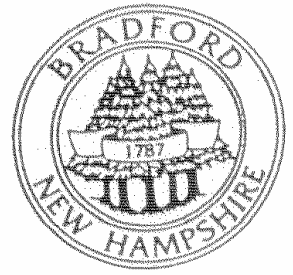


# **TOWN OF BRADFORD**

**NEW HAMPSHIRE 03221**



## **TOWN OF BRADFORD**

### **ZONING ORDINANCE**

ENACTED 1989

AMENDED 1990, 1991, 1992, 1993, 1994, 1996, 1997, 2001,  
2002, 2003

Underlined indicates revised with most recent update

# **Bradford Zoning Ordinance**

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# Bradford Zoning Ordinance

## SECTION 1

### ORDINANCE AND REGULATION DATES

	DATE OF ADOPTION	DATE OF AMENDMENT
<b>Bradford Master Plan</b>	1987	December 23, 1997
<b>Regulation or Ordinance</b>		
<b>Zoning Ordinance</b>	March 14, 1989	March 13, 1990 March 12, 1991 March 10, 1992 March 09, 1993 March 08, 1994 March 12, 1996 March 1997 March 14, 2001 March 14, 2002 March 11, 2003
<b>Wetlands Ordinance</b>	March 14, 1989	
<b>(Incorporated into Zoning Ordinance April 2002)</b>		
<b>Floodplain Ordinance</b>	RSA 674:16	March 8, 1988 March 10, 1992 March 09, 1993 March 08, 1994
<b>(Incorporated into Zoning Ordinance April 2002)</b>		
<b>Subdivision Regulations</b>	February 1, 1981	September 9, 1986 January 9, 1990 January 1994 January 1996 January 2001 January 2002
<b>Site Plan Regulations</b>	June 13, 1989	March 1994 January 1996 January 2002
<b>Sewage and Sludge</b>	September 1996	
<b>Telecommunications Facility Ordinance</b>	March 14, 2001	March 14, 2002
<b>(Incorporated into Zoning Ordinance April 2002)</b>		

# Bradford Zoning Ordinance

## **BOCA National Building Code**

March 11, 1987

## **Junk Yards**

RSA 236-111-129

## **Gravel Pits**

RSA 155E

**State of NH Regulations:** Adopted June 13, 1989

1994

1996

Energy Code

RSA 155-D

BOCA Plumbing Code

RSA 329-A

Sewerage Disposal Systems

RSA 485-A:29-44

Fill & Dredge in Wetlands

RSA 482-A:1-15

Protective Well Radii

RSA 485:35-a

Life Safety Code

RSA 153:4

Shoreline Protective Act

RSA 483-B:17

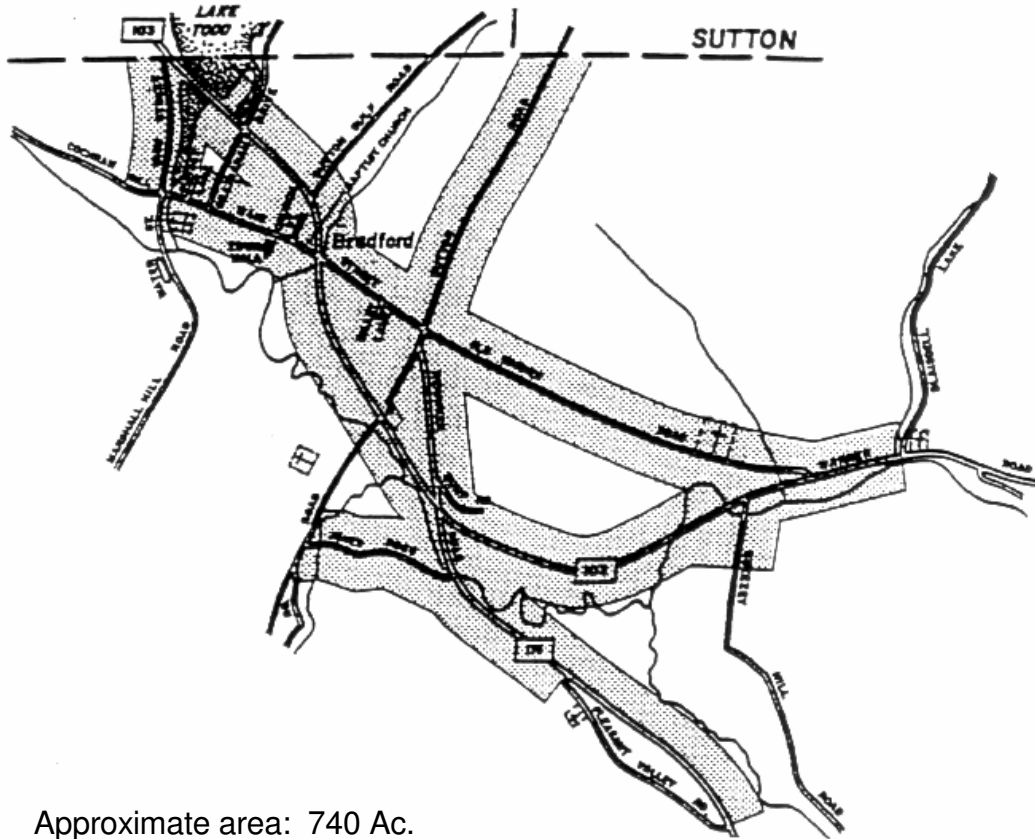
(Adoptive Env-WS 140)

