

**TOWN OF WALPOLE  
NEW HAMPSHIRE  
ZONING ORDINANCES**

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**ZONING ORDINANCE  
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# **ZONING ORDINANCE**

## **TOWN OF WALPOLE, NEW HAMPSHIRE**

### **ARTICLE I**

#### **Preamble**

In pursuance of authority conferred by the New Hampshire Revised Statutes Annotated 1955, as amended, and for the purpose of promoting the health, safety and general welfare, as well as efficiency and economy in the process of development of the incorporated Town of Walpole, New Hampshire, by providing adequate areas between buildings and various rights of way, by the adequate provision of public utilities and other public requirements, and by other means, now therefore, the following ordinance is hereby enacted by the voters of the Town of Walpole, New Hampshire.

The principal purpose of this ordinance shall be as described in the Title LXIV, Chapter 674 of the Local Land Use Planning and Regulatory Powers to fulfill the goals and objectives as set forth in the Town Master Plan, and as described in the Site Plan Review Regulations, namely:

- 1) To preserve the scenic elements of the natural environment and protect Walpole's land.
- 2) To promote a balanced growth.
- 3) To guide the character of development.
- 4) To protect the historic nature, the economic and aesthetic interests of the entire Town.
- 5) To provide aesthetically pleasing and compatible design of building and facilities with as much open natural or landscaped areas as possible.

### **ARTICLE II**

#### **Precincts**

The North Walpole Village Precinct has been excluded from this Zoning Ordinance for the reason that a zoning ordinance for said precinct was duly enacted in the year 1950 and said zoning ordinance continues to be in effect at the will of the precinct.

### **ARTICLE III**

#### **Purpose**

For the purpose of this ordinance, the Town of Walpole is divided into the following districts as shown on the Zoning Map filed with the Town Clerk and dated January 11, 1966 and amended March 7, 1972.

- A. Residential District
- B. Commercial District
- C. Industrial District
- D. Rural-Agricultural District
- E. Timberland District
- F. Retirement Overlay District
- G. Flood Plain District - The Flood Plain District is herein established as an overlay district. The underlying permitted uses shall be allowed only by Special Exception provided they meet the additional requirements set forth in Article XVIII.

**ARTICLE IV**  
**General Provisions**

A. Fire Ruins

No owner or occupant of land in any district shall permit fire ruins or other ruins to be left, but within one year shall remove them or refill same to clear ground level.

B. Prohibited

Any use that may be obnoxious or injurious by reason of production of or emission of odor, dust, smoke, refuse matter including toxic or radioactive waste, fumes, noise, vibrations, or similar conditions or that are dangerous to the comfort, peace, health or safety of the community is prohibited.

C. Waste Waters or Sewage

No waste waters or sewage shall be permitted to run free or be discharged in any way that may be offensive or detrimental to the health of others. All such wastes shall be conveyed away through the use of an accepted sanitary system. The sanitary systems in and from all dwellings and other buildings shall be constructed and maintained in accordance with the standards set and enforced by the NH Department of Health and the NH Water Pollution Committee.

D. Signs

1. Definitions

A SIGN is defined as a structure, building wall, or other outdoor surface or any device used for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, or to display, identify and publicize the name or product or service of any person, enterprise, or business.

A WALL SIGN is defined as any sign attached to, painted on, or applied to a building. All wall signs shall be located on the primary building in which a permitted non-residential use takes place and shall not extend above the roof line of the building. A sign that is affixed to a building shall lie flat against the wall showing only one face.

A FREE-STANDING SIGN is defined as any sign not attached to a building. Structural elements of a free-standing sign shall not be used in calculating the area of such sign. A free-standing sign may have two sides exhibiting advertising matter, and only one side shall be used in calculating the area of such sign.

2. Approvals

All new non-residential signs require review by the Zoning Board of Adjustment (ZBA), for compliance with the ordinance only. All signs legally existing at the time of the enactment of this section may be replaced and/or reworded provided such replacement or rewording does not increase any existing noncompliance with this section, and for non-residential use, approval is given by the ZBA. Signs erected by a governmental entity to control traffic, or to otherwise protect the health and safety of the general public shall not be subject to these regulations.

