15ft). No activity or use whatsoever is permitted on the roadside of this green area.
  - C. In order to ensure compliance with this Article, a sketch or plan giving general detail of the proposed green area, routine maintenance work (Amd 3/12/96), or changes to the green area must be submitted to the Board of Selectmen. (Add 3/9/93)
  - D. In all zoning districts: Area cleared of vegetation shall be promptly re-vegetated. Development on slopes of 25% or more shall provide for retention and stabilization of these slopes. Adequate drainage and detention plans, representing best land management practices, shall be submitted to planning board prior to issuance of subdivision approval or board of selectmen prior to issuance of building permit. (Added 3/9/04)

**ARTICLE X. OPEN SPACE, COMMON AREA, AND CLUSTER DEVELOPMENT**

For any residential development of 5 acres or more, a minimum of 15% of the total land area shall be set aside as permanently-designated open space, which shall be owned and maintained by a homeowners or condominium association for the use and enjoyment of the residents of the development.

The following guidelines shall govern the designation and use of open space:

- 1) Open space shall be designated in addition to any other commonly-owned land containing roads, utilities, or developed amenities within the development.
- 2) Side and rear green areas maintained to satisfy the requirements of Article IX.B may be counted as open space.
- 3) Areas designated as open space shall consist of larger blocks rather than small, narrow, or elongated areas.
- 4) Open space shall be maintained in native or naturalized vegetation. Areas requiring more intensive and regular on-going maintenance, such as lawns and gardens, shall not be counted as open space.
- 5) Low-impact recreational amenities or features including but not limited to trails, benches, picnic tables, barbecue or fire pits, or small open shelters shall be allowed in open space. Developed recreational amenities including but not limited to swimming pools, tennis or basketball courts, downhill ski trails or lifts, golf courses or clubhouses, gyms or exercise rooms shall not be allowed.
- 6) No alteration of terrain shall be allowed within areas designated as open space, except that minor terrain alteration shall be allowed as necessary for the development of low-impact recreational amenities.
- 7) Open space shall not be used for the storage, extraction, or processing of construction materials, the storage or maintenance of equipment, or the staging of any construction activity.

This provision is not intended to limit the number of bedrooms authorized for a particular tract or plot of land beyond that number authorized by the state of New Hampshire or elsewhere in this Ordinance. (Amd 3/11/2008)

## **ARTICLE XI. SETBACKS**

For the purposes of promoting health and the general welfare and to preserve an environmentally esthetic community, the following setback requirements are established (for the purpose of this section, setback will be measured from the road centerline or right-of-way, property line, or nearest normal high water mark of a water course or body of water to the nearest projecting portion or part of any building or other structure). Signs are exempt from the provisions of this Article.

### **A. Town Commercial District, Town Industrial District, and Town Residential District B:**

- 1) For commercial and industrial enterprises, all structures will be setback a minimum of 115 ft. from the centerline of Rt. 16, 302, or West Side Road and a minimum of 50 ft. from all other property boundaries. The common boundary of contiguous lots, where the abutting lots is controlled by the same entity or individual through a Special Use Permit from the US Forest Service shall be exempt from setback requirements for the uses allowed under the terms of the Special Use Permit and permitted within the district. The lapse, termination, or expiration of the permit shall not result in a vested, grandfathered, non-conforming use. (Amd 3/14/00)
- 2) For residential developments (see Article XIX Definitions), all structures will be set back a minimum of 115 ft. from the centerline of Rt. 16, 302 or West Side Road, 40 feet from the centerline of streets internal to the residential development and 15 ft from all other property boundaries.
- 3) For single or duplex homes on a single lot, all structures will be set back a minimum of 115 ft from the centerline of Rt. 16, 302, or West Side Road and 15 ft from all other property lines.

### **B. Town Residential District A:**

- 1) For residential developments (see Article XIX Definitions) all structures will be set back a minimum of 60 ft. from the centerline of access streets, 40 ft. from the centerline of streets internal to the residential development, and 15 ft. from all other property boundaries.
- 2) All other structures will be set back a minimum of 60 ft. from the centerline of streets and 15 ft. from all other property lines.

### **C. Town Commercial District, Town Industrial District, and Town Residential District B: Vehicles and/or equipment for sale or use, or in any other way associated with industrial and commercial enterprises will not be parked in any street right-of-way or parked, stored, or displayed within 35 ft. of street right-of-way or other property boundaries.**

### **D. All Districts: Any buildings or structures except wharves, piers, docks, or bridges will be setback a minimum of 20 ft. from the normal high water mark of any watercourse or standing body of water.**

- 1) All structures located along the Saco River Corridor will have a minimum setback of 50' from the normal high water mark as defined by the State of NH per RSA 483-B;4, 11-A.

### **E. No structure or any part thereof designed for habitation will be located within 25 ft. of another structure.**

- F. Additions to Structures of Record: A structure of record on the date of enactment of this amendment (8/27/95), which does not meet setback requirements on one or more dimensions or sides, may extend that dimension or side, one time only no more than 50% of the existing dimension. In no case, will the extension or addition violate any existing non-conforming setbacks or any other setback requirements. (Amd 11/4/86)
- G. Fences: Fences in excess of 6 ft 6in height are considered structures and must comply with all setback requirements. (11/4/86)
- H. In all districts, decks, stairways, landings, and bona fide handicap access structures that are less than forty-eight (48) square feet in size and which are no closer than ten (10) feet to any property line are not considered structures for the purpose of determining setbacks. (Add section 3/10/92)

**ARTICLE XII. NON-CONFORMING USES, LOTS AND STRUCTURES**

A. On the date of enactment of this Ordinance:

- 1) All lots of record, which do not meet the minimum lot size and/or minimum frontage, are grandfathered, i.e., they may be used for all conforming uses.
- 2) All existing structures, which do not meet minimum requirements of this ordinance (height, setback, etc.), are grandfathered, i.e., they may be used for all conforming uses.
- 3) All lawful uses of any lot (conforming or non-conforming) may be continued although such use does not conform to the provisions hereof.
- 4) All lawful uses of any structure (conforming or non-conforming) may be continued although such use does not conform to the provisions hereof.
- 5) The extension, enlargement, or intensification of any non-conforming building, structure or use is not permitted except as provided elsewhere in this article.

B. After enactment of this Ordinance:

- 1) Changing a conforming use to a non-conforming use is not permitted.
- 2) Changing a non-conforming use to another non-conforming use is not permitted.
- 3) A non-conforming use existing on a lot of record on the date of enactment of this Ordinance may be expanded or enlarged on that lot only.
- 4) Changing or replacing a non-conforming structure to increase its degree of non-conformity is not permitted.
- 5) Changing or replacing a conforming structure to make it a non-conforming structure is not permitted.
- 6) Construction of a non-conforming structure is not permitted.

