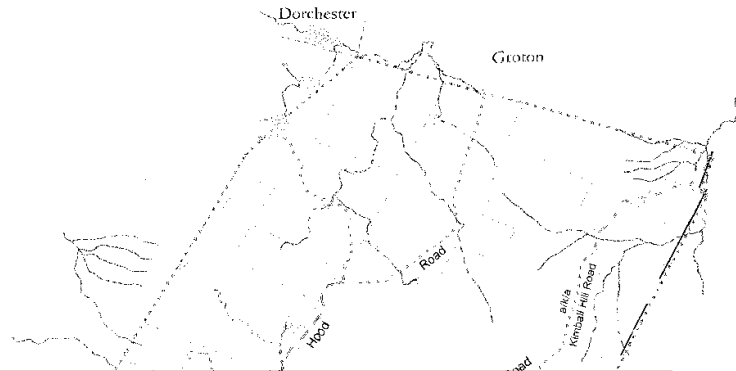
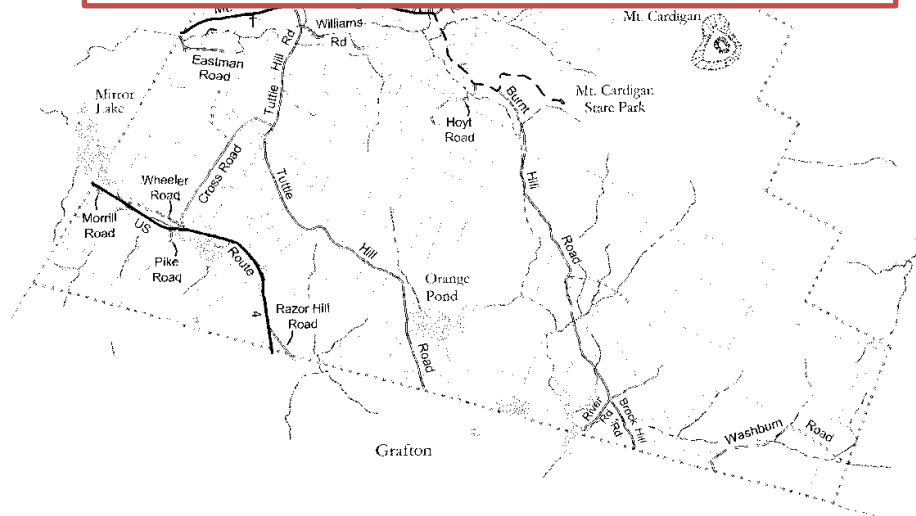


ZONING ORDINANCE

TOWN OF ORANGE, NEW HAMPSHIRE



**DRAFT AMENDMENTS
FOR PUBLIC HEARING
28 NOVEMBER 2023**



ADOPTED: March 12, 1985
AMENDED: March 11, 1986
AMENDED: March 13, 1990
AMENDED: March 14, 2006
AMENDED: March 14, 2017
AMENDED: March 13, 2018

ARTICLE I. PURPOSE AND AUTHORITY

Pursuant to the authority conferred by Chapters 672-677, New Hampshire Revised Statutes Annotated, 1983, as amended, in conformity with the Town of Orange Comprehensive-Master Plan and for the purpose of promoting the health, safety, prosperity, convenience or general welfare of the residents of Orange, by securing safety from fire and other dangers, providing adequate areas between buildings and various rights-of-way, the promotion of efficiency, economy and good civic design in development, protection of the value of homes and lands, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements; this Ordinance is enacted by the voters of the Town of Orange, New Hampshire, in official Town Meeting.

ARTICLE II. TITLE

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Orange, New Hampshire".

ARTICLE III. ESTABLISHMENT OF ZONING DISTRICT & DISTRICT REGULATIONS

A. District

The entire Town of Orange shall be considered a Rural Residential District.

B. Zoning District Regulations

Rural Residential District

The primary purpose of this district is to provide for low-density rural living and open space, in keeping with the scenic, recreational and environmental values inherent in this community such as wetland, poor soil conditions, steep slopes, and prime agricultural soils.

1. Permitted Uses

- (a) One and two-family dwelling units.
- (b) Home business.
- (c) Single mobile home.
- (d) Agricultural and forestry uses.

2. Lot and Frontage Requirement

- (a) Lot size and layout: The minimum area of any lot shall be at least two acres in size, depending on soil and slope conditions as outlined below and as may be suitable to sustain development according to state standards. Wetland soils that fall within the jurisdiction of the NH Department of Environmental Services Wetlands Bureau and slope areas that include an incline greater than 25 percent and an elevation change of greater than 20 feet may not be included in the minimum lot size. The depth of any lot may be no more than four times its width at the street or road right-of-way line, except that for a lot which at any point along its length has a width of at least twice the width at the road, the depth of the lot may be 4 times the average of the width at the road, the width at its widest point, and the width at the rear line. Lot depth shall be defined as the distance from the

midpoint of the lot at its street frontage to the midpoint of the rear lot boundary. For lots that are accessed by a right-of-way as allowed in paragraph (c) below, the average lot width and depth, excluding the right-of-way, shall be used for the calculation of the ratio. For other irregular or unique lot shapes or conditions, the Planning Board shall have the authority to interpret this provision for the purpose of determining whether the intent is satisfied.

(b) Lot Coverage: The building coverage on any lot, including parking and driveway areas, shall not exceed 40 percent of any lot with the open area devoted to landscaping or natural growth.

(c) Frontage: The minimum lot frontage on any street, lake or river shall be 200 feet. Lots may, however, have less (or no) street frontage if (1) said lots are provided access to a public road by a deeded private right-of-way at least fifty (50) feet in width for a driveway serving not more than two (2) lots; or (2) said lots are located on curves, cul-de-sac or are affected by other such factors that sound planning justifies less frontage.

ARTICLE IV. GENERAL PROVISIONS

~~The following provisions shall apply to this district, and all uses within the Town of Orange except where listed:~~

~~A. Certain non-permitted uses may be permitted in the Town of Orange by special exception by the depending upon the land use impact on the particular location and neighborhood, provided that the use will not create excessive traffic and that there be adequate parking and traffic provisions, that health standards be maintained, that there be no detriment to the neighborhood safety or property values, and that all standards and requirements under Articles IV and V are met.~~

FIRST PART OF PARAGRAPH A MOVED TO (NEW) ARTICLE VII

~~The plan shall indicate the location, site layout, and utilities proposed. The plan shall also be accompanied by an economic and environmental impact statement.~~

~~The Planning Board shall review the proposed plans and submit their written recommendations to the within thirty (30) days after receipt of the proposal.~~

~~All known abutters of any proposed non-permitted uses shall be notified by the by certified mail at least three (3) weeks prior to any public hearing regarding said site. The names and addresses of the known abutters shall be supplied by the applicant on a plot plan to be submitted to the.~~

~~The applicant shall pay the total costs of posting and advertising any hearings, the cost of certified mailings and any necessary site inspection fees.~~

REMAINDER OF PARAGRAPH A REPLACED WITH ARTICLE VIII (FORMERLY VII), SECTION B (NEW)

B A. Obnoxious Use

Any use that may be obnoxious or injurious by reason of toxic wastes, odor, dust, smoke, refuse matter, fumes, noise, vibration or similar conditions, or that is dangerous to the comfort, peace, enjoyment, rural and scenic quality, health or safety of the community or lending to its disturbance or annoyance, is prohibited. If there is a question of quality standards, those established by the State of New Hampshire or the Federal Government, with whichever imposes the greater restriction or the higher standard, shall

apply.