3. Limitations

No sign of any type shall be designed or be placed in such a position as to create a hazardous condition by way of 1) obscuring a clear view of, or interfering with, vehicular or pedestrian

traffic, or 2) similarity with official street signs or signals .All signs permitted under this section shall be constructed of durable materials, affixed to a building or the ground, and shall be maintained in good condition and repair at all times.

Oscillating, rotating, flashing, neon or other tubular gas signs are not permitted except when used for public safety purposes by a governmental entity.

#### 4. Residential District

Signs shall be permitted no larger than six (6) square feet in the Residential District. Property owners or tenants in the Residential District with business, professional, or other service enterprises shall be allowed one advertising sign on the premises relating to the use or uses conducted in the building. One sign of the same size will be allowed with the name and address of the contractors of the structure during the active construction period or a sign pertaining to the lease, sale or use of the lot or building on which it is placed. Construction signs shall not exceed the allowed size in this district.

Free-standing signs shall be located no closer than ten (10) feet from a front, side or rear lot line. A free-standing sign shall not exceed ten (10) feet in height.

#### 5. Rural/Agricultural and Timberland Districts.

All permitted non-residential uses shall be allowed to erect and maintain a single free-standing sign and any number of wall signs provided that the combined area of all signs does not exceed thirty-two (32) square feet for all uses.

Construction signs shall not exceed the allowed size in this district.

Free-standing signs shall be located no closer than twenty (20) feet from a front, side or rear lot line. A free-standing sign shall not exceed ten (10) feet in height.

#### 6. Commercial and Industrial Districts

Signs shall be permitted no larger than thirty-two (32) square feet. Signs shall be placed not less than sixty (60) feet from the edge of the traveled roadway and not less than one hundred (100) feet from another sign. Construction signs shall not exceed the allowed size in this district.

Free-standing signs at one commercial location advertising multiple uses shall be on one free-standing sign and their combined area shall not exceed thirty-two (32) square feet.

Free-standing signs shall be located no closer than sixty (60) feet from the edge of the traveled roadway and no closer than ten (10) feet from the remaining lot lines. A free-standing sign shall not exceed twenty (20) feet in height.

#### 7. Directional Signs

Directional signs, not exceeding six (6) square feet in size relating to a business operated in the Town of Walpole shall be permitted provided that said directional signs for any one enterprise do not exceed one in any two mile length of road not including those to indicate a change of direction. Directional signs shall not be within fifty (50) feet of any other sign except when mounted on a common post.

#### 8. Multiple Use Signs

Free-standing signs at one commercial location, such as a shopping center, advertising multiple uses shall be on one free standing sign and their combined area shall not exceed thirty-two (32)

square feet, or forty-eight (48) square feet by Special Exception.

9. Special Exceptions.

Signs of six (6) square feet may be placed between ten (10) and sixty (60) feet of traveled roadway and between twenty (20) and one-hundred (100) feet of another sign by Special Exception from the Board of Adjustment when the Board is satisfied that the provisions of Article IV will be met and that the sign as placed will not have any adverse effect on abutting properties.

E. Removal of Sand and Gravel.

The commercial excavation of clay, sod, loam, sand, gravel or other earth materials shall be allowed by special exception in the Industrial, Rural/Agricultural, and Timberland Districts only, and by permit, pursuant to the provisions of RSA 155-E. The Zoning Board of Adjustment shall serve as the regulator for the purpose of granting such permits, and they are hereby authorized to adopt such rules as may be reasonable and necessary to carry out the provisions of RSA 155-E, and this ordinance. Please also see: "Town of Walpole's Regulations Governing Earth Excavations". Any excavation as described above are to be considered an industrial manufacturing and commercial operation and shall be subject to a special exception review as outlined in Article VIII Rural Agricultural District C. Special Exceptions and may be subject to a Site Plan Review by the Planning Board.

F. Trailers and Mobile Homes:

1. Mobile Homes may be used and maintained as permanent residences in the Rural/Agricultural District subject to the regulations contained in Article VIII.
2. Mobile Homes may be used and maintained as permanent residences in the Rural/Agricultural District subject to the regulations contained in Article VIII.
3. Mobile Home Parks, as defined by this ordinance, are prohibited in all zoning districts.