- 7) Non-conforming structures destroyed by fire or natural disaster or obsolescence may be repaired or replaced if the degree of non-conformity is not altered. (Amd 3/03)
  - 8) Creation of a non-conforming lot is not permitted.
- C. A non-conforming use, lot, structure, or sign, shall only be re-established after discontinuance when:
- 1) A notarized and certified (return receipt requested) letter of intent to re-establish is filed with the Board of Selectmen no later than one (1) year after discontinuance, **and**
  - 2) Documentation supporting the existence of the use on the date of enactment of this Ordinance accompanies the letter of intent. In no case will a non-conforming use, lot, structure, or sign be re-established after a period of ten (10) years of discontinuance. (Amd 3/9/99)

**ARTICLE XIII. PERMITTED USES**

- A. Town Residential District A: The purpose of this district is to provide for residential neighborhoods adjacent to facilities provided in the commercial district. Permitted uses are as follows:
- 1) Single-family, two-family, and multi-family dwellings not to exceed 10 residential units
  - 2) Inns and lodging houses
  - 3) Home industry (See Article XIX Definitions for general restrictions)
  - 4) Accessory structures
  - 5) Churches
  - 6) Agriculture
  - 7) Forestry
  - 8) Essential services
  - 9) Residential development except that no single structure will exceed 10 residential units
  - 10) Cross-country ski trails
  - 11) Golf courses (excluding clubhouse facilities, which must be in TCD)
  - 12) Accessory dwelling units (Added 3/8/11; Amd 3/14/17)
- B. Town Residential District B: The purpose of this district is to maintain a substantially residential area on West Side Road by allowing only a few selected commercial activities. Permitted uses are as follows:
- 1) Rest homes, convalescent homes, clinics, and nursing homes.
  - 2) Veterinary clinics, commercial stables, riding schools
  - 3) All TRDA permitted uses
- C. Town Commercial District: The purpose of this district is to provide selected commercial services to residents and transient traffic in consonance with the desires of the citizens of the Town of Bartlett to separate commercial and residential areas. Permitted uses are as follows:
- 1) Retail stores and shops
  - 2) Restaurants
  - 3) Rest homes, convalescent homes, clinics, and nursing homes
  - 4) Small industry
  - 5) Veterinary clinics, commercial stables, riding schools
  - 6) General building contractor headquarters and facilities

- 7) Motels, hotels, tourist courts, and cabins
- 8) Health and racquet clubs
- 9) Skiing facilities
- 10) Home heating oil business
- 11) Archery ranges
- 12) Miniature golf
- 13) Laundromats, laundry and/or dry cleaning services
- 14) Filling stations
- 15) Auto repair shops
- 16) Golf courses
- 17) Commercial tennis courts
- 18) Building supply and/or hardware stores
- 19) Office buildings
- 20) All TRDA permitted uses
- 21) Railroad (added 10/8/91)
- 22) Museums (added 10/8/91)
- 23) Car dealership (added 3/10/92)
- 24) Private schools (added 3/10/92)
- 25) State regulated day care facilities (added 3/10/92)
- 26) Multi-function, research, education and/or cultural facility (Added 3/14/00)
- 27) All rental businesses not defined as renting a motorized vehicle (added 3/11/03)

(Car Wash was deleted as a permitted use and became a Special Exception XVIII-D-w on 3/11/03)

D. Town Industrial District: The purpose of this district is to provide for accommodation of clean, light industrial enterprises. Permitted uses are as follows:

- 1) Light manufacturing and/or assembling
- 2) Machine and tools and die shops
- 3) Warehouse facilities
- 4) All TRDA and TRDB permitted uses

E. Town National Forest District: The purpose of this district is to maintain and protect the White Mountain National Forest.

- 1) Those uses permitted by the United States Government or any of its departments in the Saco River District of the White Mountain National Forest.
- 2) Agriculture uses.

#### **ARTICLE XIV. PROHIBITED USES**

Any use not specifically permitted in Article XIII and for which exceptions are not permitted in Article XVIII are prohibited.

\* Pursuant to NH RSA 674:16 V - Aircraft takeoffs and landings on private land shall not be considered a valid or permitted accessory use in any district. (Amd 3/9/99)

#### **ARTICLE XV. OFF-STREET LOADING AND PARKING**

Whenever any new use is established or any existing use is enlarged, off-street loading and parking shall be provided in accordance with the following provisions:

- A. All new construction of institutional, commercial or industrial uses requiring off-street loading facilities shall make provisions for delivery vehicles to be parked outside of the street right-of-way.
- B. Each new residential dwelling unit shall be provided with at least two off-street parking spaces.
- C. Any new hotel, motel, tourist accommodation or lodging unit shall provide one parking space for each unit.
- D. Any new commercial or industrial use shall provide one space for each three anticipated patrons or employees on the premises at any one time.
- E. Any new church, theater, hall, and auditorium shall provide at least one parking space for every four seats.
- F. A single parking space is defined as being two hundred (200) square feet in area.
- G. One-third of the off-street parking requirement may be satisfied with existing on street parking where available. (Add 3/10/92)
- H. Parking provided by public lots in lieu of or in combination with on-site parking may be utilized when provided within a distance not to exceed four hundred (400) feet. (Amd 3/10/92)
- I. Parking lots shall not contain more than eighty (80) spaces of a minimum of 200 sq ft each in no more than two rows separated by an access lane. These parking lots shall be separated by not less than fifteen (15) feet of maintained growth on all sides with no more than 25% to be grass/lawn and not less than 5% trees of a minimum five (5) foot height. Parking lots of 20 or less spaces are exempt from this provision.

**ARTICLE XVI. SIGNS**

The following provisions shall apply to the location, erection, and maintenance of signs within the Town of Bartlett:

A. General:

- 1) No person shall erect any outdoor sign that is visible from a public way except in conformance with this Ordinance.
- 2) A building and use permit shall be obtained for any sign covered under this Ordinance.
- 3) No outdoor sign shall be attached to any tree, fence, or utility pole or be painted upon or otherwise directly affixed to any rock, rock face, or other natural feature.
- 4) No outdoor sign shall be erected at any location where by reason of position, shape, wording, lighting or color, it interferes with or obstructs the view of pedestrian or vehicular traffic or which may be confused with any authorized traffic sign, signal, or device.
- 5) All signs and their supporting structures shall be properly maintained to prevent rust, rot, peeling, or other deterioration.
- 6) Only one or two-sided flat signs where the sides are in the same single geometric plane are permitted. In determining the square foot area of a sign, only usable message area of one side of the sign is counted. (Amd 11/8/88)
- 7) No sign shall have visible moving parts or have blinding, moving, flashing illumination or be a mechanical or digital changing message board of any size, be internally lit or be neon-lighted, or consist of banners, pennants, ribbons, spinners or similar moving, fluttering or revolving devices, streamers, flags, inflatable devices, or any similar devices no matter how displayed. United States,

State of New Hampshire, national and/or one (1) decorative/informative flag shall be allowed. Decorative or informative flags shall not be more than three (3) feet in height and five (5) feet in length. Only three (3) such flags will be permitted. (Amd 11/8/88, 3/10/92, 3/9/04)