Nov. 20, 1996

# Bradford Zoning Ordinance

## Section 2 SUMMARY OF ZONING REGULATIONS

### A. Residential Business District - Summary

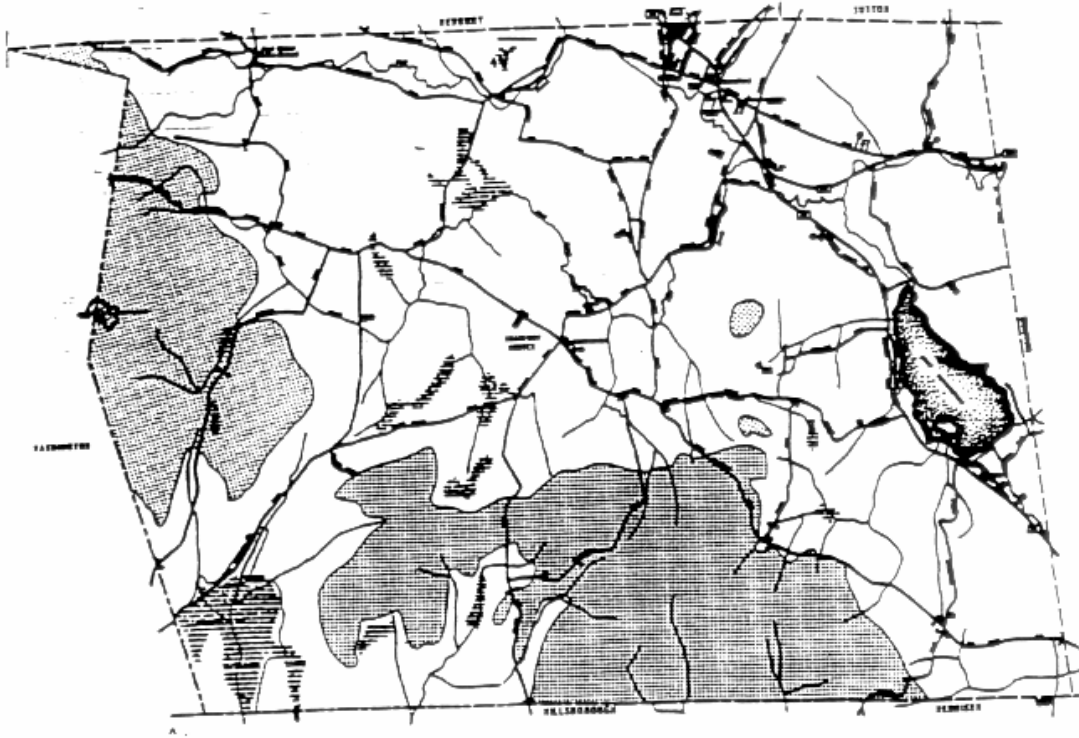


Approximate area: 740 Ac.  
% of Total area: 3.1%

1. One dwelling or business unit per 2 acres.
2. Each lot to have a minimum contiguous frontage of 250 feet.
3. Sufficient off-street parking to be provided.
4. A larger lot is required where topography, soil, or adequate sewage area requires such.
5. Location of dwelling or business unit:
  - a) Minimum of 50 feet from the edge of the right of way of an accepted public road or 75 feet from the center of an accepted public road, whichever is greater.
  - b) Minimum of 30 feet from abutters' property lines.
6. Maximum height of any building to be 35 feet.

# Bradford Zoning Ordinance

## B. Conservation District - Summary



Approximate area: 5950 Ac.

% of Total area: 25.4%

1. This district contains all land within the town boundaries which is above 1200 feet in elevation.
2. This land is valuable for its open spaces, forest resources, recreational opportunities, and scenery. This district is generally not well suited for development due to its slope, soils conditions and inaccessibility. Based on the merits of site specific conditions, development is allowed for dwelling units, forestry, and agriculture.
3. Each lot shall be a minimum of 5 acres.
4. Each lot to have a minimum contiguous frontage of 400 feet.
5. Off street parking to be provided.
6. Location of dwelling unit:
  - a) Minimum of 50 feet from the edge of the right of way of an accepted public road or 75 feet from the center, whichever is greater.
  - b) Minimum of 30 feet from abutters' property lines.
7. Maximum height of any building to be 35 feet.

# Bradford Zoning Ordinance

## C. Residential Rural District - Summary



Approximate area: 16,775 Ac.

% of Total area: 71.5%

1. One dwelling unit per 2 acres.
2. Each lot to have minimum contiguous frontage of 250 feet .
3. Off street parking to be provided.
4. Location of dwelling unit or other buildings:
  - a) Minimum of 50 feet from the edge of the right of way of an accepted public road or 75 feet from the center, whichever is greater.
  - b) Minimum of 30 feet from abutters' property lines.
5. Maximum height of any building to be 35 feet.

# Bradford Zoning Ordinance

## Section 3 ARTICLES

### I. Article 1 - GENERAL STATEMENT OF PURPOSE

In pursuance of the Laws of the State of New Hampshire (Title LXIV N.H. Statutes Annotated), in accordance with the intent of the current Bradford Master Plan and in order to protect and promote the general welfare of the Town by preserving its rural charm and natural resources and promoting open space and a strong business climate, the following Ordinance is enacted by the voters of the Town of Bradford, New Hampshire.

### II. Article II - DEFINITIONS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

A. **Abutter** - means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. 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. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3,XXIII.

B. **Accepted Public Road** - means:

1. Any highway, road, or right-of-way which the state or county has an obligation to maintain; and
2. Any highway, road, or right-of-way dedicated to and accepted by the town Bradford.

**Note:** "accepted public road" shall not include any road or right-of-way which has been discontinued as an open highway or made subject to gates and bars or which shall not have been maintained and repaired by the town in suitable condition for travel for five (5) successive years or more.



# Bradford Zoning Ordinance

- C. **Accessory Dwelling Unit** - means a second dwelling unit, attached or detached, to be located on the same lot, plat, site, or other division of land as the permitted principal dwelling unit.
- D. **Accessory unit** - intended to shelter animals or property.
- E. **Bed and Breakfast Establishment** - services offered in any single family owner-occupied dwelling provided that no more than three sleeping rooms are available for occupancy and that only breakfast meals are offered.
- F. **Additional Business** - a business not normally associated with the existing business(es) or a business owned or operated by another person and which:
1. requires physical expansion by 300 or more square feet of floor space; and/or
  2. requires substantial expansion in the use of the grounds including parking; and/or
  3. requires substantial expansion of water supply, septic system, waste
  4. disposal or drainage; and/or
  5. results in increased pollution, such as noise, air, fumes or water; and/or
  6. results in substantially increased traffic; and/or
  7. results in increased demand for municipal services including, but not limited to, fire protection, police services, road maintenance, etc.; and/or
  8. has a substantial effect on the aesthetics or character of the town or the neighborhood or differs with the Master Plan.
- G. **Building** - means any structure used or intended for supporting or sheltering any use or occupancy.
- H. **Building Footprint** - means the area of a structure's primary living space located on a foundation or that which supported the primary living space.
- I. **Building Inspector** - means the Board of Selectmen or that person whom they shall designate.
- J. **Business** - a trade or activity, including goods, services and facilities, offered or furnished to others for monetary or other similar consideration for gain.

# Bradford Zoning Ordinance

- K. **Business unit** - intended to shelter a single business, industry, corporation, partnership, joint venture or sole proprietorship for the purpose of conducting business for the public.
- L. **Cluster Subdivision** - means a form of residential subdivision that permits dwelling units to be grouped on lots with dimensions, frontages, and setbacks reduced from conventional sizes, providing that the density of the lot as a whole shall not be greater than that allowed under the existing regulations and the remaining land area is devoted to common open space.
- M. **Commercial Use** - conducting of business involving the sale of one or more products, the provision of one or more services or any combination thereof.
- N. **Dwelling unit** - intended to shelter people in a single housekeeping unit.
- O. **Floodplain** - means the area of special flood hazard in accordance with the Floodplain Management Ordinance.
- P. **Frontage** - means the length of a lot bordering on an accepted public road or on a proposed street on a subdivision plat approved by the Planning board.
- Q. **Home Business** - means any business use conducted by the occupants entirely within a dwelling unit or an accessory unit which is clearly incidental and secondary to the use of the dwelling unit for dwelling purposes and does not change the character thereof, and in connection with which there is no outside display or storage, nor emission of dust, noise, fumes, vibration or smoke, or additional street parking or traffic or other adverse impacts to the town.
- R. **Junk** - means any old metals; old bottles; solid textile mill waste, unfinished cloth; textile mill yarns; old paper products; two or more unregistered motor vehicles which are unfit for use on highways; used parts and materials of motor vehicles; and other second hand or waste articles, the accumulation of which is detrimental or injurious to the neighborhood.
- S. **Lot** - means a parcel of land at least sufficient in size to meet the minimum requirements for use, coverage and area and to provide required yards and other open spaces in the district in which the lot is located.