3. The Board of Adjustment may grant a permit for the temporary use of a trailer or mobile home to be maintained as living quarters, by a person employed in adjoining construction or timber harvest, or for whom a permanent residence is under construction, or as an office, storeroom, or shop in connection with active construction of the premises provided that such use will conform to the sanitary requirements of this Article, Section C. In granting such permits the Board of Adjustment shall attach reasonable time limits for the removal of such mobile home or trailer.

G. Junk Yards and Dumps

1. The use of land or buildings for motor vehicle, machinery or scrap metal junk yards is the use standard set and enforced by NH Revised Statutes (Chapter 236 N.H.L. 1993). Machinery and scrap metal junkyards may be allowed by prior permit from the Board of Selectmen if they meet the same requirements as are in force for the motor vehicle junkyard.
2. The use of land for dumping garbage and refuse as defined in RSA 147-24 is prohibited except that a dump may continue as a non-conforming use if it complies with the provisions of RSA 147 and 149 M and including the provision for approval, therefore, as required in RSA 147- 25.
3. The selection of a public dumping place maintained or designated by the Board of Selectmen in accordance with RSA 147-23 to 147-30 shall not be affected by this Ordinance.

H. Subdivision

Any Subdivision of land for development shall meet the requirements of the Land Subdivision Control Regulations adopted by the Walpole Planning Board under authorization voted by the Town of Walpole on March 8, 1966.

I. Airports and Aircraft Landing Facilities

Airports and facilities for the landing, takeoff, maintenance, or storage of aircraft are prohibited in all zoning districts within the Town of Walpole.

J. Telecommunications

Facilities are subject to review under the provisions outlined in the Telecommunications Facilities Ordinance as established by the Town of Walpole on March 12, 2002 pursuant to NH RSA 674:15 and 21, II. Please also see: Town of Walpole Telecommunications Facilities and Ordinance.

K. Protection of Town Water Supply

Proposals or developments located within the Well Source Protection Areas are subject to the provisions outlined in the Well Source Protection Ordinance as established by the Town of Walpole March 9, 2004 pursuant to NH RSA 674:21, Innovative Land Use Controls. Updated March 2015. See Wellhead Protection Ordinance Overlay District page 30.

L. Bed and Breakfast Establishments

So called "Bed and Breakfast" establishments for the accommodation of paying, overnight guests, may be maintained as home occupations in all zoning districts provided that the number of rooms for rent in any one establishment shall not number more than four and further provided that breakfast shall be the only meal provided and that only to bona fide overnight guests. The conversion of a single-family residence or other building to a "bed and breakfast" shall require Site Plan approval by the Planning Board. Off-street parking for one car per rented room plus space for owner parking shall be provided.

M. Hazardous materials

a. Any business proposing to store or use hazardous materials within a commercial or industrial zone, or on land that has received or is being proposed for a Variance or Special

Exception for commercial or industrial use, or on land above a town aquifer, shall present to the Planning Board a soils and water protection plan and a separate safety plan to be followed in case of spills or other accidents. These plans shall be presented to the Planning Board as part of the business's site plan review application and documentation.

b. The planning board shall engage the services of an independent licensed engineer or engineers to review the quality of these protection and safety plans. The engineer(s) shall be chosen by the Planning Board, not be affiliated in any way with the applicant, and have a license, experience, and qualifications specifically relevant to the proposed protection and safety plans. The planning board shall not vote [note] to approve or deny the application before the Independent engineer(s) inform(s) the planning board of the quality of the safety and protection plans and their compliance with all relevant, newest [word omitted] practices.

c. All fees associated with these reviews shall be paid by the applicant, not the town. The Board of Selectmen shall not issue a building permit before all fees are paid.

d. This provision shall apply to any business that proposed to handle or store hazardous materials or waste such that the business is regulated or overseen by the New Hampshire Department of Environmental Services or the U. S. Environmental Protection Agency.

e. This ordinance shall not apply to businesses that are operating, or that have building projects completed, under construction, or already approved by [my] the Planning Board at the time this provision is adopted.

N. DADU – As defined as a residential living unit that is with the same single-family lot and provides independent living facilities for one or more person, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal unit it accompanies.