- 8) No ground sign shall be closer than fifteen feet to a lot line.
- 9) No ground sign shall be within any right of way as determined by the Board of Selectmen or, if no right of way can be determined, a right of way of 66 feet will be assumed.
- 10) No outdoor sign shall be erected on any premises other than on the premises where the activity to which the sign pertains is located. (Amd 3/10/92)
- 11) The use of any sign lawfully in existence at the time of the adoption of this Ordinance may continue although the sign does not conform to the provisions of this Ordinance. Normal maintenance and repairs are permitted but the sign shall not be altered, or enlarged except in conformance with this Ordinance; however, a non-conforming sign may be altered to decrease its degree of non-conformity.
- 12) Any structure, article or similar device designed to attract attention to the activity on the site will be deemed a sign and will comply with the provisions of this Ordinance. (Amd 11/8/88)
- 13) Signs will be assessed and taxed as structures where applicable. (Amd 3/10/92)
- 14) Signs on motor vehicles, boats, and/or trailers, which are determined by the Selectmen to be circumventing the intent of this Ordinance, are prohibited. Circumventing shall include, but not be limited to, signs which are continuously in the same location, or are displayed on a vehicle that is unregistered and or un-inspected, or signs that extend beyond the height, width, or length of the vehicle. (Added 3/12/02, Amd 3/9/04)
- 15) "Premise" and "Premises", as these terms are used in Article XVI, shall mean a single lot. Premise and Premises shall not mean multiple lots, whether such lots are under the same or different ownership, or whether such multiple lots are operating as a common business enterprise. (Added 03/12/13)

B. On-premise signs in the TCD shall meet the following conditions:

- 1) No lot shall contain a total of more than four (4) signs having a total combined message area not to exceed a total of sixty (60) square feet. No one sign shall contain more than forty-eight (48) square feet of message area.
- 2) No ground sign shall have a height greater than eighteen (18) feet above ground level; no roof sign shall have a height greater than three (3) feet above the roof of the building to which it is attached.
- 3) Window advertising shall be limited to twenty-five percent (25%) of the gross area of each window. Window advertising shall not be counted in determining the maximum sign area allowed. (Amd 03/12/13)
- 4) Outdoor signs allowed under paragraph B may be displayed as:
  - a) ground signs

- b) wall or roof signs
- c) projecting signs, or
- d) a combination of these but the total sign area of all such signs displayed must not exceed sixty (60) square feet. The signs listed in paragraph B-3 are not to be counted in determining the sixty (60) square-foot maximum.

- 5) For multiple business enterprises on the same lot, the maximum sign area of sixty (60) square feet, or the sign area square footage in existence on the date of enactment of this Ordinance, may be increased by sixteen (16) square feet for each additional business. Each additional sign may only be used by the new business being created (Amd entire section 3/10/92) **OR** for clustered business enterprises of three or more on the same lot, one main directory-style sign is permitted with a maximum sign area of one-hundred-and-twenty (120) square feet or the sign area square footage in existence on the date of enactment of this Ordinance and may add one ten (10) square-foot sign for each additional business **AFFIXED** at their entrance **DOOR** only. Each additional sign may only be used by the new business being created. Clustered business enterprise is defined as three or more businesses on the same lot with a common driveway, common parking lot, and with each business under separate and distinct ownership. (Amd 3/12/96)
- 6) On-premise signs in the Town Commercial District shall meet the following conditions to include: No signs, except official business and directional signs, shall be erected inside of the public right-of-way. In addition, if the paved surface of the road extends to the edge of the right-of-way, signs must be located at least six (6) feet from such paved surface. (Added 3/12/02)

C. On-premise signs in the TRDA, TID, and TRDB shall meet the following conditions:

- 1) Be limited to one sign per business, profession, service enterprise or premises.
- 2) Be no larger than sixteen (16) square feet exclusive of supports.
- 3) May be a ground sign, projecting sign, or wall sign.
- 4) Ground signs shall not exceed eight (8) feet above the natural ground level.
- 5) In the TID for multiple business enterprises on the same lot served by a single entrance to West Side Road, a maximum sign area of thirty-two (32) square feet is permitted. The maximum thirty-two (32) square feet may be increased by sixteen (16) square feet for each additional business beyond the first business. Each additional sign may only be used by the new business being created. (Amd 3/10/92)

D. Off-Premise Signs: Off-premise signs are prohibited in all districts except as provided elsewhere in this Ordinance. (Amd 11/4/86)

E. Temporary Activity Signs: Temporary activity signs advertising activities occurring no more than twice annually and which are of seven days or less in duration as follows:

- 1) Special promotional signs or banners, for public or institutional events, no larger than forty (40) square feet may be erected no sooner than seven (7) days prior to the event and will be removed no later than three (3) days subsequent to the event. Only one such sign is permitted.

- 2) Special promotional signs or banners, for public or institutional events, no larger than two hundred (200) square feet that cross a public or private road may be erected no sooner than seven (7) days prior to the event and will be removed no later than three (3) days subsequent to the event. Only one such sign is permitted.
  - 3) Garage, barn or yard, church fair/bazaar, seasonal fruit or vegetable, or charitable/non-profit sale signs no larger than twelve (12) square feet may be erected.
  - 4) Political, election, primary, or referendum signs no larger than twelve (12) square feet may be erected no sooner than three (3) weeks before voting day and will be removed no later than one (1) week subsequent to voting day.
  - 5) Not more than four (4) off-premise special event identification and directional signs not to exceed sixteen (16) square feet each may be erected no sooner than two (2) days prior to the event and will be removed no later than two (2) days subsequent to the event. The Board of Selectmen must approve the location of these signs. (Amd entire section 3/10/92)
  - 6) Any business entity wishing to erect temporary signs advertising real estate for sale or lease, or contracted labor at the site, shall be permitted by annual permit through the selectmen's office. The maximum size of the sign shall be sixteen (16) square feet and it shall not count toward the permitted sign area of the lot. Signs shall be removed no later than fifteen (15) days after a real estate closing or the completion of contract. Failure to comply with this ordinance will result in revocation of said permit. (Added 3/9/04; Amd 3/8/11)
- F. Grand Opening and Holiday Promotional Activity Signs: Grand opening and holiday promotional activity signs advertising events occurring no more than six (6) times annually and which are four (4) days or less in duration as follows:
- 1) Only one (1) such on-premise sign is allowed.
  - 2) The maximum square footage of said sign is limited to forty (40) square feet.
  - 3) They may be erected no sooner than the first day of the event and must be removed no later than the last day of the event.
  - 4) Balloons, banners and/or flags may be attached to said sign.
  - 5) A building and use permit is required for such signs. (Add section 3/10/92)
- G. Off-site open house real estate signs advertising open house activities occurring no more than three (3) times annually per property and which are of three (3) days or less in duration as follows: 1) They shall be no more than four (4) square feet in size. 2) A building and use permit is required for each such sign. (Add section 3/10/92)
- H. EXEMPTIONS. The following type signs are exempt from the terms of this Ordinance:
- 1) Official signs of State and Local government.