C B. Front, Side and Rear Yard Setback

There shall be a minimum distance between any building and the edge of any public highway, street or roadway right-of-way of thirty-five (35) feet. No building, water supply (well), septic tank or leachfield shall be located within thirty (30) feet of any boundary of the lot on which it is located.

D C. Height Limit for All Structures

No building or structure, or part thereof, shall exceed thirty-five feet (35') in height as measured from the high point thereof to the average natural or graded permanent ground level at the wall of the structure nearest to and below said high point, provided, however, that this provision shall not apply to television and radio antennae, lightning rods, cupolas, steeples, chimneys, utility poles or parts of buildings designed exclusively for agricultural or non-residential uses.

E D. Off-Street Loading and Parking for Home Business, Agricultural Use and Forestry Use

Adequate off-street loading and parking shall be provided whenever any new use is established or any existing use is enlarged in accordance with the following specifications:

1. All new construction of institutional, commercial or industrial uses requiring off-street loading facilities shall provide such facilities so that delivery vehicles are parked off the traveled way.
2. All proposed new development shall provide for adequate off-street parking spaces in accordance with the following standards. A single parking space is defined as being two hundred (200) square feet in area and having additional adequate area for maneuvering.
 - (a) Residential Use - 2 spaces for each family unit.
 - (b) Hotel, Motel, Tourist Accommodation, Lodging Unit - 1 space for each unit.
 - (c) Commercial and Industrial - 1 space for each three anticipated patrons and/or employees on the premises at any one time.
 - (d) Restaurant - 1 space for each four seats anticipated.
 - (e) Public Assembly - Any theatre, hall or auditorium, the provisions for at least 1 space for each six seats anticipated.
 - (f) Where one building is used for lodging or motel accommodation with a restaurant - one space for each rental unit, plus one space for each eight seats anticipated within the restaurant.

F E. Signs

1. All signs shall be maintained in good condition and in good repair at any time. Any business that closes its operation permanently shall remove any signs in connection with that business.
2. Maximum square footage of any outdoor sign shall not be larger than twenty (20) square feet in area. Off-premise signs shall be limited to no more than two (2) such signs so placed within the town limits.

3. No signs shall be placed within the limits of any highway right-of-way or in such a position as to endanger traffic on a roadway by obscuring a clear view, or to create confusion with official street signs or signals. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic.
4. The height of any free-standing sign shall not exceed fifteen (15) feet above the road grade.

G F. Flood Area

No building for human occupancy shall be permitted to be build within any floodway and no building for human occupancy shall have its first-floor level less than one (1) foot above any known flood elevation within a floodplain outside any floodway.

H G. Removal of Natural Material

If clay, sod, loam, sand or gravel is removed within 100 feet of any public highway, street or roadway, the area shall be regraded and redressed. to assure that the premises will be left in a sightly condition and protected against erosion and washouts within 90 days of the finish of operation and/or unsightly materials removed. All other earth excavation for commercial purposes shall be governed in accordance with New Hampshire RSA Chapter 155-E.

All grading slopes and embankments shall be maintained against ordinary erosion which might otherwise occur as a result of the construction of roads, driveways or structures. All construction operations shall be controlled by the owner to prevent erosion debris and other loose materials from washing into any drainage course, street, or abutting property.

I H. Junk Yards and Waste Disposal Sites

No person, firm or corporation shall keep or maintain within the limits of the town, any junk yard, dump or any other matter upon his or its premises, or permit or allow the same to be so kept, used or maintained, so near to any highway, park, street or alley or other public place, or adjoining or abutting any land owned or occupied by another person, firm or corporation so as to be offensive to the use and enjoyment of the public of said highway, park, street or alley or any other public place; or a menace to public health; or so as to be offensive to the use, occupation and enjoyment of said adjoining or abutting premises by its owners or occupants or in such a manner that the contents of said junk yard, dump, or other offensively used premises are discharged upon any highway, park, street or alley or other public place, or upon the land of any person, firm or corporation.

A short-term variance of ninety (90) days may be obtained from the ZBA in order to accommodate near turn needs.

ARTICLE V. SPECIAL PROVISIONS

A. Cluster Residential Development

The objective of a Cluster Residential Development is to encourage flexibility in residential development

design by permitting mixed housing types, which may be grouped on lots of reduced dimensions to allow for a more economic provision of street and utility network, and to encourage the preservation and recreational use of open space in harmony with the natural terrain, scenic qualities, and outstanding land features. The remaining land in the tract which is not built upon is reserved as permanently protected open space.

Proposals for cluster development must go to the Planning Board for subdivision approval and must comply with applicable provisions of the Orange Subdivision Regulations. The following standards shall be met by all Cluster Residential Development:

1. Where clustering or multiple dwelling units are permitted, the minimum lot size of each dwelling unit within the cluster shall be determined by the Planning Board based upon the character of the land involved, the type of housing proposed and the need for adequate on-site sewage disposal, as determined by the State Water Supply and Pollution Control Commission standards. Where a community sewer disposal system located on common land is permitted, legal responsibility for ownership and maintenance must be established as part of the approval process.

(a) In the areas of the town where land and buildings abut or are adjacent to lake or river frontage, special exceptions may be granted where a proposal shows a reduction in density and the lessening of the amount of on-site sewage generated. This proposal shall be subject to the existing standards of the State Water Supply and Pollution Control Commission and requires the Commission's approval against those standards at the time of submission for variance.

2. The total number of dwelling units to the acre shall remain at the same overall density as required in the zoning district. The land area not used for individual lots, construction of buildings and roads shall be permanently maintained as open space or common land for the purposes of recreation, conservation, park or public easement or agriculture. The open space or common land or any portion of it shall be held, managed and maintained by the developer until it is owned in one or more of the following ways:

(a) By a Homeowner's Association, set up by the developer and made a part of the deed or agreement for each lot or dwelling unit;

(b) By a Conservation Trust or private non-profit organization, such as the Forest Society or Audubon Society, which will ensure that the common land will be held in perpetuity as open space;

(c) By the developer, as appropriate, for areas such as golf courses, outdoor recreational areas and enclosed recreational facilities.

3. All agreements, deed restrictions, organizational provisions for a Homeowners' Association and any other method of management of the common land shall be established prior to approval.

4. Each dwelling unit shall have reasonable access to the common open land, but not front directly on such land.

5. The plan shall provide for the convenience and safety of vehicular and pedestrian movement on the site and for adequate location of driveways in relation to street traffic. Maximum building height, parking standards, and minimum distance from lot lines shall be required. - 7 -

B. Waterfront Rights-of-Way

The purpose of this provision is to provide guidelines for the development of back land with access to ponds, streams, and rivers in Orange.