# Bradford Zoning Ordinance

- T. Manufactured Housing** - means any structure, transportable in one or more sections, which, in the traveling mode, is 8 feet or more in width and 40 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. See RSA 674:31.
- U. Manufactured Housing Subdivision** - means a parcel of land containing at least 15 acres subdivided for the placement of manufactured housing on individually owned lots for residential purposes.
- V. Non-conforming Building** - means any building, the size, dimension, or location of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails by reason of such adoption or amendment to conform to the present requirements of the zoning district.
- W. Non-conforming Use** - means a use or activity which was lawful prior to adoption or amendment of the zoning ordinance, but which fails by reason of such adoption or amendment, to conform to the present requirements of the zoning district.
- X. Parking Space** - means an off street space having the dimensions of 10 feet by 20 feet, or more, suitable for use of parking one motor vehicle, together with reasonable access.
- Y. Person** - means an individual, firm, association, organization, partnership, trust, company or corporation.
- Z. Rear Lot** - means a lot which has no frontage and is served by at least a fifty (50) foot wide, two hundred to four hundred (200-400) foot long deeded right-of-way, corridor, or common driveway. This determined right-of-way, corridor, or common driveway must be approved by the Planning Board as a street plat.
- AA. Sign** - means a structure, building wall or other outdoor surface, or any device used in visual communication for the purpose of bringing the subject thereof to the attention of the public or to display identify and publicize the name and product or service of any person.
- BB. Special Exception** - means a particular use that is permitted in conformance with the provisions of the district, which must meet the conditions in Article XI, Section.A.2, and may be granted by the Board of Adjustment following a public hearing.

# **Bradford Zoning Ordinance**

- CC. Temporary Signs** - means a sign not permanently attached to the ground or other permanent structure, and referencing an event of limited duration.
- DD. Variance** - means a relaxation of the provisions of the zoning ordinance where such relaxation will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.
- EE. Wetlands** - means those areas identified and delineated as poorly drained or very poorly drained soils by the National Cooperative Soil Survey as shown on a map or maps designated as the Town of Bradford Wetlands Map. The use of Wetlands is governed by the Town of Bradford Wetlands Protection Ordinance.

## **III. ARTICLE III - GENERAL PROVISIONS**

### **A. Prohibited Uses:**

Any use that may be obnoxious or injurious by reason of production or emission of odor, dust, smoke, radioactivity, refuse matter, fumes, noise, vibration or similar conditions, or that is dangerous to the health or safety of the community is prohibited. Enforcement shall be in accordance with Article VII of this ordinance.

### **B. Mining or Excavation**

1. Before mining, excavation or removal of soil, rock, sand, gravel or similar is allowed, the owner of said property upon which the mining, excavation, or removal is to take place shall apply for a permit pursuant to RSA 155-E:3. The Planning Board shall apply the provisions of Chapter 155-E of the Revised Statutes Annotated and any amendments thereto to determine whether a permit is required, whether the intended mining, excavation, or removal is prohibited and if not, will proceed to conduct the necessary hearings pursuant to RSA 155-E to determine whether the granting of the permit is appropriate. The Board shall require the applicant to conform to all the zoning provisions required in the particular zoning district in which the activity is to take place, to also post a bond in an amount to be determined by the Board to ensure compliance with RSA 155-E and any further requirements imposed by the Board.

# Bradford Zoning Ordinance

2. Alteration. Any future enlargement of the commercial use or alteration of use can be made only with the approval of the Board of Adjustment by special exception.
3. Expiration. A permit shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than one year for any reason.

## C. Fire or Other Ruins

No owner or occupant of a lot in any district shall permit fire or other ruins to remain. Within one (1) year of the event causing the ruins, the owner or occupant shall remove or refill the same to clear ground level or shall repair, rebuild, or replace the building.

## D. Minimum Setbacks and Height Regulations

The following shall be observed in the construction of new buildings or in the relocation or modification of existing ones:

1. Minimum distance between any building and the edge of a public right-of-way or an accepted public road shall be fifty (50) feet; or seventy-five (75) feet from the center, whichever provides the greater set back distance.
2. By special exception, the front yard setback may be the average of the depth of existing buildings on either side of the lot in question.
3. Minimum distance from any building to an abutter's property line shall be thirty (30) feet.
4. Minimum distance from the shoreline, as determined by the natural high water mark, to any building shall be 75 feet.
5. Maximum height of any building shall be thirty-five (35) feet with the determination being the vertical distance from the average finished grade surrounding the building to a point midway between the highest and lowest points of the highest roof. Silos, barns, and church towers are exceptions.
6. To allow the construction, by Special Exception, of a tool/storage shed of up to 10 by 12 feet (exterior dimension), single story, not to exceed 12 feet, peak to floor. May be as close as 8 feet to side or rear property line. Such structures cannot be used as a dwelling or for animal shelter.

## E. Off-Street Parking Requirements

All parking demand created by new structures or uses, additions to existing structures or uses, and change of use in existing structures shall be accommodated on the premises entirely off street. Such additional parking spaces for business and institutional uses as

# Bradford Zoning Ordinance

shall be established by the Planning Board so that adequate parking is provided for the particular use. The following minimum number of parking spaces shall be provided and maintained by the owner of the property for each building that is erected or enlarged in all districts:

1. Dwelling unit: at least two (2) spaces for each unit.
2. Business use: at least two parking spaces for each business unit and one additional parking space for each five hundred (500) square feet of floor space.
3. Churches, auditoriums, theaters, or other places of assembly: at least the number of parking spaces equal to one-third (1/3) of the total seating capacity.
4. Health care facilities and nursing homes: at least one (1) parking space for each employee on the major shift and one(1) parking space for every three (3) patients' beds.
5. Industrial and manufacturing establishments: at least one (1) parking space for each employee on the major shift.
6. The Planning Board may approve the joint use of parking spaces by two or more establishments or uses on the same or contiguous lots, the capacity of which is less than the sum of the spaces required for each. Such approval shall be based on the following conditions:
  - a). That the capacity to be provided will substantially meet the intent of the requirements of this Article because of the variation in the time of use; and
  - b). That the approval will automatically terminate upon the termination of any establishment participating in the joint use; and
  - c). That the approval will automatically terminate upon any substantial change in the time pattern of use of the joint parking facilities by any establishment participating therein which results in the total spaces provided being insufficient for the combined requirements of the users.

## F. Temporary Structures

1. The Board of Selectmen may approve the temporary use of a trailer or mobile home to be maintained as living quarters by a person employed in adjoining construction work or for whom a residence is being built, or as an office, storeroom or shop in connection with construction work, provided that such use is only during the period the construction work is in progress.