1. One Detached Accessory Dwelling Unit (DADU) shall be allowed in all zoning districts that permit single-family dwellings. The following requirements apply:

A. No change in frontage or setbacks shall be required for a DADU, however, the minimum lot size for any given Zoning District shall be the following:

1. Residential District Type A minimum lot area shall be 80,000 square feet
2. Residential District Type B minimum lot area shall be 50,000 square feet
3. Rural/Agricultural minimum lot area shall be 80,000 square feet
4. Timberland not permitted

B. The maximum area for a Detached Accessory Dwelling Unit shall be 900 square feet of living space. A larger living space may be permitted by a variance granted by the Zoning Board of Adjustment.

C. No more than Three (3) bedrooms may be permitted in a Detached Accessory Dwelling Unit.

D. Detached Accessory Dwelling Unit must be within 150 feet of the principal dwelling unit.

E. Occupancy of the accessory or principal unit is limited to family members related by blood, marriage, adoption, foster children or, if unrelated, not more than two (2) unrelated individuals. (See 3C for maximum occupancy.)

F. No conversions to condominiums and must remain in common ownership.

2. The Detached Accessory Dwelling Unit may be within separate detached building on the property (such as a garage or barn).

3. Unless otherwise provided for herein, all existing regulations applicable to single family dwellings shall also apply to the combination of a principal dwelling unit and detached accessory dwelling unit, including the following:

- A. The state building code
- B. Applicable sections of the state fire code
- C. The standards for maximum occupancy per bedroom consistent with policy adopted by the United States Department of Housing and Urban Development
- D. Only one DADU per lot
- E. Must comply with town ordinances and regulations.

4. Adequate provisions for water supply and sewage disposal for the detached accessory dwelling unit in accordance with RSA 485-A:38 shall be demonstrated by the applicant. Separate systems, including but not limited to plumbing, heating, electrical and sanitary disposal systems, are not required for the principal and detached accessory dwelling unit provided that occupants of both units



have access to the electrical panel and circuit breakers serving their respective units.

5. All applications to create a detached accessory dwelling unit shall demonstrate to the Zoning Board of Adjustment that the property has ample parking for both the principal unit and DADU.

6. When the creation of an DADU requires an addition to or modification of the exterior of the existing detached structure, or the creation of a new detached structure, the architectural design and details to be used shall be aesthetically compatible with and maintain an aesthetic continuity with the principal dwelling unit as a single-family dwelling.

A. An addition to or exterior modification of an existing detached structure shall be designed to match within reason the architectural style, detail, and materials of the existing structure.

B. When constructing a new detached structure to accommodate an DADU, the exterior design may either reflect the architectural style, detail, and materials of the existing single family structure, or it may reflect the architectural style, details and materials that are commonly found in detached accessory structures associated with a single family dwelling, such as a barn, or a garage with apartment over.

7. The owner of the property shall occupy either the principal dwelling unit or the detached accessory dwelling unit as their "Principal Place of Residence." Whichever dwelling unit is not the property owner's principal place of residence may be rented to a person(s) unrelated to the property owner

A. The owner shall demonstrate to the Select Board that one of the units is his or her "Principal Place of Residence" prior to issuance of a Building Permit by the Select Board for the accessory dwelling unit.

B. The term "Principal Place of Residence" for purposes of determining owner occupancy shall mean the location where the property owner is domiciled and has a place of abode, and the location where the property owner has, through all of his or her actions, demonstrated a current intent to designate said residence as his or her principal place of physical presence.

Such an intent on the part of the property owner is evidenced by, among other things, his or her voter's registration, vehicle registration, driver's license, or the placement of his or her children in local public schools.

Any temporary lapse of owner occupancy in the primary residence caused by the death of a property owner shall be permitted for a period not to exceed 1 year.

C. The property owner shall submit to the Select Board a signed and notarized "memorandum of adequate notice", to be recorded at the registry of deeds at the applicant's expense.

A. The notice shall identify the property on which the detached accessory dwelling unit is located by source deed, and serve as a notice to successor owners that the accessory dwelling unit is subject to the provisions of this section of the zoning ordinance, and that owner-occupancy of one of the two units is required by this subsection. This notice shall be recorded upon issuance of a Building Permit.