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

1. Waterfront Area:

The minimum area of any waterfront lot shall not be less than one (1) acre; or 800 square feet per dwelling unit served; or 200 square feet per person in a group development, whichever is the greater.

2. Water Frontage:

Said lot shall have not less than 150 linear feet of shore frontage, with an additional 8 linear feet of shore frontage for each additional dwelling unit over 12 units; or for a group development, the provision of 2 linear feet per person for whom the facility is proposed.

3. Parking:

An area of 300 square feet for parking shall be reserved for each dwelling unit; or for each four persons in the case of a group development that is planned in excess of 1,000 feet from the waterfront property.

4. Toilets:

One toilet facility each for males and females shall be provided for each dwelling unit or fraction thereof planned, or for each 50 persons for who the facility is proposed in the case of a group development.

C. Accessory Dwelling Units:

1. Authority

This section is enacted in accordance with the provisions of RSA 674:71-73 and RSA 674:21

2. Purpose:

The purposes of the accessory dwelling unit ordinance are to:

- a. Increase the supply of affordable housing without the need for more infrastructure or further land development.
- b. Provide flexible housing options for residents and their families.
- c. Integrate affordable housing into the community with minimal negative impact.
- d. Provide elderly citizens with the opportunity to retain their homes and age in place.

3. Definition:

An “accessory dwelling unit” (ADU) means a residential living unit that is within or attached to a single family dwelling and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Every ADU shall be deemed a residence of workforce housing for purposes of satisfying the municipality’s obligation under RSA 674:59.

4. Conditional Use Permit Required:

Pursuant to RSA 674:21, the Planning Board is hereby authorized to grant a Conditional Use Permit to allow for accessory dwelling units in accordance with the restrictions and requirements of this section.

5. Criteria For Approval:

All of the following criteria must be met in order for the Planning Board to approve the construction of an accessory dwelling unit (ADU):

- a. A maximum of one (1) ADU may be permitted on property located in zoning districts that allow single family dwellings and must be located within or attached to the principal single family dwelling unit.
- b. An interior door shall be provided between the principal dwelling unit and the ADU
- c. All municipal regulations applicable to single family dwellings shall also apply to the combination of a principal dwelling unit and an ADU; including, but not limited to lot and building dimensional requirements and zoning setbacks.
- d. A minimum of two (2) parking spaces shall be provided for the accessory dwelling unit.
- e. The applicant for a conditional use permit shall demonstrate adequate provisions for water supply and sewage disposal for the accessory and primary dwelling units in accordance with RSA 485-A:38. Water and wastewater systems for the principal and accessory dwelling units may be combined or separate. NH Department of Environmental Services requirements for septic loading shall be met.
- f. Either the principal dwelling unit or the ADU must be owner occupied. The owner must demonstrate that one of the units is their principal place of residence. Both the primary dwelling unit and the ADU must remain in common ownership. Transfer of either dwelling unit to condominium ownership is not permitted.
- g. ADU’s shall maintain an aesthetic continuity with the principal dwelling unit.
- h. The maximum size of an ADU shall be no larger than one-third the size of the combined square footage of the living space in the principal dwelling unit and the proposed ADU; provided, however, that the Planning Board shall not restrict the area of the ADU to less than 750 square feet.
- i. The accessory dwelling unit shall not have more than two (2) bedrooms.
- j. No construction shall commence until an approved building permit has been obtained from the Town of Orange Board of Selectmen. An ADU shall be subject to the same building permit requirements, fire codes, and any other regulations and/or standards that apply to a primary dwelling.

6. Application Procedure for ADU:

Two (2) copies of a completed application (available from the Planning Board Secretary or Selectmen’s office) shall be submitted to the Planning Board Secretary no later than 21 days prior to the regularly scheduled meeting at which the applicant wishes to be heard, along with the required application fee and any necessary supporting documents. The Planning Board shall notify the applicant, subject land owner (if different), abutting property owners, and holders of conservation, preservation, or agricultural preservation restrictions by certified mail at least 10 days prior to the scheduled application review. The

applicant or a duly appointed agent shall appear at the meeting during which the application is reviewed. Upon a finding by the Planning Board that all of the required criteria have been met, the Planning Board Chair shall sign the approval block on the application and a signed copy shall be provided to the applicant for inclusion with their building permit application. Should the application be found to be incomplete, the Planning Board will advise the applicant on the additional items required and the review shall resume at a subsequent regular meeting of the Planning Board.

ARTICLE VI. NON-CONFORMING USES

All non-conforming properties in active use when this Ordinance is passed and adopted may continue in their present use.

If a use is discontinued or abandoned for one year, it shall thereafter conform to the regulations for the district and the non-conforming use may not thereafter be resumed without approval of the ZBA.

Any and all non-conforming property may be altered and expanded as the business and conditions warrant, providing, however, that any such expansion does not make any existing non-conforming structure a more non-conforming structure within the terms of the Ordinance and that all other standards of this Ordinance are met.

Non-conforming buildings which are destroyed by fire or other natural disaster may be rebuilt or replaced if the degree of non-conformity is not increased.

ARTICLE VII. USES ALLOWED BY SPECIAL EXCEPTION:

A. Certain non-permitted uses may be permitted in the Town of Orange by special exception by the ZBA depending upon the land use impact on the particular location and neighborhood, provided that the use will not create excessive traffic and that there be adequate parking and traffic provisions, that health standards be maintained, that there be no detriment to the neighborhood safety or property values, and that all standards and requirements under Articles IV and V are met.

(NO CHANGES TO TEXT OF PARAGRAPH, JUST MOVED FROM PREVIOUS LOCATION)

ARTICLE VIII. ZONING

A. Creation, Appointment and Jurisdiction

Within thirty (30) days after the adoption of this Ordinance and thereafter, as terms expire or vacancies occur, the Board of Selectmen shall appoint a Zoning Board of Adjustment (herein called "ZBA") consisting of five (5) members whose duties, terms and powers shall conform to the provisions of Chapter 673, N.H. Revised Statutes Annotated, 1983, as amended. Thereafter, as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership of the ZBA.

B. Hearings Before the ZBA

Any person seeking a Special Exception, Variance, or Appeal for the provisions herein shall be entitled to a hearing before the ZBA. The ZBA shall fix a reasonable time for a hearing no fewer than 21 days subsequent to the receipt of an application, and following the procedures outlined in NH RSA 676:7, give public notice thereof, as well as notice to the parties in interest, and to abutting land owners by verified mail as outlined therein; and decide the same within a reasonable time. At the time of the hearing, any party may appear in person or by agent or attorney.

An application on the form contained within these regulations as Appendix A, along with a cover letter describing the request and all pertinent supporting documents shall be submitted to the Chair or Secretary of the ZBA. The application shall be accompanied by an economic and environmental impact statement, and a drawing or plan. The names and addresses of abutters as listed in the assessors' records at the time of the application shall be supplied by the applicant. The standards of the plan, and requirement of any professional certifications shall be determined by the nature of the application and site, with the ZBA having the authority to dictate the necessity of such requirements. The applicant shall pay the total costs of posting and advertising any hearings, the cost of certified mailings, and any necessary site inspection fees.