# Bradford Zoning Ordinance

The use will conform with the sanitary protection requirements of the State of New Hampshire. Permits shall be issued by the Board of Selectmen for a six-month period, renewable upon request if warranted.

2. Any property owner or lessee may accommodate one (1) trailer or mobile home of a non-paying guest for a period not exceeding ninety (90) days in any one (1) year.

## G. Junk Yards and Motor Vehicle Junk Yards

Junk yards and motor vehicle junk yards are allowed by special exception and only in the Residential Rural District. Motor vehicle junk yards must conform to state regulation RSA Chapter 236, 1981, Sections 111-129.

## H. Lots in More Than One District

The regulations of a particular zoning district shall govern any portion of a lot falling within that district.

## I. Lot Size Regulations - Minimum Lot Size

Lot size is determined by the minimum lot size required by the particular zoning district.

- |    |                        |                     |                          |
|----|------------------------|---------------------|--------------------------|
| 1. | <u>Zoning District</u> | <u>Min.Lot Size</u> | <u>Min.<br/>Frontage</u> |
|    | Residential Business   | 2 Acres             | 250 Feet                 |
|    | Residential Rural      | 2 Acres             | 250 Feet                 |
|    | Conservation           | 5 Acres             | 400 Feet                 |
- Except that:
- a) Lots on Class V roads to summer cottages, under the provisions of RSA 231:79-81, shall have a minimum lot size of ten (10) acres.
  - b) Lots on Class VI roads which are designated as agriculture or forestry lots under the provisions of Bradford Subdivision Regulations 6:12(c)(1) shall have a minimum lot size of ten (10) acres.
2. Rear lots, as defined in Article II, may be allowed in any zoning district providing that:
    - a) the length of the right-of-way is equivalent to the frontage requirement for the district; and
    - b) each lot is two and one half times the minimum lot size for the district; and

# Bradford Zoning Ordinance

- c) the development is consistent with the general purpose and objectives of the Master Plan and other town ordinances and regulations; and
- d) the site is appropriate for this type of development and is not detrimental to the neighborhood; and
- e) the lots will not be an undue nuisance on adjacent property; and
- f) adequate provisions are made for fire and safety access.
  - (1) Any development of more than two rear lots must conform to either the frontage requirements for the district or the cluster development requirements. Rear lot provisions will not apply.
  - (2) Any lot in existence in 1993 can qualify for treatment under this section only once. Further subdivisions must comply with the remaining requirements of these regulations where applicable.
- 3. A lot having either frontage or area or both less than required by Section I. 1 Zoning District may be considered to be in compliance therewith provided that:
  - (1) The lot had received final subdivision approval prior to the enactment of this Ordinance and meets the requirements of RSA 674:39 and provided that,
  - (2) The lot is capable of supporting a well and septic system designed and installed in compliance with all applicable Town and State of N.H. regulations.
- 4. Land bordering on ponds whose surface is at least 10 acres and/or bordering on a river shall have a minimum shore frontage of 150', or as required by the State of New Hampshire.

## J. Cluster Residential Development

- 1. The purpose of the cluster development option is to permit greater flexibility in design and to discourage developmental sprawl; provide a more efficient use of land in harmony with its natural characteristics; preserve usable open space, agricultural land, recreational areas, or scenic vistas; and to expand the opportunity for development of affordable housing without increasing the development's overall density.
- 2. The cluster development option shall be permitted only in the rural residential or conservation districts on parcels of ten (10)



# **Bradford Zoning Ordinance**

acres or more . Only dwellings, accessory units, and incidental recreational uses are permitted. The lot size for clustering may be reduced below the minimum lot size required for that district. All reductions in lot size shall be offset by an equivalent amount of land set aside in common open space, or as may be determined by the Planning Board. All sections of the subdivision regulations or this ordinance which are not superseded by the cluster development options shall be applicable.

3. Cluster residential development proposals are submitted to the Planning Board and shall comply with the applicable provisions of the division regulations. Where there is a conflict with this ordinance or the other sections of the subdivision regulations, the provisions of the cluster development section shall take preference.

## **K. Floodplain Development Ordinance**

The current Floodplain Development Ordinance, as amended, shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provisions of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

## **L. Shoreland Protection Act**

The Shoreland Protection Act (RSA 483-B) (is a state law that governs development in certain shore land areas) exists. If any provision of the shoreland protection act differs or appears to conflict with any provision of the zoning, site plan, wetland, or floodplain development ordinances, the provision imposing the greater restriction or more stringent standard shall be controlling.

## **M. Manufactured Housing**

1. Manufactured housing which meets the applicable requirements of the Bradford Building Code and the construction and safety standards established by the Federal Department of Housing and Urban Development (as amended, 12/18/75) may be located in a subdivision created for the placement of manufactured housing on individually owned lots. Manufactured housing subdivisions shall be permitted only in the Rural Residential District on parcels of fifteen (15) acres or more. The individual lots within the manufactured housing subdivision shall

# **Bradford Zoning Ordinance**

meet all applicable lot size, frontage and setback requirements of the zoning ordinance.

2. Where Allowed: Manufactured Housing subdivisions shall be permitted in the Rural Residential District.
3. Approval: Application for subdivision approval must be submitted to the Planning Board. The application must satisfy all requirements of the Bradford Subdivision Regulations. No manufactured housing may be placed on an existing subdivision unless such subdivision is specifically approved for the purpose of manufactured housing,
4. Maximum Number of Lots: The maximum number of lots in any manufactured housing subdivision shall not exceed 20. No lot shall contain more than one manufactured housing unit.
5. Cluster Development Option: A manufactured housing subdivision may be developed as a cluster development in accordance with Section III. J. of this ordinance provided that all of the provisions of that section are complied with. However, in no case shall manufactured housing in a cluster development be attached to create more than one dwelling unit per lot.
6. Labeling: If a plat is submitted with a request for approval for manufactured housing subdivision and such plat is approved, the plat shall bear the legend that it is "approved for manufacture housing."

## **IV ARTICLE IV - ESTABLISHMENT OF DISTRICTS AND DISTRICT PROVISIONS**

### **A. Zoning Map and Districts**

The Zoning map officially entitled "Bradford Zoning Map" is hereby adopted as part of this ordinance. The Town of Bradford Zoning Map shows a division of the Town into the following districts: Residential Business, Conservation, and Residential Rural. The official Zoning Map shall be located in the Selectmen's office.