- 2) Directional signs for Bartlett businesses only, approved by, obtained from, and erected in accordance with procedures and rules established by the State of New Hampshire Department of Transportation, Special Services Division, John O. Morton Building, Concord, NH.
  - 3) Personal information signs such as those indicating property address, resident's names, property names, or trespass limits.
  - 4) Directional, informational, warning, or safety oriented signs (including signs for the control, movement or protection of patrons), provided such signs are either: a) Not directed to or readily visible from a public way; or b) Required by State law or regulation. (Amd 03/12/13)
  - 5) Internally lit open/closed and/or vacancy/no vacancy signs located inside the building and which do not exceed two (2) square feet in size. (Amd 3/10/92)
- I. If the Board of Selectmen shall find that any sign regulated in the local Ordinance which is abandoned, unsafe or insecure, or is a menace to the public, the Selectmen shall give written notice to the named owner of the land upon which the sign is located, who shall remove or repair the sign within fifteen (15) days from the date of the said time period. The Selectmen shall revoke the permit issued for such sign. (Added 3/9/04)

**ARTICLE XVII. ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

- A. It shall be the duty of the Board of Selectmen to enforce and administer the provisions of this Ordinance. The Board of Selectmen shall administer this Ordinance literally and shall not have the power to permit any use of land or buildings, which is not in conformance with this Ordinance. Variances and exceptions can only be approved by the Zoning Board of Adjustment.
- B. Any person, firm or corporation (1) intending to move or any way re-locate a building, trailer, mobile home or other structure, or (2) intending to build, construct, or modify (internally and or externally) any structure or taxable property in the Town of Bartlett (internal modifications will require a building and use permit unless such modifications will not change the legally assessed value of a structure or will not result in increased daily flow of septage, e.g. adding a bathroom, bedroom, fireplace, etc.), or (3) intending to change a parcel of land or building from one category of use, including unused land, to another use, or (4) intending to construct, attach, or emplace any sign shall obtain a Building and Use permit from the Board of Selectmen by the following procedure (Amd 11/4/86, 3/9/04):
- 1) An application for a permit shall be submitted to the Board of Selectmen.
  - 2) The Board of Selectmen shall review the application and when satisfied that the proposed action is in conformity with this Ordinance, the Subdivision Regulations and other relevant ordinances, shall issue a Building and Use permit.
  - 3) If the Board of Selectmen determines that the application fails to conform with applicable ordinances, they shall deny the permit, stating in writing the reasons for their action. Appeals from a decision by the Board of Selectmen to deny a building and use permit can only be made to the Zoning Board of Adjustment.
  - 4) The Board of Selectmen shall establish appropriate procedures, forms and fees for administration of this section. (Added 3/9/04)

- C. Plot plans may be required by the Board of Selectmen and/or Zoning Board of Adjustments and may be required to be prepared by a registered engineer or surveyor when necessary for proper administration of this Ordinance.
- D. The Board of Selectmen or its designated agent shall make inspections, as appropriate, to ensure conformity with the provisions of this Ordinance.
- E. Upon receiving information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions contained herein, however, failure to do so will not constitute a waiver of the Town's right to take such action.
- F. Pursuant to NH RSA 676:17 – Any violation of the Town of Bartlett Zoning Ordinance is punishable by a civil fine not to exceed the maximum allowable dollar amount under the Statute for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the municipality that he/she is in violation of the Town of Bartlett Zoning Ordinance whichever date is earlier. (Amd 11/4/86, 3/9/04)

**ARTICLE XVIII. BOARD OF ADJUSTMENT**

- A. Creation. Within thirty (30) days after the adoption of this Ordinance, the Board of Selectmen shall appoint a Board of Adjustment consisting of five members whose duties, terms, and powers shall conform to the provisions of RSA 674:33. Thereafter as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership. Up to three alternates may be appointed by the Board of Selectmen. The number of alternates to be appointed will be determined by the Zoning Board of Adjustment.
- B. Authority. The Zoning Board of Adjustment is authorized to:
  - 1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Board of Selectmen.
  - 2) Hear and decide special exceptions as provided in this ordinance.
  - 3) Hear and decide variance requests.
- C. By-Laws. The Zoning Board of Adjustment will promulgate by-laws which will include as a minimum:
  - 1) Election and duties of officers.
  - 2) Conduct of meetings:
    - a) When they will be held
    - b) Order of business:
      - Roll call
      - Approving minutes
      - Unfinished business
      - Public hearings
      - New business
      - Communications and miscellaneous business
      - Adjournment

- 3) Handling an Appeal:
  - a) Application filing
  - b) Notification of public hearing
  - c) Conducting the public hearing – disqualification
  - d) Findings of fact
  - e) Notification of decision

4) Records.

5) Amending by-laws.

#### D. Special Exceptions.

- 1) The Board of Adjustment will, subject to conditions and safeguards outlined below in this section, grant special exception for the following uses and/or conditions not permitted in this Ordinance.
  - a) Home Industry- more than 3 but less than 6 employees in addition to the family in a home industry in the TRDA and TRDB.
  - b) Setbacks – a deviation of 20% from all setback requirements in all districts. (Amd 11/4/86, 3/10/92)
  - c) Warehouse facilities in the TCD
  - d) State regulated group homes in the TCD not to exceed 15 members.
  - e) Private schools in the TRDA and TRDB. (Amd 3/10/92)
  - f) State regulated day care facilities in the TRDA and TRDB. (Amd 3/10/92)
  - g) Shopping centers and/or malls in the TCD not to exceed 100,000 sf., with no single structure to exceed 25,000 square feet. (Amd 3/11/08)
  - h) Campgrounds in the TCD and TRDB which have a minimum of 625 square feet per campsite; which make adequate provision for trash removal; which meet all state requirements; and when 40% of the total lot area is reserved for recreation and/or open space.
  - i) Helipads in the TCD.
  - j) Parking provided by public lots in lieu of or in combination with on-site parking may be utilized when provided within a distance not to exceed four-hundred (400) feet (see Article XV).
  - k) Office buildings in the TRDA and TRDB not to exceed two thousand (2,000) square feet.
  - l) In all districts, establishment of, or construction of a building for, or change of use to, a Town Residential District A permitted use on a lot of record on the date of enactment of this Ordinance when setback, minimum lot size and/or minimum frontage cannot be met; in no

case, however, will a structure be built within 10 feet of a property boundary, right of way or watercourse.