NOTE: Electronic (PDF) application submissions are encouraged but not required

C. Special Exceptions

The ZBA may, in appropriate cases and subject to appropriate conditions and safeguards, grant a permit for a special exception. Before granting a permit, the Board shall determine that all the provisions set forth in Articles IV and V are met and shall hold an abutters hearing to hear any valid objection based on demonstrable fact. The Board, in acting on an application for a special exception, shall take into consideration, but not be limited to, the following conditions:

1. The specific site is an appropriate location for such use.
2. That property values in the District will not be reduced by such a use.
3. There will be no nuisance or serious hazard to persons, vehicles, homes, buildings, or property.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The proposed use shall comply with the minimum land space requirements set forth for this District, and as set forth in the General and Special provisions of the Ordinance.
6. The capacity of existing roads and highways to carry additional traffic.

The ZBA may impose additional special standards in granting a special exception where deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole. These standards may include, but are not limited to:

1. Increasing the required lot size or yard dimensions in order to protect the adjacent properties.
2. Limiting the lot coverage or height of buildings or structures because of obstructions to view and reduction of sunlight and air to adjacent properties.
3. Controlling the location and number of vehicular access points to the property.

4. Limiting the number, location and size of signs on-site.
5. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
6. Providing for specific layout of facilities on the property such as location of the building so as to minimize effect on adjoining property.
7. Requiring an impact study to insure that there will be no unreasonable demands imposed on the town to provide significant additional services such as police and fire protection, garbage removal, road repair and maintenance, and school transportation for students.

D. Variances

1. The ZBA may, on an appeal, grant a variance from the provisions of this Ordinance only where the Board finds that all of the following conditions apply:
 - (a) There are special circumstances or conditions applying to the lot or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the lot or structure in question, or exceptional topographical conditions), which are peculiar to such lot or structure, and the application of the requirements of this Ordinance will deprive an owner of such lot or structure a reasonable use of it, and will impose upon such owner a hardship not shared by the owners of other lots or structures in the same district. (Financial hardship does not constitute "hardship" in this case.)
 - (b) The specific variance, if granted, represents the minimum variance that will afford reasonable relief to the owner and is necessary for a reasonable use of the lot or structure.
 - (c) The granting of the variance will be in harmony with the general purposes and intent of this Ordinance, and with the convenience, welfare, and character of the District within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.
 - (d) For a dimensional variance, the associated ~~The~~ use proposed is a permitted use, as described under Article III.

E. Appeals

Appeals to the ZBA may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer, in the manner prescribed by RSA Chapters 672-677, as amended, within the time limit set by the ZBA according to said statute. The cost of advertising and .costs of mailing the notices of a hearing shall be paid by the person making the appeal prior to the hearing.

ARTICLE VIII IX. ADMINISTRATION AND ENFORCEMENT

A. Administration

The Board of Selectmen or Building Inspector is hereby given the power and authority to enforce the provisions of this Ordinance and control issuance of building permits required under the regulations set forth.

B. Issuing Permits

The Board of Selectmen shall issue any and all building permits required in accordance with the Town of Orange Building Regulations. No permit shall be issued for the erection of any structure and the use of land unless the proposal complies with the provisions of this Ordinance.

C. Enforcement

Upon receiving any credible information that this Ordinance is being violated, and upon an affirmative vote that a violation more probably is being committed, the Selectmen are authorized hereby to enforce the provisions of this Ordinance by application for appropriate relief in the Superior Court, or by taking any other legal action.

Any violation of any provision of this Ordinance by any person, firm, corporation or other legal entity, whether the owner of property or whether acting under authority of such owner, shall be a violation pursuant to the Criminal Code of New Hampshire for each day of such offense. In addition, after conviction, the additional penalties provided for by R.S.A. 676:19 may apply. -

ARTICLE IX. MISCELLANEOUS PROVISIONS

A. Saving Clause

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

B. Effective Date

This Ordinance shall take effect immediately upon its adoption.

C. Amendments

This Ordinance may be amended by majority vote of any Town Meeting, in accordance with the provision of RSA 675, as amended.

D. Validity

Whenever the provisions of this Ordinance or rulings made under the authority hereof differ from those of other ordinance or regulations of the town, that provision or ruling which imposes greater restriction or higher standard shall govern.

ARTICLE X. DEFINITIONS

For the purpose of this Ordinance, the following terms have the following meaning:

Abutter - Means any person whose property adjoins or is directly across the street or stream from the land under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

Accessory Building - A subordinate building incidental to and on the same lot occupied by the main building or use. The term "accessory building", when used in connection with a farm, shall include all buildings customarily used for farm purposes.

Building - Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals or property.

Cluster Development - Means a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

Dwelling Unit - One room, or rooms connected together, constituting a separate independent 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, sanitary and sleeping facilities. It shall include sectional homes, modular units, and mobile homes, provided these units meet the standards of the local building code. Rooms or rental units in motels, hotels, lodging houses, or similar structures shall not be considered dwelling units; however owners and/or caretaker quarters shall be considered dwelling units.

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 or permitted.

Dwelling, Single Family - A detached residential building or manufactured housing, 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. Mobile homes shall not be used as two family dwellings.

Forestry - The growth and harvesting of forest products excluding clear cutting. This does not include processing activities such as sawmills and assembly yards

Frontage – The distance measured along a lot's common boundary with the street right-of-way line or along the edge of the body of water as applicable. When a lot has more than one street line or water body, lot frontage shall be measured, and the minimum lot frontage required by the ordinance shall be provided at each such line.

Group Development - The residence of a group of six (6) or more persons, not related by blood, marriage, adoption, or guardianship and living together as a single unit.

Home Business - Any use of a professional or service character that is customarily carried out in the home or may be appropriate in the future (physician, dentist, lawyer, engineer, hairdresser, dressmaker, etc.) and conducted within the dwelling by the residents thereof and does not employ more than two persons other than family members, which is clearly secondary to the dwelling use for living purposes and does not change the character thereof.

Junk Yard - Shall mean any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended

to be a part, of any motor vehicle, the sum of which parts or materials shall be equal in bulk to two or more motor vehicles. Junk yard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof.

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

Lot Width – The width of a lot measured from a point on one sideline as pertinent to the applicable purpose, perpendicular to the opposite sideline.

Mobile Home - A detached complete transportable structure built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, including plumbing, heating and electrical systems contained therein. Sectional homes, modular homes and prefabricated homes are excepted and do not apply.

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

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 carried on or located.

Parking Space - An off-street space available for the parking of one motor vehicle.

Satellite Dish Antenna System - A structure for private, non-commercial, residential reception that must meet the front, side and rear yard setback requirements and the height limitation requirements of Article IV, Sections C and D.

Special Exception - A use of a building or lot which may be permitted under this Ordinance only upon application to the **ZBA** and subject to the approval of that Board when such use would not be detrimental to the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare and only in case where the words "Special Exception" in this Ordinance pertain.

Steep Slopes - Land area where the inclination of the land's surface from the horizontal is fifteen (15) percent or greater. Slope is measured and expressed as a percentage that represents the relationship between elevation and horizontal distance; for example, if the land rises 10 feet in elevation over a horizontal distance of 100 feet, the slope of the land is 10/100, or 10 percent.