### **B. Description of Districts**

1. Residential Business District

## Bradford Zoning Ordinance

- a) This district provides for business and residential development that is in conformance with the capability of the land, in an area chosen to make the best utilization of existing community services.
- b) This district shall include all lands excepting wetlands, land currently owned by the Town of Bradford, the Kearsarge Regional School District, or the State of New Hampshire lying within five hundred (500) feet of the center of the following streets: Main Street, High Street, Old Warner Road, Jones Road, Greenhouse Lane, the easterly side of Route 114 beginning at the southerly end of Pleasant Valley Road to the Sutton Town line, the westerly side of Route 114 beginning at the northerly end of Pleasant Valley Road to the Sutton Town line, Route 103 from Blaisdell Lake Road to the Newbury Town line, and Breezy Hill Road from Route 103 to a point 1,000 feet from Route 103. See page iii for a diagram of Residential Business District.
- c) Provisions:
  - (1) Mining and excavation shall be permitted only in accordance with the provisions of Article III, Section B. Owners or their authorized agents of any other commercial or industrial establishments, or multi-unit dwelling should submit a Site Plan to the Planning Board for review and approval. Change of ownership, renter or alteration of use may require a modified Site Plan review.
  - (2) Sufficient off-street parking shall be provided. (See general provisions.)
  - (3) Each lot shall be a minimum of two (2) acres. The density of this district shall not exceed one dwelling or business unit per lot, except that additional business or dwelling units may be allowed upon site plan approval. Any existing lot in the residential business district of less than two (2) acres shall be considered for the purpose of this ordinance to be two (2) acres.
  - (4) Each lot shall have a minimum contiguous frontage of 250 feet.
  - (5) Wherever required by reason of topography, subsoil or the need for adequate sewage area, the Planning Board may require a larger lot size.
  - (6) The conversion of a dwelling unit to either a business or more than two dwelling units will require full compliance with State regulations

# Bradford Zoning Ordinance

and applicable sections of this ordinance.

Conversion of a business unit to multiple or other uses may require a site plan. A site plan must be reviewed and approved by the Planning Board prior to the start of any such conversion.

(7) Home businesses are permitted and require full compliance with applicable sections of this ordinance.

(8) Bed and Breakfast establishments may be permitted. A site plan must be submitted to and approved by the Planning Board

## 2. Conservation District

a) This district contains all land within the town boundaries which is above twelve hundred (1200) feet in elevation. See page iv for a diagram of this district. This land is valuable for its open space, forest resources, recreational opportunities, and scenery. This land is generally not well suited for development due to its slope, soil conditions and inaccessibility.

b) Provisions:

- (1) Based on the merits of site specific conditions, development is allowed for units, forestry, and agriculture.
- (2) Each lot shall be a minimum of five (5) acres. Each dwelling unit shall require a minimum of five (5) acres.
- (3) Each lot shall have a minimum contiguous frontage of 400 feet.
- (4) Commercial or industrial establishments are not allowed in the conservation district.
- (5) Cluster residential development may be permitted in accordance with Article III, Section J.

## 3. Residential Rural District

a) This district includes all lands not within the Residential Business and Conservation Districts. See page v for a diagram of this district.

b) Provisions:

- (1) Each lot shall be a minimum of two (2) acres. Each dwelling unit shall require a minimum of two (2) acres. No more than one dwelling unit shall be allowed per lot, except that one accessory dwelling unit may be allowed on the same lot by special exception.

# **Bradford Zoning Ordinance**

- (2) Each lot shall have a minimum contiguous frontage of 250 feet.
- (3) Home businesses are permitted and require full compliance with applicable sections of this ordinance. Use of an accessory building may be permitted for home business use upon site plan approval.
- (4) Commercial or industrial establishments may be permitted within the residential rural district by special exception only. Review and approval of a site plan by the Planning Board is required.
- (5) Cluster residential development may be permitted in accordance with Article III, Section J.
- (6) Bed and Breakfast establishments may be permitted. A Site Plan must be submitted and approved by the Planning Board.
- (7) The conversion of a dwelling unit to either a business or more than two dwelling units will require full compliance with State regulations and applicable sections of this ordinance. Conversion of a business unit to multiple or other uses may require a site plan.

## **V. ARTICLE V - NON-CONFORMING BUILDING AND NON-CONFORMING USE**

### **A. Existing Building or Use**

Any lawful building or use of a building or land or parts thereof in existence at the time of adoption or amendment of this ordinance may continue.

### **B. Non-conforming Building**

1. A non-conforming building may be enlarged or altered providing the enlargement or alteration complies with the provisions of this ordinance.
2. To enlarge or alter a pre-existing building which is non-conforming due to lot size or lot shape, the Board of Adjustment may, by special exception, reduce the setback requirements if such an adjustment:
  - a) is consistent with the intent of this ordinance, and
  - b) is necessary to fairly utilize the lot.

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- c) When an existing non-conforming building is replaced, the original building footprint cannot be exceeded at any level except by special exception.

## C. Non-conforming Use or Activity

1. When any existing non-conforming use of a building or use of land has been discontinued for two years, the building or land shall thereafter be used only in conformity with this ordinance, except by special exception.
2. No non-conforming use of a building or use of land shall be changed to another non-conforming use except by special exception.
3. No increase in the extent of a non-conforming use of a building or use of land shall be permitted except by special exception.

## D. Motor Vehicle and Machinery Junk Yards

No motor vehicle and machinery junk yard may continue as a non-conforming use for more than one year after the effective date of this ordinance, except that such junk yard may continue as a non-conforming use if within that period it complies with the standards set and enforced by the N.H. Revised Statutes Annotated, 1955, Chapter 236, 111-129, and also in accordance with the requirements of the Board of Selectmen.

## VI. ARTICLE VI - SIGNS

### A. General Provisions

1. Illumination: Signs may be illuminated only by external continuous lighting. Illumination fixtures shall be arranged to direct the light away from streets so that they will not constitute a hazard to street or highway driving by glare. They shall also be directed away or screened from nearby structures.
2. Location: No sign shall be placed closer than 35 feet from the center of a road, or as mandated by State law. No sign shall be placed where it will interfere with the sight distance from driveways, intersections, along streets or roads, or otherwise present a safety hazard.

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3. Nonconformity: Any non-conforming sign erected prior to the adoption of this ordinance may be continued and maintained. Any changes thereafter to such sign shall be made in conformance with this ordinance.
4. Temporary Signs: Must conform in size and illumination to all other signs. Locations not conforming to A.2 of this section may remain unless the Selectmen determine that it presents a health or safety hazard.

## **B. Residential Business District**

1. Building Mounted Signs: Not to exceed 32 square feet in size and not to extend more than 3 feet beyond and above the building. If multiple businesses exist in a single operating space than all internal businesses would need to fit within the allowable 32 square foot sign.
2. Free Standing Signs: One sign for each business site, shall not exceed 24 square feet for the first business, then 6 square feet of additional area for each additional business up to a total not to exceed 54 square feet. Maximum height is 15 feet.
3. Off-Premise Signs: Not to exceed 6 square feet in area and limited to 4 per business.

## **C. All Other Districts**

Size not to exceed 6 square feet.

## **VII. ARTICLE VII – WETLANDS ORDINANCE**

### **A. Purpose and Intent**

The purpose of this article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to be saturated or subjected to high water tables for extended periods of time – including established and seasonal wetlands.