B. If the owner of the property is a trust, the term "property owner" shall mean the creator or beneficiary of the trust. If the owner of the property is a corporation, the term "property owner" shall mean the principal stockholder.

Under Section XVII, P. Add after "A one or two family dwelling will share the same foundation per lot." Effective June 1, 2017 Attached Dwelling Units are to comply with RSA 674:71 – RSA 674:72

## **ARTICLE V Residential Districts A and B**

### **Preamble**

The purpose of establishing a Residential District is to preserve free from the distraction of business, traffic noise and odor, those areas in Town suitable for quiet and safe residence and to assure those who built houses there that they may continue to dwell in such comfortable surroundings. Residential District, Type A, is the basic pattern selected to attain this end. Residential District, Type B, has been included with smaller lot size and lesser frontage in areas which have established a pattern for the small lot and where the requirements for Type A would impose hardship on those owners of undivided or unbuilt upon land immediately adjacent.

### **Uses Permitted**

One single or one two-family dwelling per lot, with private garages and accessory buildings.

Churches and religious institutions, hospitals (excluding animal hospitals), nursing homes, municipal buildings, parks and playgrounds, and schools, public or private. Residences may be used to house such customary uses by the owner or tenant as offices for doctors, lawyers, real estate and insurance, or other recognized professions, or such home occupations as hair dressing or dress-making, except that the number of persons employed at any one location shall not number more than two persons in addition to the owner or tenant. Adequate off-street parking shall be provided on the premises.

Farm and garden activities are permitted when incidental to primary residential use, and home food and garden produce may be exposed for sale in this district, provided that such use is in no way injurious, obnoxious or offensive to the neighborhood.

Retirement community developments are subject to review under the provisions in the Retirement Community Overlay District as set for by the Town of Walpole pursuant to NH RSA 674:21, Innovative Land Use Controls. Please also see Article IX Retirement Community Overlay District in the Town of Walpole Zoning Ordinance.

### **Special Exceptions**

Conversions of existing larger homes to multi-family dwellings may be allowed by Special Exception from the Board of Adjustment provided the Board determines that the following conditions are met:

- a. The property is suitable to accommodate multi-family use without adversely affecting the area.
- b. Adequate off-street parking is available.

- c. The exterior architectural appearance and/or size of the structure shall not be substantially altered.
- d. The property has received Site Plan approval from the Planning Board.

## Land Standards

### 1. Lot Area

- a. The lot area in the Residential District, Type A, shall be not less than 40,000 square feet with frontage of each lot not less than 200 feet provided, however, that a lot with less frontage which is recorded as a lot of record at the time of passage of this Ordinance shall be deemed a conforming use.
- b. The lot area in the Residential District, Type B, shall be not less than 25,000 square feet with the frontage of each lot not less than 150 feet provided, however, that a lot with less frontage which is recorded as a lot of record at the time of passage of this Ordinance shall be deemed a conforming use.

### 2. Yard Requirements

No building may be erected closer than sixty-five (65) feet to the center line of the abutting right-of-way nor closer than twenty feet to any side or rear property line.

#### Boundaries of Residential District, Type A

1. 250 feet back from edge of highway on either side of Hitchcock Road, from the Commercial District on the north and from the Residential, Type B, on the south to 2,000 feet east of intersection of Whitney (Old Cheshire Turnpike) and Alstead (Whitcomb) Roads.

2. 250 feet back from edge of highway on either side of Drewsville and from the Commercial District on the north side and the intersection of Whitney Road (Old Cheshire Turnpike) and Drewsville Road (Whitcomb Road) on the south to 750 feet from said intersection.

3. 250 feet back from the edge of the highway on the west side of Whitney Road (Old Cheshire Turnpike) from the intersection of Whitney Road (Old Cheshire Turnpike) and Drewsville Road (Whitcomb Road) to 1500 feet south of said intersection.

4. Area bounded by Mad Brook, North Road, Maple Grove Road, Prospect Hill Road, (Watkins Hill Road) Old Meetinghouse Road, Wentworth Road, Hooper Road, Old Route 12 (Old Keene Road), Prospect Hill Road and School Street.

#### E. Boundaries of Residential District, Type B

1. 250 feet back from the edge of the highway on the east side of Whitney Road (Old Cheshire Turnpike) from Hitchcock Road south for 1500 feet.