Street or Public Street - A public right-of-way which the town or state has the duty to maintain regularly or a right-of-way shown on a subdivision plat approved by the Planning Board and recorded with the County Register of Deeds which provides the principal means of access to abutting property.

Structure - Anything constructed or erected, including signs, the use of which requires location on the ground or attachment to something having location on the ground. It shall not include a minor installation, such as a fence less than six (6) feet high, mailbox or flagpole.

Variance - A relaxation of the terms of this Ordinance, where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of this Ordinance would result in unnecessary and undue hardship.

Wetland - Shall mean an area of one-quarter (. 25) acre or more where standing water is retained for a portion

of the year and unique vegetation has adapted to the area. Wetlands include very poorly and poorly drained soils and all areas designated as swamps, marshes and bogs by the U.S. Department of Agriculture, Grafton County Soil Conservation Service.

ARTICLE XI SHORE LAND OVERLAY DISTRICT

A. Authority and Purpose:

All lakes, ponds and streams are essentially fragile. In order to protect lakes, ponds and streams, actual use of lots bordering lakes, ponds and streams is being limited through the establishment of a Shore Land Overlay District.

Most of the land immediately adjacent to New Hampshire's lakes, ponds and streams is overlaid by soil types characterized by above average erosion and drainage hazards. These lands require conservation and land management practices which minimize environmental and aesthetic degradation.

The Town of Orange hereby adopts this Shore Land Overlay District and accompanying regulations in order to:

1. Protect, maintain and enhance the water quality of the lakes, ponds and streams;
2. Conserve and protect aquatic and terrestrial habitat associated with lake and pond areas and streams;
3. Preserve and enhance those recreational and aesthetic values associated with the natural shore land and environment adjacent to lakes, ponds and streams;
4. Encourage those uses that can be appropriately located adjacent to lakes, ponds and streams; and
5. Protect and promote public health, resource conservation, and the general welfare.

This Ordinance is authorized by RSA 674:21 G), Innovative Land Use Controls, Environmental Characteristics Zoning.

B. Shore Land Overlay District Boundaries: The Shore Land Overlay District extends to a line 250 feet inland:

1. From the normal high water level on all of the following lakes and ponds:
Orange Pond, Derby Pond and Mirror Lake.
2. From the ordinary high water mark of the following permanent streams:
Orange Brook, #7 Brook, Brown Brook, South Branch of the Baker River, Mill Brook, Atwell Brook, and their tributaries as shown on the "Shore Land Overlay District Map: Protected Ponds & Streams, Orange, NH" dated August, 2005.

The locations of these protected lakes, ponds and streams are shown on the "Shore Land Overlay District Map: Protected Ponds & Streams, Orange, NH" on file in the Orange Town Office. This map shall be used as the official map to identify the geographic boundaries of the lakes, ponds and streams included in the Shore Land Overlay District.

C. **Natural Shore Land Buffer:** A buffer of natural vegetation shall be maintained adjacent to lakes, ponds and streams. No development shall be permitted within the natural vegetative buffer. The intent is to retain a well distributed mix of trees, shrubs and groundcover adjacent to lakes, ponds and streams in order to protect water quality, preserve the aesthetic quality of the shore land, control erosion, maintain water temperatures and preserve aquatic habitat in streams. Natural vegetated buffers shall be maintained as follows:

1. A minimum of 150 feet inland from the normal high water level of lakes and ponds; and
2. A minimum of 100 feet inland from the ordinary high water mark of streams.
3. **Cutting and Removal of Natural Vegetation:** Before any cutting of natural vegetation takes place within a natural shore land buffer, a cutting or clearing plan shall be approved by the Planning Board for any cutting of trees or removal of natural vegetation within the natural buffers outlined above. The preservation of natural vegetation on the shore land is important for the reasons cited above. The Planning Board shall use these reasons as a guideline in reviewing requests for cutting natural vegetation within natural shore land buffers.

D. **Permitted Uses:** The following uses are permitted provided that they shall be conducted according to applicable provisions:

1. Docks constructed entirely over a body of water are permitted subject to required state permits and standards.
2. Single family residence and accessory structures and uses provided that all buildings and structures shall be set back a minimum of 150 feet from the normal high water level of protected lakes and ponds and 100 feet from the ordinary high water mark of protected streams and constructed in accordance with the erosion control requirements of Section F. No development shall be permitted within the vegetative buffer 150 feet from the normal high water level of lakes and ponds and 100 feet from the ordinary high water mark of protected streams, except stairways and walkways with a maximum width of 4 feet are permitted provided adequate soil erosion control measures are implemented as outlined in Section G.
3. Subsurface sewage disposal facilities provided that they shall be set back a minimum of 150 feet from the normal high water level of protected lakes and ponds and 100 feet from the ordinary high water mark of protected streams.

E. **General Provisions:**

1. The traveled portion of a road shall be set back a minimum of 150 feet from normal high water level of protected lakes and ponds and 100 feet from the ordinary high water mark of protected streams except for bridges and bridge approaches and access ways for fire fighting equipment and boat launching. All new roads shall be constructed in accordance with an erosion and sediment control plan approved by the Planning Board as part of the final subdivision application and approval.
2. Construction of a new beach or expansion of an existing beach is not permitted.
3. Lots within the Shore Land Overlay District shall not be used as common areas for waterfront access or for the purpose of granting deeded rights or access to residents of multiple units and/or non-waterfront properties, regardless of the location of such properties, except as provided herein and subject to Planning Board approval. For the purpose of this section, the

term "common area" shall mean an area used by a group of 3 or more unrelated persons or by an association, club or organization consisting of 3 or more members.

4. Rights to gain access to a water body by or through a shore land lot shall not be created or attached to any real estate except in accordance with the standards set forth below and subject to Planning Board approval.

F. **Specific Provisions for Residential Development with Waterfront Access:** All residential development with shore frontage or rights of access to shore frontage shall meet the following minimum requirements:

1. Each dwelling unit with direct water access and whose shore frontage is part of the lot dimension shall have a minimum shore frontage of 200 feet.
2. Lots within the Shore Land Overlay District used as common waterfront areas or for the purpose of waterfront access shall meet the following minimum criteria:
 - a. The shore front common area shall contain a minimum of 2 acres.
 - b. The shore front common area shall have a minimum of 200 feet of shore frontage for the first dwelling unit or member having a right of use, and an additional 50 feet of shore frontage for each additional dwelling unit or member.
 - c. No building shall be permitted other than toilet and changing facilities.
 - d. No more than 25 percent of the total shore frontage may be dedicated to docks or other structures designed to accommodate boating. All docks require a permit from the New Hampshire Wetlands Board. Applications for dock permits shall be reviewed by the Planning Board. In making its recommendations to the Wetlands Board, the Planning Board shall consider the size and depth of the water area, the total shore frontage proposed for the common area, boat traffic already existing in the area, impact on neighboring property owners, protection of water quality, wildlife habitat, and public safety.
 - e. One off-street parking space (300 square feet) shall be provided for each dwelling unit situated more than 1/4 mile from the shore front common area. Parking areas shall be set back a minimum of 75 feet from normal high water. A buffer of natural vegetation shall be maintained between the beach and/or docking area and the parking area to screen the parking area from the lake and to enhance erosion control. The buffer may include facilities permitted within the shore front area.
 - f. Toilet facilities, approved by the New Hampshire Department of Environmental Services, shall be provided.
3. Any use of a common area or area of access for business or commercial purposes shall be prohibited.