### **B. It is intended that this article shall:**

1. Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage or toxic substances or sedimentation;

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2. Prevent the destruction of, or significant changes to natural wetlands which provide flood protection, provide filtration of water flowing into ponds and streams, augment stream flow during dry periods, and are closely connected to the ground or surface water supply;
3. Protect unique and unusual natural areas;
4. Protect wildlife habitats, maintain ecological balances and enhance ecological values such as those cited in RSA 483-A:1-b;
5. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
6. Prevent unnecessary or excessive expense to the Town for the purpose of providing and or maintaining essential services 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;
8. Preserve and enhance the aesthetic values associated with wetlands in the Town of Bradford;
9. Prevent damage to structures and properties caused by inappropriate development in wetlands.

## **C. Definitions**

1. Certified Wetland Scientist: A person who is currently certified or licensed by the State of New Hampshire under RSA 310-A to classify and to conduct high intensity mapping of soils.
2. Poorly Drained and Very Poorly Drained Soil: As defined by the National Cooperative Soil Survey, or further defined by the most recent document prepared by the Society of Soil Scientists of Northern New England detailing the standards for delineating wetlands. These are on file with the Merrimack County Conservation District.
3. Wetlands: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support under normal conditions a prevalence of vegetation



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typically adapted for life in saturated soil conditions. They include, but are not limited to, swamps, bogs, marshes, ponds, lakes, as well as soils that are defined as poorly drained or very poorly drained. (Wetlands shall be defined in accordance with the most current definition of the U.S. Army Corps of Engineers.)

## **D. Establishment of Wetland Areas**

1. Wetland Areas are hereby determined to be the following:
  - a) all areas of very poorly drained soils;
  - b) areas of poorly drained soils one acre or more in size;
  - c) areas of poorly drained soils of any size if contiguous to surface waters such as lakes, ponds and streams.
2. Wetland Areas as herein defined are shown on a map designated as the "Town of Bradford Wetlands Map". This map is considered a guide only. If the location of the boundaries of a wetland area is in question by any party, the Planning Board may call upon the services of a Certified Wetlands Scientist to examine the area and report to the Planning Board for their determination of the boundary.
3. Any necessary soil testing procedures shall be conducted at the expense of the landowner or applicant. Any costs incurred through such appeals shall be borne by the landowner or applicant.

## **E Uses Permitted in Wetland Areas**

1. Any use otherwise permitted by ordinances of the Town of Bradford and state and federal laws that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or by dredging.
2. Agriculture, including grazing, hay production, truck gardening and silage production provided that such use is shown not to cause significant increases in surface or ground water contamination by pesticides or other toxic or hazardous substance and that such use will not cause or contribute to soil erosion. (Refer to Best Management Wetland Practices for Agriculture, NH Dept. of Agriculture.)

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3. Forestry and tree farming to include the construction of access roads for said purposes, provided that said roads do not obstruct the natural flow of water. (Refer to Best Management Practices for Erosion Control on Timber Harvest Operations in NH, NH Dept. of Resources and Economic Development, Division of Forests and Lands.)
4. Wildlife habitat development and management.
5. Recreational uses consistent with the purpose and intent of this Ordinance as defined in Section I.
6. Conservation areas and nature trails. (Refer to Best Management Practices for Erosion Control During Trail Maintenance and Construction, NH Dept. of Resources and Economic Development, Trail Bureau.)
7. Water impoundment and the construction of well water supplies.
8. Drainage-ways to include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.

## **F. Buffer Provisions**

1. No septic system, leach field or other waste disposal facility shall be installed within 75 feet of the edge of any wetland.
2. No building activity shall be permitted within 100 feet of any very poorly drained soil or within 50 feet of any poorly drained soil, except that existing buildings may be repaired or rebuilt, provided that the repaired or rebuilt structure conforms to the dimensions of the former structure and does not extend any further into the wetlands or buffer area than the original foundation.

## **G. Filled Lands and Pre-existing Uses**

1. Lands which may have been wetlands but were filled under properly issued state and town permits granted prior to the adoption of this ordinance shall be judged according to the soils existing at the site at the time the application for building permit or subdivision is made.

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## **H. Conditional Uses**

1. A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction of roads and other access ways, and for pipelines, powerlines, and other transmission lines provided that all of the following conditions are found to exist:
  - a) The proposed construction is essential to the productive use of land not part of the Wetland Areas.
  - b) Design, construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.
  - c) No alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible.
  - d) Economic advantage alone is not the reason for the proposed construction.

## **I Special Exceptions**

Special exceptions to this ordinance shall be permitted only upon authorization by the Zoning Board of Adjustment, and only if the Board finds that exceptions comply with requirements as set forth in current special exception regulations for the Town of Bradford (and, if required, after approval by the Wetlands Bureau).

## **J. Other Provisions**

- 1 The Building Inspector shall not issue any permit for construction within the Wetlands Buffer Zones unless such activity conforms with the provisions of this Ordinance. The Board of Selectmen shall have the power to enforce this Ordinance, and violations may be punishable by fines as provided by RSA 676:17.
- 2 Any wetlands altered in violation of this Ordinance shall be restored at the expense of the violator(s) as provided by RSA 483-A:5.

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## VIII. ARTICLE VIII - FLOODPLAIN DEVELOPMENT ORDINANCE

- A.** This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Bradford Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Bradford's Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.
- B.** The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the Town of Bradford, New Hampshire" together with the associated Flood Insurance Rate Maps dated April 15, 1992, or as amended, which is declared to be a part of this ordinance and is hereby incorporated by reference.
- C.** Definition of Terms: The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Bradford.
1. "Area of Shallow Flooding" means a designated AO, AH, or VO zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.
  2. "Area of Special Flood hazard" is the land in the floodplain within the Town of Bradford subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the Flood Hazard Boundary Map (FHBM) and is designated on the FIRM as zone A or AE.
  3. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
  4. "Basement" means any area of a building having its floor subgrade on all sides.

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5. “Building” – see “structure”.
6. “Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.
7. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.
8. “FEMA” means the Federal Emergency Management Agency.
9. “Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a) the overflow of inland or tidal water
  - b) the unusual and rapid accumulation or runoff of surface waters from any source
10. “Flood Elevation Study” means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood – related erosion hazards.
11. “Flood Insurance Rate Map” (Firm) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Bradford.
12. “Flood Insurance Study” – see “flood elevation study”.
13. “Floodplain” or Flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).
14. “Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real

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estate or improved real property, water and sanitation facilities, structures and their contents.

15. "Floodway" – see "Regulatory Floodway".
16. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
17. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
18. "Historic Structure" means any structure that is:
  - a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - 1) By an approved state program as determined by the Secretary of the Interior, or
    - 2) Directly by the Secretary of the Interior in states without approved programs.