- m) Fences in excess of 6 feet 6 inches that do not meet setback requirements. (Amd 11/4/86)
- n) Indoor/Outdoor Theaters in the TCD only. (Amd 10/8/91)
- o) Guardhouse structures less than thirty-six (36) square feet in size may be permitted to be constructed within or at the right of way line of a privately-owned road provided that in no instance will either lane of said private road be less than ten (10) feet in width. The ZBA shall require that upon the conveyance of the privately-owned road to the Town as a town road, the owner/developer shall remove any such permitted structures at its own cost and expense. (Add 3/10/92)
- p) Owner occupied/manager occupied kennel in all districts. (Add 3/10/92)
- q) Firewood processing for sale business in all districts. (Add 3/10/92)
- r) Agricultural structures used for horticultural purposes to be exempted from the setback requirements. If the horticultural purposes cease, the structure must be removed or brought into compliance with the setback requirement. (Add 3/9/93)
- s) In the TCD (Town Commercial District) located within the Lower Bartlett Water Precinct, commercial structures which setback a minimum of 500 ft. from the centerline of Rte. 16/302 may be setback a minimum of 15ft. from all sideline property boundaries and 50 ft. from rear property boundaries and a minimum green area of 10ft. of the side setbacks and 50ft. of the rear setbacks will be created or maintained by leaving the natural growth. (Amd 5/21/96)
- t) Conference/Condominium Hotel anywhere in the TCD constructed on and in conjunction with a skiing facility. A conference/condominium hotel shall (i) provide slope-side lodging, conference and ballroom facilities, hotel laundry and kitchen, ancillary guests services, twenty-four hour front desk coverage and controlled access and egress; (ii) provide deeded interval interests in real property for unit common ownership, (iii) be setback a minimum of 500 ft. from any residential districts or public streets; (iv) be fully sprinkled and meet applicable BOCA, NFPA and Life Safety codes; and, (v) not exceed 60' in height from the highest point of the building to the ground below it. Notwithstanding any language to the contrary, conference/condominium hotels, like other permitted hotels, shall not be limited to the number of units under one structure. In order to meet the commercial density requirements of Articles VI-C and VIII and the Route 302 frontage requirements of Article III-C-1, the applicant shall be able to dedicate land from a contiguous parcel owned under single ownership by the skiing facility as of 4/1/95 by dedicated perpetual easement, covenant or other restriction recorded in the Carroll County Registry of Deeds, provided the land so dedicated does not contain multiple encumbrances for frontage or density related calculations. Any such land encumbered by such restrictions may be utilized for other skiing activities and uses appurtenant or accessory to such activities, including but not limited to equipment and machinery, utility lines, work roads, and other non-sewage discharging buildings customarily associated with skiing. (Amd 5/21/96)
- u) Unoccupied Structures - a deviation from height requirements in all districts. (Amd 3/11/97)

- v) Any portable saw mill remaining stationary on a lot of land, other than land owned by the mill Owner, for more than a ninety (90) day period of any calendar year, would require a Special Exception. Logs do not have to originate from the property the mill is located on.
  - w) Car wash (Added 3/11/03)
  - x) All rental businesses renting a motorized vehicle. (Added 3/11/03)
- 2) Administrative Procedure.
- a) An owner who wishes to use a lot, building, or structure in a manner not permitted by this Ordinance but which is included as a possible exception in paragraph D-1, shall submit an application to the Board of Selectmen under procedures and on forms prescribed by the Zoning Board of Adjustment.
  - b) The Board of Selectmen shall record and review the application and send it to the Board of Adjustment.
  - c) On receiving an application for Special Exception, the Board of Adjustment shall assure that abutters are notified and hold a public hearing as provided in RSA 676:7.
  - d) The Zoning Board of Adjustment in its deliberations will consider all of the following conditions and determine whether:
    - 1) The specific site is an appropriate location for such a use.
    - 2) A preponderance of evidence is found that property values will not be reduced due to incompatible land use by such a use. (Amd 11/4/86)
    - 3) No traffic hazard will be created.
    - 4) No nuisance or other hazard is involved.
    - 5) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
    - 6) There is adequate area for safe and sanitary sewage disposal according to State regulations.
    - 7) Operations in connection with such a use shall not violate the provisions of Article IV of this Ordinance.
  - e) If the Zoning Board of Adjustment finds that for Exceptions a through r (except letter l) of paragraph D-1 all of the conditions of paragraph D-2d above are satisfied, it shall cause a Building and Use permit to be issued by the Board of Selectmen.
  - f) If the Zoning Board of Adjustment finds that for exceptions l (letter) of paragraph D-1 conditions six (6) and seven (7) only of paragraph D-2d is satisfied, it shall cause a Building and Use permit to be issued by the Board of Selectmen.
  - g) If the Zoning Board of Adjustment finds that the application fails to satisfy the criteria of Paragraph e and/or f above, it will deny a permit, stating the reasons for its action. Information copies shall be sent to the Board of Selectmen.

E. Variances.

- 1) Criteria for Granting Variances. The Board of Adjustment may authorize a variance from the terms of this Ordinance in accordance with RSA 674:33. In order to approve a variance, all of the following conditions must be met:
  - a) The variance will not be contrary to the public interest;
  - b) Owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship;
  - c) The spirit of the ordinance is observed;
  - d) Substantial justice is done; and
  - e) The value of surrounding properties will not be diminished.(Amd 3/11/08)
  
- 2) Administrative Procedures. The Board of Adjustment shall consider variances from this Zoning Ordinance by the following administrative procedures:
  - a) An owner or his representative of a parcel of land who wishes to utilize said parcel in a manner not permitted by this Ordinance shall submit an application to the Board of Selectmen under procedures and on forms prescribed by the Zoning Board of Adjustment.
  - b) The Board of Selectmen shall record and review the application and send it to the Zoning Board of Adjustment.
  - c) On receiving an application for a variance from the Zoning Ordinance, the Zoning Board of Adjustment shall assure that abutters are notified and shall hold a Public Hearing as provided in RSA 676:7
  - d) If, on reviewing the application, the Zoning Board of Adjustment finds that all of the criteria of paragraph E-1 are satisfied, it shall cause a Building and Use Permit to be issued by the Board of Selectmen.
  - e) If the Zoning Board of Adjustment finds that the application fails to satisfy the criteria of paragraph E-1, it will deny a permit, stating the reasons for its action. Information copies shall be sent to the Board of Selectmen.

F. Appeals.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the town officials administering this Ordinance (Board of Selectmen), in the manner prescribed by RSA 676:5, 6, and 7 within the time limit set by the Board of Adjustment according to said statute. Appeals will be processed through the Board of Selectmen to the Zoning Board of Adjustment under procedures and on forms prescribed by the Zoning Board of Adjustment.

**ARTICLE XIX. DEFINITIONS.**

In this Ordinance, the following terms have the following meanings:

**ABUTTER** – For the purpose of this Ordinance and for the purpose of notification, an abutter shall mean any person whose property or any part thereof is contiguous with or is directly across a road right-of-way or stream or railroad right-of-way from the property under consideration.

**ACCESSORY DWELLING UNIT (ADU)** – A residential dwelling unit intended for personal use, rent, or lease, meeting the following specifications:

- 1) Is under common ownership with a single-family dwelling;
- 2) Either the primary dwelling unit or ADU must be retained for use by the owner (i.e., cannot be rented or leased);
- 3) Is located within the same structure as the primary dwelling unit, or within an accessory structure to the primary dwelling unit (such as a barn or garage), or is a separate detached structure;
- 4) A connecting door must exist between an attached ADU and the primary dwelling unit, although that door is not required to be locked;
- 5) Contains no more than two bedrooms;
- 6) Does not exceed 800 square feet of total floor space;
- 7) Shall make provision for adequate water supply and sewage disposal service in compliance with RSA 485-A:38 and regulations adopted by the New Hampshire Department of Environmental Services;
- 8) No more than one Accessory Dwelling Unit shall be allowed per lot.