G. **Erosion Control:**

1. Construction:
 - a) Erosion and sedimentation control plans shall be required for all construction, filling, grading, dredging, and other activities requiring land disturbance within the first 150 feet of

the normal high water level of protected lakes and ponds and within 100 feet from the ordinary high water mark of protected streams within the Shore Land Overlay District in conjunction with permitted activities such as the construction of stairways, walkways and docks.

- b) Erosion and sedimentation control plans shall be required for construction, filling, grading, dredging, and other activities disturbing an area of more than 2,500 square feet which is located beyond the first 150 feet from normal high water level of protected lakes and ponds and beyond the first 100 feet from the ordinary high water mark of protected streams within the Shore Land Overlay District.
- c) Erosion and sedimentation control plans shall describe the nature and purpose of the land disturbing activity; the amount of grading involved; and a description of the soils, topography, vegetation, and drainage. For minor land disturbances such as utility line or stairway construction, the Board of Selectmen may reduce the amount of detail needed in an erosion control plan. The Board of Selectmen shall review and decide to approve or deny all plans before issuing a Building permit, and may require the applicant to post a bond or other security to assure conformance with approved plans. The security shall not be released until the Board of Selectmen has certified completion of the required improvements in accordance with the plan. The Board of Selectmen shall request the Planning Board to review the plan and make recommendations.
- d) Erosion and sedimentation control plans shall be developed in conformity with guidelines of the U.S.D.A. Natural Resources Conservation Service and with guidelines of the N.H. Department of Environmental Services under RSA 485-A:17. Erosion control measures shall be installed before construction and grading.

H. Overlapping Regulations: In all cases where the Shore Land Overlay District is superimposed over another zoning district in the Town of Orange, that district whose regulations are more restrictive shall apply. Furthermore, where any provision of this district differs from those of other ordinances or regulations of the Town or State, then that provision or ruling which imposes the greater restriction or higher standard shall govern.

In the case where wetlands border a protected lake, pond or stream shown on the "Shore Land Overlay District Map: Protected Ponds & Streams, Orange, NH", the more stringent buffer requirement shall prevail.

I. Additional Definitions for Article XI:

~~Add definitions of the following terms in **ARTICLE X. DEFINITIONS:**~~

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

Natural Shore Land Buffer: A forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

Normal High Water Level: The limit of flowage rights in a regulated water body. For lakes where dams are owned by the New Hampshire Water Resources Board, information on the level of flowage rights is available from the Board. In an unregulated water body, Normal High Water is the high water level experienced in an

average year.

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

Overlay District - An area which is subject to special, additional regulations to protect a natural resource. An Overlay District is superimposed over the underlying use district(s). The special regulations of an Overlay District are in addition to the regulations of the underlying use district(s). Uses permitted in the underlying use district may be prohibited or require a Special Exception subject to conditions of the Overlay District. In case of conflict between the Overlay District and the underlying use district, the more restrictive shall apply.

Shore Frontage: The actual shoreline footage measured at the Normal High Water line.

Waterfront Access: Shore frontage on or access to a lake, pond or stream.

ARTICLE XII. WETLANDS CONSERVATION OVERLAY DISTRICT

A. Purpose

Wetlands are extremely important to the Town as they provide areas for floodwater storage, wildlife habitat and groundwater recharge. It is intended that this Overlay District shall:

1. Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and groundwater by sewage or toxic substances;
2. Prevent the destruction of or significant changes to natural wetlands which provide flood protection;
3. Protect unique and unusual natural areas;
4. Protect wildlife habitats and maintain ecological balances;
5. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
6. Prevent expenditure of municipal funds for the purpose of providing and/or maintaining essential service and utilities which might be required as a result of misuse or abuse of wetlands;
7. Encourage those low intensity uses that can be harmoniously, appropriately and safely located in wetlands.

B. Overlay District Regulations

The special regulations of this overlay district are in addition to the regulations of the underlying zoning district .

C. Wetlands Conservation Overlay District Boundaries

The Wetlands Conservation Overlay District is an overlay district which places additional land use controls to those existing underlying zoning districts. The boundaries of the Wetlands Conservation Overlay District include all wetlands greater than 10,000 square feet in size and wetland buffer areas described as follows:

1. Wetlands, as defined herein, which include, but are not limited to, swamps, marshes and bogs.
2. Any designated prime wetland.
3. The 100 foot wide wetland buffer as specified in Paragraph D. Wetland Buffers.

If there is a disagreement concerning the validity of the boundaries of a wetland, the Planning Board may have a certified wetland scientist examine the area and report the findings for the Board's determination of the boundary. Costs for such a survey will be borne by the landowner or developer.

As a general guide, the wetlands to be protected by this Ordinance are delineated on the Orange Wetlands Conservation Overlay District Map dated August, 2005. This map is available for viewing in the Office of the Board of Selectmen. The wetlands delineated on the Orange Wetlands Conservation Overlay District Map dated August, 2005 are based on the National Wetlands Inventory Maps of Wetlands. This map shows the general location of wetlands as defined by this Ordinance, but does not necessarily show all wetlands to be protected by this Ordinance. The boundary of a wetland on a specific site must be delineated by a certified wetland scientist.

D. Wetland Buffers

Wetland buffers are areas that are designed to remain vegetated in an undisturbed and natural condition to protect adjacent wetland functions and values from upland impacts, including protection of water quality, and to provide habitat for wildlife. Unless otherwise specified, wetland buffers shall be retained in their natural condition. Where wetland buffer disturbance has occurred during construction, revegetation may be required. All wetland buffers are measured from the jurisdictional wetland boundary as delineated by a certified wetland scientist.

The minimum width of the wetland buffers shall be 100 feet.

E. Overlapping Regulations

In all cases where the Wetlands Conservation Overlay District is superimposed over another zoning district in the Town of Orange, that district whose regulations are more restrictive shall apply. Furthermore, where any provision of this district differs from those of other ordinances or regulations of the Town or State, then that provision or ruling which imposes the greater restriction or higher standard shall govern. In the case where wetlands border a protected lake, pond or stream shown on the "Shore Land Overlay District Map: Protected Ponds & Streams, Orange, NH", the more stringent buffer requirement shall prevail.

F. Permitted Uses

Development is not permitted in the Wetlands Conservation Overlay District including the wetland buffer specified in paragraph D. above. Permitted uses are those which will not require the erection or construction of any structures or buildings; will not alter the natural surface configuration by addition of fill or by dredging; and uses that are otherwise permitted by the Zoning Ordinance. Such uses include the following:

1. Forestry-Tree farming using best management practices in order to protect wetlands from damage and prevent sedimentation;
2. Cultivation and harvesting of crops according to recognized soil conservation practices including the protection of the wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation;
3. Wildlife refuges;
4. Parks and outdoor recreation uses consistent with the purpose and intent of this Ordinance;
5. Conservation areas and nature trails;
6. Open Spaces as permitted or required by the Subdivision Regulations or the Zoning Ordinance;
7. Dry hydrants or fire ponds which are constructed to permit unobstructed flow of water;
8. Alteration, expansion or improvement of existing nonconforming structures and buildings, consistent with the provisions of Article VI of this Ordinance, and with cutting, clearing and erosion control plans approved by the Planning Board; and
9. Docks, breakwaters, moorings, beach maintenance and wells as permitted by the N .H. Wetlands Board.