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19. “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
20. “Manufactured Home” means a structure, transportable in one of more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.
21. “Mean sea level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.
22. “100-year flood” – see “base flood”
23. “Recreational Vehicle” means a vehicle which is:
  - a) Built on a single chassis; and
  - b) 400 square feet or less when measured at the largest horizontal projection; and
  - c) Designed to be self propelled or permanently towable by a light duty truck; and
  - d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
24. “Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

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25. “Special flood hazard area” means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on the FHBM as zone A and on the FIRM as zone A or AE. (See “Area of Special Flood Hazard”)
26. “Structure” means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
27. “Start of Construction” includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date.
- a) The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation.
  - b) Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.
28. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
29. “Substantial Improvement” means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: 1) the appraised value prior to the start of the initial repair or improvement, or 2) in



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the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

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

- D. All proposed development in any special flood hazard area shall require a building permit.
- E. The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:
  - 1 Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
  - 2 Be constructed with materials resistant to flood damage,
  - 3 Be constructed by methods and practices that minimize flood damages and,
  - 4 Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed

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and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

**G.** For all new or substantially improved structures located in Zone A or AE, the applicant shall furnish the following information to the building inspector:

- 1 The as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement,
- 2 If the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed and,
- 3 Any certification of flood proofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

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

**I** 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 Planning Board, in addition to the copies required by the RSA 483-A:1-b.

- 1 Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Planning Board, including notice of all scheduled hearings before the NH Wetlands Board and, as applicable, the Bradford Planning Board.

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- 2 The applicant shall submit to the Planning Board, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- 3 The Planning Board shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:
- 4 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.
- 5 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 zone AE on the FIRM, unless it is 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.

## **J** FLOOD HAZARD AREAS

1. In special flood hazard areas the Building Inspector shall confirm the 100-year flood elevation in the following order of precedence according to the data available.
  - a) In Zone AE, refer to the elevation data provided in Bradford's Flood Insurance Study and accompanying FIRM or FHBM.
  - b) In unnumbered A zones, the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
  - c) Recreational vehicles placed on sites within Zones A1-30, AH and AE shall either:

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- d) Be on site for fewer than 180 consecutive days; and,
  - e) Be fully licensed and ready for highway use; or,
  - f) Meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph 9c (6) or Section 60.3.
- 2 The 100-year flood elevation confirmed by the Building Inspector shall be used as criteria for requiring the following in zones A and AE:
- a) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation;
  - b) That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
    - 1) Be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - 3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
  - c) All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

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- d) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: 1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage, 2) the area is not a basement, 3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater.
  - 1) Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- e) Proposed structures to be located on slopes in special flood hazard areas shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.

## 3 Variances and Appeals:

- a) Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- b) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
  - 1) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - 2) That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

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- 3) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c) The Zoning Board of Adjustment shall notify the applicant in writing that: 1) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and, 2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- d) The community shall:
  - 1) Maintain a record of all variance actions, including their justification for their issuance, and
  - 2) Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

## IX. ARTICLE IX - WIRELESS TELECOMMUNICATION FACILITIES

**A. Authority and Purpose:** This Ordinance is adopted by the Town of Bradford on March 14, 2001 in accordance with the authority granted in New Hampshire by RSA 674:16 and 240:20-J. In recognition of the requirements of the Federal Telecommunications Act of 1996, this ordinance is designed and intended to balance the interests of the residents of Bradford, telecommunications providers, and telecommunication customers in the siting of telecommunication facilities within the town of Bradford, so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its residents. This ordinance establishes general guidelines for the siting of wireless telecommunication towers, and antennas to enhance and fulfill the following goals:

1. Preserve the authority of the Town of Bradford Planning Board to provide for reasonable opportunity for the siting of telecommunications services and to provide such services to the community effectively and efficiently.
2. Minimize the visual impact of such facilities as viewed from other vantagepoints.
3. Enhance prosperity through protection of property values; and reduce adverse impacts such facilities may create, including, but not limited to, impacts on; aesthetics environmentally sensitive areas, historically significant

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locations, flight corridors, health and safety of persons and property.

4. Provide for co-location and minimal impact siting options through assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the town.
5. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers.
6. Require cooperation and co-location, to the greatest extent possible, between competitors in order to reduce cumulative negative impact upon the Town.
7. Provide constant maintenance and safety inspections for any and all facilities
8. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building Code compliance; and provide a mechanism for the Town to remove these abandoned towers to protect the citizens from imminent harm and danger.

## B DEFINITIONS

- 1 **Alternative/Stealth Tower Structure:** Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles and similar design mounting structures that camouflage or conceal the presence of antennas or towers.
- 2 **Antenna:** Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
- 3 **Essential Services:** Services provided by public utility or government agencies through erection, construction or maintenance of underground or overhead gas, electrical, steam or water transmission and distribution systems, and collection, communications, supply or disposal systems. Facilities necessary for the provision of essential services including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith.
- 4 **Guy Wire:** A cable used to secure and steady a tower

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- 5 **Height:** The distance measured from ground level to the highest point on the tower or other structure, including antennas.
- 6 **Monopole:** Any tower consisting of a single pole, constructed without guy wires or ground anchors.
- 7 **Pre-existing Towers and Antennas:** Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance as well as the replacement of any such towers and antennas.
- 8 **Secondary Use:** A. use of land or of a building or portion thereof which is unrelated to the principle use of the land or building.
- 9 **Tower:** A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.
- 10 **Wireless Telecommunication Facilities:** Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communication (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.

## C APPLICABILITY

- 1 **Public Property:** Antennas or towers for governmental purpose located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirement of this ordinance, except those uses that are only permitted in the District as delineated in Section D, 2. This partial exemption shall be available if a license or lease authorizing the antenna or tower has been approved by the governing body and the governing body elects, subject to state law and local ordinance, to seek the partial exemption from this ordinance.
- 2 **Amateur Radio, Receive-Only Antennas:** This ordinance shall not govern any tower, or the installation of any antenna that is under thirty-five (35) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.



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- 3 Essential Services and Public Utilities: Wireless**  
Telecommunications Facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land and is subject to the Town's Zoning ordinance and all other applicable ordinances and regulations.

## **D SITING STANDARDS**

### **1 GENERAL PROVISIONS**

- a. A Site Plan Application and Site Plan Review approval are required for any wireless communication facility construction. Co-location of facilities must meet all current Site Plan Review regulations.
- b. The uses in this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town including Site Plan Review and approval by the Bradford Planning Board.
- c. Antennas and towers may be considered either principle or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- d. For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.
- e. Towers that are constructed and antennas that are installed in accordance with the provisions of this ordinances on a non conforming lot or in conjunction with a non conforming use, shall not be deemed to constitute the expansion of a non conforming use or structure.
- f. Height Limitations:
  - 1) Sites in Forested Areas: Wireless telecommunications facilities in forested areas shall not project higher than 20 feet above the average tree canopy height in a fifty (50) foot radius of the mount, or the total area of the site including security barrier(s) and designated clear area for access to equipment, which ever is greater. Telecommunication facilities in forested areas must fit with the natural character of such areas and employ stealth technology in order to make sites less obtrusive to the character of surrounding property and the community. Appropriate stealth technologies to apply in wooded

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areas shall include making sites appear as false/artificial trees, forest ranger / fire towers, or other facades acceptable to the Planning Board.