An Accessory Dwelling Unit shall not count towards the number of dwelling units allowed on a single driveway. (Added 3/8/11; Amd. 3/14/17)

**ACCESSORY STRUCTURE** – A subordinate structure incidental to and on the same lot occupied by the main structure or use.

~~**ACRE** – For the purpose of this Ordinance, 40,000 square feet. (Deleted 3/8/11)~~

**AGRICULTURE** – Producing crops or raising and/or maintaining livestock, horses, and poultry. (Amd 11/8/88) Any land or buildings or structures on or in which agriculture and farming operations are carried on and shall include the residence or residences of owners, occupants, or employees located on such land. This includes all operation of a farm such as the cultivation, conserving, and tillage of the soil excluding the storage, composting, or use of human biosolids for any purpose, dairying, greenhouse operations, the production, cultivation, growing and harvesting of any agriculture, flori-cultural, sod or horticultural commodities, the raising of livestock, equines, bees, fur-bearing animals, fresh water fish or poultry, or any practices on the farm as an incident to or in conjunction with such farming operation including, but not necessarily restricted to, the following: the marketing or selling of any products from the farm and of other products that do not exceed 20% of the yearly dollar volume of the value of products from such farm. (Amd 3/12/96)

**CAMPGROUND** – A parcel of land with one or more specific sites, with or without water, electricity and sewage hookups, that has provision for the pitching of a tent or the parking of any recreational vehicle or trailer for use as sleeping quarters on a temporary basis.

**CAR DEALERSHIP** – An establishment engaged in the buying and selling of new and used automobiles and trucks. (Add 3/10/92)

**CAR WASH** - An establishment or structure built or converted to accommodate self-serve or machine operated washing apparatus and incidental equipment, products and supplies relating directly to its function of car washing. (added 3/12/02)

**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.

**COMMERCIAL** – A use primarily concerned with the marketing of goods or services.

**DAY CARE FACILITIES** – Facilities for the temporary daytime care and supervision of children.

**DWELLING** – A building designed or used as a place of residence.

**DWELLING, SINGLE-FAMILY** – A detached residential building including mobile homes designed for and occupied by one family only.

**DWELLING, TWO-FAMILY** – A residential building designed for or occupied by two families living independently of each other in individual dwelling units, commonly referred to as a duplex. (Amd 11/4/86)

**DWELLING, MULTI-FAMILY** – A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING UNIT** – One room, or rooms connected together, constituting a separate, single-family, independent residential housekeeping 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, bathroom and sleeping facilities. (Amd 3/8/11)

**ESSENTIAL SERVICES** – The erection, construction, alteration, or maintenance by public utilities, municipal, or other governmental agencies of facilities reasonably necessary for the furnishing of adequate service by such public utilities, municipal, or other government agencies and for the public health, safety or general welfare.

**FIREWOOD PROCESSING FOR SALE BUSINESS** – The storing, cutting, and or splitting of pre-cut tree length or smaller timber for the purpose of resale as firewood. (Add 3/10/92)

**FLOODPLAIN** – The area surrounding a river, stream, or other body of water, which is subject to flooding as determined by the official floodplain map, filed with the Bartlett Floodplain Ordinance or as determined by the US Soil Conservation Service.

**FORESTRY** – Timber growing and harvesting, not including processing activities such as sawmills, but including harvesting equipment such as log trucks, skidders, portable sawmills, and chippers.

**FRONTAGE** – The continuous distance along a street or a street right-of-way. (Amd 11/4/86, & 3/11/08)

**GRAVEL PIT/SAND PIT** – Any place where sand, gravel, or other mineral aggregate is mined, worked or removed.

**GREENHOUSES/NURSERIES** – Facilities for the growth, display and sale of trees, flowers, vegetables, and shrubbery.

**GROUND SIGN** – Attached to or suspended from posts or other supports, which are implanted in or on the ground.

**GROUP HOMES** – Facilities for the care and domicile of persons for any reason under the regulatory control and support of the State.

**GUARDHOUSE** – A structure to accommodate personnel who supervise the ingress/egress to properties. (Add 3/10/92)

**HOME INDUSTRY** – Any use conducted by a member of the family within a dwelling or an accessory building, with a maximum of three employees in addition to the family domiciled in the dwelling, which is incidental to the use of the dwelling as a residence. Only one such business shall be conducted on a single lot. No home occupation shall be permitted that changes the outside appearance of the dwelling or is visible from the street; generates traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood; creates a hazard to person or property, results in electrical interference, or becomes a nuisance; results in outside storage or display of anything; or that adversely affects or undermines the residential character of the neighborhood.

**INDOOR/OUTDOOR THEATERS** – Structures or areas located either indoors or outdoors for the presentation of environmental, geological, cultural, or historical subjects in the form of live performances or audio-visual methods. (Add 10/8/91)

**INDUSTRIAL** – A use involving the manufacture of a product and generally requiring many employees, extensive parking facilities, good routes of transportation and requiring other services needed by commercial or light manufacturing uses.

**INNS, LODGING HOUSES AND BED & BREAKFASTS** – An owner-occupied or manager-occupied dwelling of single family character in which not more than 12 guest rooms are offered for rent with or without meals for overnight guests only for the primary purpose of overnight lodging to tourists. The dwelling must exist on the date of enactment of this amendment (11/8/88) and any additions or renovations must maintain the single-family character of the dwelling. (Amd 11/4/86, 11/8/88)

**LIGHT MANUFACTURING** – A use involving the manufacture of a product not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment and not employing more than 25 people.

**LOT** – A lot is a tract, parcel, or plot of land. Such lot shall front upon and have access to a street which meets town road specifications except that a maximum of three dwelling units may be served by a single driveway. This definition does not include zero lot line lots or similar forms of individual lot ownership i.e., within a planned unit or cluster development. (Amd 11/4/86 & 3/14/17)

**LOT OF RECORD** – A lot which is part of an approved subdivision recorded in the Carroll County Register of Deeds, or a lot or a parcel described by metes and bounds, the description of which is recorded and filed in the Registry of Deeds, Carroll County, NH.

**MOBILE HOME** – Includes manufactured housing and 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 utilities, which include plumbing, heating and electrical systems contained herein.

**MOBILE HOME PARK** – A lot on which there are more than two (2) spaces for mobile homes or manufactured homes occupied for dwelling purposes that can be owned, rented, or leased for use as year-round residences.

**MOTELS, HOTELS, TOURIST COURTS, CABINS** – One or more buildings containing guest rooms or suites for transient occupancy by the traveling public. Three categories of units are established:

**STANDARD** – Units without cooking facilities. Countertop microwave ovens shall be allowed. Minimum Land Required standards of Section VI.C.3 shall apply. Gallons/day of sewage outflow shall be based on values for “Hotels and Motels” from Table 1008-1 in the New Hampshire Code of Administrative Rules Chapter Env-Wq 1000, or any subsequent rule adopted in replacement of this rule.