G. Prohibited Uses

Uses prohibited within the Wetlands Conservation Overlay District include, but are not limited to, the following:

1. The establishment or expansion of salt storage sheds, automobile junk yards, solid waste facilities, or hazardous waste facilities.
2. The bulk storage of chemicals, petroleum products, toxic or hazardous materials.
3. The dumping or disposal of snow or ice collected from roadways and parking areas located outside the Overlay District.

H. Special Exceptions To Wetland Overlay District

1. Water impoundments which do not substantially alter non-stream wetlands and subject to approval of wetland permits by the New Hampshire Wetland Board, if required;
2. Road, driveway and utility right of way or easement crossings only if there is no feasible alternative location and subject to approval of wetland permits by the New Hampshire Wetland Board, if required;
3. A reduction of the width of a wetland buffer.
4. Any development of wetlands shall require approval of a Special Exception by the Zoning ZBA. In

addition to the usual criteria used by the ZBA in evaluating an application for a special exception, the applicant must demonstrate to the ZBA that there is no other reasonable alternative to avoid the wetlands and that the proposed development would create the least impact on the wetlands compared with other alternatives. Any development of Wetlands which may be permitted following the appropriate public hearing for a Special Exception shall be offset by the builder/developer through creation of new wetlands equal in area to those sections being developed. The creation of new wetlands shall be on the same site and within the same surface drainage subwatershed as where the wetlands are proposed to be developed. Location of the replacement wetlands may be permitted on another site within the same surface water subwatershed if it can be demonstrated by a wetlands study that the functions performed by the wetland on the site in question can be performed by the proposed off-site replacement wetlands. Any proposal to develop and replace wetlands shall be accompanied by a wetlands study performed by a certified wetland scientist. The Planning Board shall be afforded the opportunity to review and comment on the proposal to the ZBA as part of their deliberations on the application for a Special Exception. Any development and/or replacement of wetlands shall be subject to approval of wetland permits by the New Hampshire Wetland Board, if required.

5. Alteration or Relocation of a Watercourse

- a) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Department of Environmental Services and submit copies of such notification to the ZBA, in addition to the copies required by the RSA 483-A: 1-b. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the ZBA, including notice of all scheduled hearings before the Wetlands Board and the ZBA.
- b) The applicant shall submit to the ZBA certification provided by a registered professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- c) The ZBA shall obtain, review, and reasonably utilize any floodway data available from Federal, State or other sources as criteria for requiring that all development located in Zones A and AE meet the following floodway requirement: "No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."
- d) Along watercourses that have not had a regulatory floodway designated or determined by a federal, state or other source: no new construction, substantial improvements, or other development (including fill) shall be permitted within zones AE on the FIRM, unless it can be demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

I. Restoration

Any Wetland altered in violation of this Ordinance shall be restored at the expense of the offender.

J. Effect on Minimum Lot Size

If part of a lot lies within the Wetlands Conservation Overlay District, zero percent (0%) of that land shall be counted in the calculation of minimum lot size. Setbacks from wetlands shall count 100% toward the calculation of minimum lot size. Minimum lot size shall be calculated by deducting 100% of the area in wetlands to result in the lot area counting towards the minimum lot size, presuming that there are no other site constraints such as steep slopes, and this area must meet the minimum lot size requirement

of the underlying zoning district in which it is located.

For example, the lot area counting towards the minimum lot size is calculated as follows for a 5.5 acre parcel containing 2.5 acres of wetlands, 2 acres in the setback from wetlands and 1 acre not in wetland:

- 2.5 acres of wetlands (0% of 2.5 ac.) = 0 acres
 - 2 acres in wetland setbacks (100% of 2 ac.) = 2 acres
 - Area not in wetlands or setbacks from the wetlands = + 1 acre
 - Lot area counting towards the minimum lot size = 3 acres
-

~~Add or replace definitions of the following terms in~~

K. Additional Definitions for Article XII:

Bog - Bog means a wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil and/or water conditions.

Certified Wetland Scientist - Certified wetland scientist means a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience as specified by RSA 310-A: 84, II-a and II-b, is qualified to delineate wetland boundaries and prepare wetland maps in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or its successor, and who has been duly certified by the New Hampshire Board of Certification for Natural Scientists.

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

Marsh - Marsh means a wetland that is distinguished by the absence of trees and shrubs; is dominated by soft-stemmed herbaceous plants such as grasses, reeds, and sedges; and where the water table is at or above the surface throughout the year, but can fluctuate seasonally.

Overlay District - An area which is subject to special, additional regulations to protect a natural resource. An Overlay District is superimposed over the underlying use district(s). The special regulations of an Overlay District are in addition to the regulations of the underlying use district(s). Uses permitted in the underlying use district may be prohibited or require a Special Exception subject to conditions of the Overlay District. In case of conflict between the Overlay District and the underlying use district, the more restrictive shall apply.

Sapling - Any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4 Y2 feet above the ground.

Shrub - Any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

Swamp - Swamp means a wetland that is dominated by trees and shrubs.

Tree - Any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4 Y2 feet above the ground.

Wetland - Wetland means "wetlands", as defined by RSA 482-A:2,X, namely an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support ,and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions." Wetlands include swamps, marshes, bogs and similar areas. See the specific definitions for bog, marsh and swamp.

ARTICLE XIII AQUIFER PROTECTION OVERLAY DISTRICT

A. AUTHORITY AND PURPOSE

Pursuant to the authority granted under RSA 674:16 and 674:21, the Town of Orange hereby adopts this Aquifer Protection Overlay District Ordinance. The purpose of this ordinance is, in the interest of public health, safety, and general welfare, to protect, preserve, and maintain exiting and potential groundwater sources of drinking water and groundwater recharge areas within known aquifers from the potential adverse impacts associated with inappropriate land uses.

B. DISTRICT DEFINED

The Aquifer Protection Overlay District shall encompass those areas which have been designated as having potential for use as a groundwater supply of drinking water as shown on the "Orange Aquifer Protection Overlay District Map" dated August, 2005 which is on file at the Town Office.

The Orange Aquifer Protection Overlay District Map is hereby adopted by reference as a zoning overlay district within which additional standards apply to the underlying zoning classification. In all cases where the standards for this district conflict with those of the underlying district, the more restrictive requirement(s) shall apply.

C. SITE SPECIFIC VERIFICATION OF DISTRICT BOUNDARY

When the actual boundary of the Aquifer Protection Overlay District is disputed by any owner or abutter affected by said boundary, the **ZBA**, at the owner/abutter's expense and request, may engage the services of a professional hydrogeologist to determine more accurately the precise boundary of said District. The **ZBA** may adjust the boundary or area designation based thereon. The **ZBA** shall have the authority to make the final determination as to the location of a disputed boundary.