- 2) Sites in Fields or Agricultural Areas: Wireless telecommunications facilities constructed in fields or areas without a tree canopy shall not exceed ninety (90) feet in height, measured as the vertical distance from the average finished grade surrounding the facility, to its highest point, including all attachments. Telecommunication facilities in fields or areas without tree canopy shall employ stealth technology. Appropriate stealth technologies to apply in fields include agricultural silos, windmills, or other facades acceptable to the Planning Board.
- 3) Sites in or on existing structures: When mounted on or within an existing structure, no wireless telecommunications facilities shall exceed ninety (90) feet in height, measured as the vertical distance from the average finished grade surrounding the facility, to its highest point, including all attachments. If mounted on another structure, the combined height of the structure and wireless telecommunications facilities shall be used to determine compliance with the requirements of this section, and shall not exceed ninety (90) feet in height as described above. Telecommunication facilities on or within existing structures shall employ stealth designs that are architecturally compatible with the host structure.
- g. All free-standing towers, except in pre-existing sites, must be set back a distance equal to 125% of the height of the tower from any off-site residential structure. Towers and accessory facilities must satisfy the minimum zoning district setback requirements.

## 2 DISTRICTS PERMITTED

- a **New Towers:** New tower construction and co-location of wireless telecommunication facilities shall be permitted in the following districts subject to all applicable local, state and federal regulations and Site Plan Review and approval by the Planning Board. New tower construction is permitted by special exception in the following areas:

<b>Residential Business</b>	<b>Special Exception</b>
<b>Residential Rural</b>	<b>Special Exception</b>

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## **Conservation District      Not Permitted**

- b In all cases, new tower construction must be able to be accomplished in such a manner that the top of the tower is at an elevation of no less than one hundred (100) feet below the elevation of the summit and its extended ridge line of the nearest peak, up slope from the tower site.

### **E. BONDING SECURITY AND INSURANCE**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and /or unwilling to remove the tower in accordance with Section F. Bonding and surety shall be consistent with the provisions in the Site Plan Regulations. Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage.

1. Each commercial carrier who receives approval for a new wireless telecommunications facility shall submit a removal bond issued to the Town of Bradford to guarantee that the facility will be dismantled and removed, within twelve (12) months of cessation of wireless telecommunications use. The amount of the surety shall also include all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and re-establishment of vegetation. The amount of the surety shall be based upon the removal and restoration cost, plus fifteen percent (15%), provided by the applicant and certified by a qualified professional engineer licensed in New Hampshire.
2. The owner of the facility shall provide the Planning Board with a revised removal and restoration cost estimate and structural evaluation prepared by a professional structural engineer licensed in New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%), then the owner of the facility shall provide a new bond for the removal and restoration cost plus fifteen percent (15%).
3. Furthermore, the Planning Board shall require submission of proof of adequate insurance covering accident or damage.

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## **F REMOVAL OF ABANDONED ANTENNAS AND TOWERS**

Any tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety. In addition, any antenna or tower that fails to comply with sections G and H relative to compliance with federal, state and local standards shall be considered abandoned. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town. A declaration of abandonment shall only be issued following a public hearing notice according to RSA 676:4, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the Town may execute the security and have the tower removed. If there are two or more uses of a single tower, this provision shall not become effective until all uses cease using the tower.

## **G BUILDING CODES AND SAFETY STANDARDS**

To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. Failure to bring a tower into compliance within thirty (30) days of notice being provided to the owner by the Town, shall constitute abandonment and grounds for the removal of the tower or antenna in accordance with Section F of the Wireless Telecommunication Facilities Ordinance.

## **H FEDERAL REQUIREMENTS**

All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission and any other agency of the Federal Government with the authority to regulate towers and antennas. Failure to bring towers and antennas into compliance with revised standards and regulation within six (6) months of their effective date shall constitute grounds for the removal of the tower or antenna in accordance with Section F of the Wireless Telecommunication Facilities Ordinance.

## **X. ARTICLE X - ENFORCEMENT**

### **A. Authority**

1. The Board of Selectmen, after consultation with the appropriate town officials, is hereby given final power and authority to enforce the provisions of this ordinance.
2. Upon any well-founded information that this ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking

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an injunction to the Superior Court or by any other legal action.

3. Upon conviction thereof, every person, firm, or corporation violating any of the provisions of this ordinance shall be fined as appropriate for a civil or criminal offense, for each day such violation exists.

## **XI. ARTICLE XI - BOARD OF ADJUSTMENT**

Board of Adjustment members are elected in accordance with RSA 673:3 who shall appoint alternate members in accordance with RSA 673:6,II-a. Their duties shall conform to the provisions of Chapter 673 and 674 of the New Hampshire Revised Statutes Annotated, 1983.

### **A. The Zoning Board of Adjustment shall have the power to:**

1. Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.
2. Authorize, upon appeal, special exceptions when the following conditions are met:
  - a) The site is appropriate for the proposed use or structure;
  - b) The proposal is not detrimental or injurious to the neighborhood;
  - c) There will not be undue nuisance or hazard to pedestrian or vehicular traffic;
  - d) Adequate provisions have been made for sanitary facilities;
  - e) Adequate and appropriate facilities will be provided for parking and utilities to ensure the proper use of the structure;
  - f) Comments have been solicited from the Selectmen, Conservation Commission, Road Agent, and Police and Fire Chiefs, and Planning Board as appropriate; The proposal is consistent with the spirit of this ordinance and the intent of the Master Plan; and ...
  - g) If the proposal is for a new Telecommunications Tower, a draft site plan is required to be submitted.
3. Grant variances in accordance with RSA 673:33.

### **B. In exercising its powers under Section A, the zoning board of adjustment may reverse or affirm, wholly or in part, or may modify**

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the order, requirement, decision, or determination appealed from and shall have all the powers of the administrative official from whom the appeal is taken.

- C.** The concurring vote of 3 members of the board shall be necessary to decide on any matter on which it is required to act.
- D.** If within one (1) year after the granting of a variance or special exception by the Board of Adjustment, any required building permit for work covered by the variance or special exception has not been executed, then such variance or special exception shall become null and void except in any case where legal proceedings to the variance or special exception shall have caused an undue delay in the execution of the required building permit or an extension has been granted by the Board of Adjustment.

## **XII. ARTICLE XII - Amendments**

This ordinance may be amended as provided for in RSA 673:3, 4, and 5. Upon petition of 25 or more registered voters to the Board of Selectmen for an amendment to this Ordinance, the procedures set forth in RSA 675:4 shall be followed. Petitions shall be received during the period of time 120 to 90 days prior to the annual Town Meeting.

## **XIII. ARTICLE XIII - SAVING CLAUSE**

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

## **XIV. ARTICLE XIV - WHEN EFFECTIVE**

This ordinance shall take effect upon its passage.

## **XV. ARTICLE XV - RENUMBERING**

The Planning Board shall have the authority to renumber the Ordinance after amendments have been passed, so as to make the numbering consistent.