**EFFICIENCY** – One-bedroom units of no more than 500 square feet in which cooking facilities are limited to cooktop burners without ovens. Minimum Land Area Required standards of Section VI.C.3 shall apply. Gallons/day of sewage outflow shall be based on values for “Apartments” from Table 1008-1 in the New Hampshire Code of Administrative Rules Chapter Env-Wq 1000, or any subsequent rule adopted in replacement of this rule.

**FULL-SERVICE** – Units with cooking facilities that do not meet the definition of Efficiency units. Minimum Land Area Required standards of Section VI.C.4 shall apply.

“Lockouts” are portions of Full-Service units that may be independently rented as Standard or Efficiency units. Lockouts shall *not* be considered separate units for purposes of Minimum Land Area Required calculation. (Amd 3/8/11; Added 3/8/11)

**MOTORIZED VEHICLE** - All vehicles using a motor to propel itself. This includes but is not limited to: cars, trucks, motorcycles, all terrain vehicles, snowmobiles, construction equipment, etc. (added 3/11/03)

**MULTI-FUNCTION, RESEARCH, EDUCATION AND/OR CULTURAL FACILITY** - A facility designed to support businesses or organizations involved in scientific or technological research and development, public education, outreach or training, cultural activities, and manual or performing arts. These facilities may include research facilities, office space, meeting rooms and classrooms; lecture halls, museums, galleries and other display space; workshops and studios. Accessory uses include retail shops, food service, overnight lodging of less than 25 beds, and storage and garage space, provided that such uses are associated with and subordinate to the primary purposes of the facility and consistent with the uses permitted in the Town Commercial District. Any scientific or technological research or other activity conducted on the site shall not create a discernible risk of offsite impacts such as noise, odor, electrical or radio interference or offsite migration of any substance harmful to people or the environment. (Added 3/14/00)

**MUSEUMS** – A structure or area designated as an institution devoted to the procurement, care study, and display of objects of lasting interest or value. (Added 10/9/91)

**NON-CONFORMING STRUCTURE, USE, OR LOT** – A structure, use, or lot that does not conform to the regulations of the Zoning district in which it is located.

**OFFICE BUILDING** – Offices for doctors, lawyers, dentists, architects, real estate agents, and other professional and or non-professional services. (Amd 11/4/88)

**OWNER-OCCUPIED/MANAGER-OCCUPIED KENNEL** – An owner-occupied or manager-occupied establishment which may include interior and/or exterior runs where household pets are bred, trained, boarded, and/or groomed. (Add 3/10/92)

**PARKING SPACE** – An off-street space available for the parking of one (1) motor vehicle (200 square feet).

**PORTABLE SAW MILL** - Any saw mill capable of producing a maximum of 3000 board feet of lumber daily. (Added 3/12/02)

**PRIVATE SCHOOLS** – Secular or religious affiliated, elementary and/or secondary schools, not supported by general tax dollars.

**RAILROAD** – A business with operations and facilities that are normally associated with rail transport. (Add 10/8/91)

**RENTAL BUSINESS** - Business establishment that rents items to the public. (added 3/11/03)

**RESIDENTIAL DEVELOPMENT** – The construction of more than two (2) residential units or the construction of accommodations for more than two (2) families or the conversion of any building to accommodate more than two (2) families or the change in use of a building with the purpose to accommodate more than two (2) families. Includes mobile home parks, apartment buildings, ski clubs, lodging houses, condominiums, townhouses, or any other form of ownership where land is owned in common.

**RESIDENTIAL UNIT** – Residential facilities for single-family occupancy.

**RESIDENTIAL PROPERTY** – A single lot or tract of land on which one or more residential units are located.

**RETAIL STORES AND SHOPS** – Business establishments dealing primarily with retail customers for merchandise and services.

**RIGHT-OF-WAY** – Includes all town, state, federal and private highways and associated land on both sides of said highways restricted or exclusively controlled by easement or deed.

**SETBACK** – The distance from the extreme limit of a structure to a boundary line, right-of-way, or the near bank of a watercourse, or body of water.

**SHOPPING CENTER** – More than two (2) retail establishments on the same lot. (Amd 3/8/11)

**SHOPPING MALL** – More than two (2) retail establishments in the same structure. (Added 3/11/2008; Amd 3/8/11)

**SKI CLUB** – Means any building or portion thereof where lodging and centralized cooking facilities is offered to cooperative membership.

**SKIING FACILITIES** – Includes all operations and facilities normally associated with and related to downhill and/or cross-country skiing, e.g., alpine slides, retail shops, and restaurants.

**SMALL INDUSTRY** – A light manufacturing firm with the following characteristics: Fifteen (15) or fewer employees, maximum building area of 8,000 square feet.

**STREET** – A public or private thoroughfare, highway, street, road or avenue, including the full width or right-of-way, which meets or exceeds Town of Bartlett road specifications.

**STRUCTURE** – Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings, mobile homes, canopy garages, patios, retaining walls, ground signs, and tennis courts. Septic systems ~~and or pavement~~ are not structures for the purpose of this ordinance. (Amd 3/8/11)

**TRAILER PARK OR MOBILE HOME PARK** – Means land area occupied or designed for occupancy by two or more trailers for living purposes.

**VARIANCE** – A departure from the strict letter of the Zoning Ordinance as it applies to a particular piece of property permitting a property to be developed in a manner that conflicts with specific terms of the Zoning Ordinance, but for which the Zoning Board of Adjustments grants approval after a public hearing and review.

**VETERINARY CLINICS** – Facilities used for the medical treatment of animals by a licensed veterinarian. May include internal kennel runs only.

**WAREHOUSE FACILITIES** – Primary purpose is inside storage of goods, materials and or equipment.

**HISTORY OF THE ORDINANCE:** This Ordinance was enacted on August 27<sup>th</sup>, 1985 by a majority vote of the voters of the Town of Bartlett, NH. The ballot question read: “Are you in favor of the adoption of the Zoning Ordinance as proposed by the Planning Board? Yes/No.” The results were: YES = 380 and NO = 352.

This Ordinance was amended on November 4, 1986; July 28, 1987; November 8, 1988; October 8, 1991; March 10, 1992; March 9, 1993; March 12, 1996; May 21, 1996; March 11, 1997; March 9, 1999; March 14, 2000; March 13, 2001; March 12, 2002; March 11, 2003; March 9, 2004; March 14, 2006; September 12, 2006; March 11, 2008; March 8, 2011; March 12, 2013; and March 14, 2017. As amendments are added, this will be updated.

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***ADDENDUM TO THE TOWN OF BARTLETT ZONING ORDINANCE:***

The following Amendments were approved at the Annual Town meeting held on March 13<sup>th</sup>, 2001 and are now a part of the Town of Bartlett Zoning Ordinance.