D. PERMITTED USES

Any use not included in Section E. as a Prohibited Use or Section F. as a use allowed by Special Exception is permitted if allowed in the underlying zoning district.

E. PROHIBITED USES AND ACTIVITIES

The following uses shall not be permitted within the Aquifer Protection Overlay District:

- Any principal use involving the production, sale, storage, or transportation of fuel oil, gasoline, or other regulated substances

- Car washes
- Disposal, processing, or recycling of regulated substances Septage lagoons
- Snow dumps
- Solid waste facilities
- Storage of road salt or other de-icing chemicals
- Subsurface wastewater disposal systems other than domestic wastewater and groundwater remediation systems Transportation terminals
- Underground storage of fuel or other regulated substances Vehicle service and repair shops

F. SPECIAL EXCEPTIONS TO AQUIFER PROTECTION OVERLAY DISTRICT

1. Special Exception Required. The following uses are presumed to pose a significant threat to the aquifer and shall not be permitted unless the ZBA grants a special exception based on a written finding of fact that the proposed use will meet the purpose of this ordinance as well as all of the specific criteria listed in Section F .3. below. In making such a determination, the ZBA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed. (The use must also be allowed in the underlying zoning district.)

- Cleaning services
- Commercial agriculture and related activities Excavations
- Food processing facilities
- General service and repair shops
- Laboratories and professional offices
- Manufacturing facilities
- Metal working shops
- Any use rendering impervious more than 20% of the lot area
- Any other use which is not listed above or in Section E. Prohibited Uses and Activities, but which normally involves the manufacture, use, handling, storage, or generation of regulated substances in quantities greater than those associated with normal household use.

2. Submittals. In applying for a special exception under this section, the information listed below shall be submitted:

- a. A complete list of all chemicals, pesticides, fuels, and other potentially regulated substances to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect all storage containers/facilities from vandalism, corrosion, and leakage, and to provide for control of spills.
- b. A description of regulated substances to be generated, indicating storage and disposal methods.
- c. A sketch map showing proposed location of regulated substances.
- d. Evidence of approval by the NH Department of Environmental Services of any industrial waste treatment or on-site disposal system.
- e. For uses rendering impervious more than 20% of the lot area, a drainage plan including details of all proposed drainage facilities, both on-site and off-site, where applicable.

- f. Maintenance schedule for all grease traps, containment vessels, and other pollution prevention devices used to handle hazardous materials on site.
 - g. The ZBA may require the applicant to submit other information it deems necessary to judge the potential damage to the aquifer that may result from the proposed use. The ZBA may also engage a qualified professional consultant, mutually agreed upon by the Board and applicant, to prepare an environmental impact report. The cost of obtaining any such additional information shall be paid by the applicant.
3. Specific Criteria for Approval of a Special Exception. Prior to granting a special exception, the ZBA must find that all of the following are true:
- a. The proposed use will not have a detrimental effect on the quality of the groundwater contained in the aquifer by directly contributing to pollution, i.e. by causing an increase in any current ambient water quality parameter, or by increasing the long-term susceptibility of the aquifer to potential pollutants.
 - b. Any discharge to groundwater shall be permitted in accordance with NH Code of Administrative Rules, Env-Ws 410.
 - c. The proposed use will not cause a significant reduction in the long-term volume of water recharge to the aquifer, or in the storage capacity of the aquifer.
 - d. Provision shall be made to protect against discharge or loss of regulated substances resulting from corrosion, accidental damage, spills, or vandalism through measures such as: spill control provision in the vicinity of chemical or fuel delivery points; secured storage areas for regulated substances; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of regulated substances into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.
 - e. Where the premises are partially outside of the Aquifer Protection Overlay District, potential pollution sources such as on-site waste disposal systems shall be located outside the District to the extent feasible.
 - f. For any regulated substances to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in compliance with all applicable state and federal laws and guidelines.
 - g. To the extent practical, all runoff from impervious surfaces shall be recharged on the site and diverted towards areas covered with vegetation for surface infiltration. Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants. If runoff must be discharged offsite, discharge shall be contained in the recharge area.
 - h. In the case of excavations, earth removal shall not be carried out within four (4) vertical feet of the seasonal high water table, nor shall the maintenance or refueling of vehicles be allowed on the site.
4. Review by Other Town Agencies. Upon receipt of the application for a special exception, the ZBA shall transmit one copy each to the Planning Board, Conservation Commission, and Health Officer, for their written recommendations. Failure to respond in writing within 30 days of submission by the ZBA shall indicate approval by said agencies. The necessary number of copies of the application shall be

furnished by the applicant. The ZBA shall explain any departures from the recommendations of the other town agencies in its decision.

G. NON-CONFORMING USES

Any non-conforming use may continue and may be maintained, repaired and improved, unless such use is determined to pose a direct hazard to the aquifer or is actually causing some foreign substance (oils, salts, chemicals, etc.) to be introduced into the aquifer. In the latter case, the Selectmen or their agent shall cause an immediate cease and desist order to be issued to stop the offending activity or process from continuing in the District.

H. Additional Definitions for Article XIII: DEFINITIONS ADD TO ARTICLE X. DEFINITIONS:

For the purpose of the Aquifer Protection Overlay District, the following terms shall have the meaning given herein:

Aquifer: Geologic formation composed of sand and gravel that contains significant amounts of potentially recoverable water.

Cleaning Services: and beauty salons.

Commercial Agricultural or Related Activities: Shall include those agricultural activities that generally involve the use of agricultural chemicals or stockpiling of manure, and where the product is for consumption by persons other than those domiciled onto the premises. Examples include but are not limited to golf courses, feed lots, kennels, livestock farms, nurseries, and sod farms.

Excavations: A land area used for the commercial taking of earth.

Food Processing: Shall include but not limited to meat packing and slaughterhouses, dairies, and processed food manufacture.

General Service and Repair Shops: Shall include but not be limited to furniture stripping, painting and refinishing, photographic processing, printing, appliance and small engine repair, refrigeration, heating, ventilating and air conditioning shops.

Hydrogeologist: A person who by education and experience is able to capably quantitatively analyze and interpret hydrogeology.

Impervious: Quality of any material or structure which substantially restricts the penetration of surface water or rainfall into the soil.

Laboratory and Professional Offices: Shall include but not be limited to medical, dental, and veterinary offices, research and analytical laboratories.

Regulated Substance: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substances or mixture were discharged to land or water of the Town of Orange. Regulated substances include, without limitation, synthetic organic compounds, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis and all other substances defined as toxic or hazardous under NH Code of Administrative Rules Env-Wm 100-1000.

Shall include but not be limited to dry cleaners, Laundromats,

Solid Waste Facilities: Any principal use involving the processing, storage or disposal of solid waste. Solid waste facilities shall include but not be limited to junkyards, salvage yards, landfills, and transfer stations.

Solid Waste: Any discharge or abandoned material including refuse, putrescible material, septage, or sludge as defined by New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid, or certain gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.

Vehicle Service and Repair Shops: Shall include but not be limited to automobile, truck, boat, or aircraft service or repair shops.