**RIDGELINE AND HILLSIDE OVERLAY DISTRICT (RHOD)**

**INTENT AND PURPOSE:**

Bartlett’s economic past and future are tied very closely to the rural and pastoral setting of the town. The undeveloped ridges and hillsides of the Town of Bartlett are one of the town’s principal scenic qualities. Protecting our ridgelines and hillsides from unregulated and unsightly land development is essential to Bartlett’s welfare, both aesthetically and economically. It is the intent of this ordinance to provide regulatory guidelines in an effort to protect the rural and pastoral character of the town. It is no the intent of this ordinance to prohibit development on all ridges and hillsides. With careful planning, development of land within the Ridgeline and Hillside Overlay District can be accomplished with minimum negative impact on the scenic quality of the town. In an effort to not over-regulate property within the RHOD, only

land with high visual impact will be subject to the provisions of this ordinance. Property with low visual impact is not included. A property with high visual impact can expect a higher level of restrictions beyond the existing zoning ordinance. These restrictions may affect building location and height, landscaping, access, and utility location.

The purpose of this regulation is to allow residential land development within the RHOD, primarily in existing wooded areas below the natural tree line. The goals of the district are to minimize site disturbance and maintain the appearance of natural unbroken forest cover. Development in this district shall be adequately screened by trees and landscaped so as not to create an undue adverse visual impact on the rural and pastoral setting of Bartlett.

### **DESCRIPTION OF RIDGELINE AND HILLSIDE OVERLAY DISTRICT**

The RHOD is defined as all areas within the town above an elevation of 800' above mean sea level, subject to the exceptions listed below. The RHOD is designated on 1:24000 USGS quad maps on display at town hall. The 800' contour as shown on these maps should be considered approximate, and on-the-ground determination of elevation by survey or other measurement will be the determining factor as to whether a particular site lies within the RHOD. Other maps are also on display that gives property owners and town officials a *general* overview of the visual impact that development of a particular property will have on the Town of Bartlett.

The RHOD is intended to apply to upland slopes and ridges that are visible from the Routes 16 and 302 corridors. It is recognized that not all areas within the RHOD have high visual sensitivity. The following areas are excluded from the provisions of this ordinance. It is the responsibility of the applicant to demonstrate that a proposed development meets one of these criteria in order to be excluded.

- 1) Valley bottom or lower slope areas of less than 15% average slope that are contiguous with the broad flat Saco River plain.
- 2) Areas where natural topographical features clearly shield the proposed development site from view from any point along Routes 16 or 302 (excluding shielding by buildings or trees outside of the property proposed for development).

### **GOALS:**

The following are the primary goals of this ordinance:

- 1) **Minimize site disturbance:** Clearing for building footprints, access, parking, septic fields, utilities and landscaping should be kept to the smallest area compatible with the purpose of the development.
- 2) **Protect scenic character:** There should be no significant exposure of structures, clearings, roads and driveways, or utility corridors when viewed from the Routes 16 and 302 corridors. Cleared areas should be shaped to blend into the natural patterns of the landscape. Clearing of views should be limited to narrow openings between and beneath trees and should involve cutting of small trees and lower branches of larger trees rather than mature trees.
- 3) **Retain forest cover:** Development should maintain the appearance of an unbroken forest canopy when viewed from the Routes 16 and 302 corridors.

- 4) Appropriately locate access and utilities: Roads, driveways and utility corridors should blend into natural contours.
- 5) Minimize alteration of terrain: Alteration of natural topography should be minimized. When building on slopes of 25% or more structures should be set into the topography rather than being built on fill slopes.
- 6) Minimize impact of lighting: Exterior lighting should be designed so as to limit its visibility from the Routes 16 and 302 corridors.
- 7) Protect the environment: Development should provide for the retention and stabilization of steep slopes and the protection of water quality.

### SPECIFIC PROVISIONS:

The following specific provisions shall govern all development within the RHOD:

- 1) On any ridge line or ledge where the sky is the backdrop when viewed from Route 16 or Route 302, structures will be located and limited in height so as not to allow any portion of the building to have the sky as a backdrop as seen from said highways. (Amd 3/9/04). See also Article V – Height Limitations. Telecommunication towers are exempt from this provision.
- 2) No structure shall be constructed, nor shall natural forest cover be cleared from any area within twenty (20) feet of a permanent or intermittent stream shown on USGS 1:24000 quad maps. Exceptions will be made for narrow openings associated with stream crossings by access roads or utility corridors. **(amended 3/12/03)**
- 3) No structures, parking areas or cleared areas shall be directly visible<sup>1</sup> from any point on Routes 16 or 302 in the Town of Bartlett, but must be screened or capable of being screened as described in provisions #4. Screening by buildings or vegetation adjacent to these highways shall not be considered when determining compliance with this provision. Utility corridors shall be located along access roads.
- 4) All structures and cleared areas shall be screened from view from any point on Routes 16 or 302 by retention of a naturally forested buffer at least fifty (50) feet in width on slopes less than 25%, and at least seventy-five (75) feet in width on slopes greater than 25%. The buffer shall maintain an average density of at least eighty (80) square feet of basal area<sup>2</sup> per acre in trees at least five (5) inches in diameter.<sup>3</sup> Where sufficient trees at least five (5) inches in diameter are not currently present, then the buffer shall be allowed to naturally re-grow to develop the desired condition.
- 5) Clearing associated with commercial or single-family residential structures (including building footprints, lawns, pastures, septic fields, parking areas, or any other non-forested are, but excluding access roads, driveways and utility corridors) shall not exceed one (1) acre. For a multi-family residential structure, clearing shall not exceed one (1) acre or one-quarter (1/4) acre per unit,

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<sup>1</sup> “Directly visible” implies visibility along a direct line of site without intervening vegetation. It is recognized that structures and cleared areas may be partially visible through the screening buffer described in Provision #8. Visibility of cleared areas at the canopy level is acceptable.

<sup>2</sup> “Basal area” is defined as the cross-sectional area of a tree stem measured 4½ feet from ground level on the uphill side of the stem.

<sup>3</sup> This is approximately equal to 10” diameter trees spaced 17 ft apart, or 5” diameter trees spaced 8½ ft apart.

whichever is greater, up to a maximum of two- and one-half (2½) acres. Separate openings on a single property shall be separated by at least one-hundred (100) feet. Where existing clearings (e.g. pastures or fields) exceed one acre, clearings may be maintained but not extended. Exceptions shall be made for agricultural operations or ski trails. Temporary clearings created as part of forest management operations are not governed by this provision.

- 6) Clearing for view corridors through the buffer shall not exceed twenty-five (25) feet in width, measured between the base of tree stems at ground level. No more than two such clearings, spaced at least seventy-five (75) feet apart, shall be allowed for each residential structure.
- 7) *This provision has been replaced— see Article IX- Green Area, Section D* - Development on slopes 25% or more shall provide for retention and stabilization of these slopes. Areas cleared of vegetation shall be promptly revegetated. Native topsoil more than fifty (50) feet down slope of any structure or unvegetated area shall not be disturbed. (**Deleted** 3/9/04)
- 8) Exterior lighting producing more than 2000 lumens of light per fixture shall be installed no more than 15 feet above the ground level and shall be installed or shielded in such a manner as to conceal light sources, lamps and reflector surfaces from view substantially beyond the perimeter of the area to be illuminated. (Amd 3/03)
- 9) Prior to obtaining approval, any application for building permit on land located within the RHOD and subject to its provisions must include adequate information to demonstrate compliance with Specific Provisions 1 through 8 of this ordinance.