2. Area bounded by North Walpole Village Precinct, Dearborn Road (Upper Walpole Road), Drewsville Road (Whitcomb Road), 1965 property line of the Cold River Sand and Gravel Corporation back to the North Walpole Village Precinct.

3. 250 feet back from edge of highway east of Dearborn Road (Upper Walpole Road) from the 1965 boundary of the “Rock Farm” to Drewsville Road (Whitcomb Road).
4. 250 feet back from edge of highway on south side of Drewsville Road (Whitcomb Road) from Dearborn Road (Upper Walpole Road) east for 750 feet.
5. 250 feet back from edge of highway on either side of Maplewood Drive (Maplewood Circle) starting at 250 feet from Bellows Falls Road (Main Street) at either end.
6. Area bounded by North Road, Mad Brook, High Street to a point 75 feet easterly of (Old) North Main Street, 175 northerly parallel to (Old) North Main Street to a point, 75 feet westerly parallel to High Street to (Old) North Main Street, and Turnpike Street (Main Street).
7. Area bounded by a line 175 feet north of Union Street, School Street, Prospect Hill Road, Old Route 12 (Old Keene Road), a line 175 feet south of Hillside Acres Road, a line 175 feet east of River Road (North River Road), Route 12, southern boundary of Hubbard Hatchery 1971 line, Turnpike Street (Main Street), Elm Street, east side of Washington Square (Street), a line 175 feet north of Middle Street.
8. Area to include, the following lots of record: Map 12, Lots 55-6 through 55-12, Lots 55-14 through 55-20, Lots 55-22 through 55-28 incorporating the Dearborn Circle and Burrows Lane residential development are permanently added to this zoning district as voted by the Town citizens at the March 13, 2007 Town Meeting and in accordance with the procedures outlined in NHRSA 675:3 Methods of Enactment in Certain Towns and Village Districts.

## **ARTICLE VI**

### **Commercial District**

#### Preamble

The purpose for establishing a Commercial District is to provide within the Town ample area in which business and the sale of merchandise can be conducted with its inherent traffic, loading, parking, and activity normally unpleasant in close proximity to restful and comfortable residences.

#### Uses Permitted

A building may be erected, altered or used and a lot may be used or occupied only for the following purposes and in accordance with the following provisions:

1. Any use permitted in Residential District Type B under the same provisions as apply to residences in said district.
2. Lodging houses, hotels, motels, inns and tourist cabins including such retail businesses within these buildings as is conducted for the convenience of the guests herein.
3. Shops, restaurants and other retail buildings not exceeding 40,000 square feet in gross floor area.
4. Theaters, halls, clubs and amusement centers.
5. Greenhouses and florist shops.
6. Undertaking establishments.

7. Business and professional offices and banks.
8. Multi-family dwellings subject to the following conditions:
  - a. No building intended for multi-family occupancy shall contain more than three (3) stories for human habitation.
  - b. Not less than thirty percent (30%) of the total parcel shall be retained as open space, unencumbered by buildings, parking lots, accessory structures or other impervious surfaces. Said open space may be used for lawns, gardens, landscaping and passive recreation.
  - c. Each multi-family development shall provide on-site parking in accordance with the following minimum standards:
    - for each efficiency and/or studio unit - 1 parking space
    - for each 1 bedroom unit - 1.5 parking spaces
    - for each 2-3 bedroom unit - 2 parking spaces
    - for each unit exceeding 3 bedrooms - 2.5 parking spaces

#### Special Exceptions

1. Wholesale establishments, filling stations, automobile repair garages and used car lots under permit from the Board of Adjustment when said Board is satisfied that parking and loading requirements are satisfied.
2. Industrial and manufacturing operations by Exception from the Board of Adjustment when fulfilling the requirements set forth in Article VII.

If any proposed use is such as to attract vehicles, ample space shall be provided on the property to park and load such vehicles.

#### Land Standards

1. Lot Area. The lot area in the commercial district shall be not less than 25,000 square feet and every lot shall have a minimum frontage of 150 feet.
2. Yard Requirements  
No building shall be erected closer than 65 feet to the center line of all public right of ways or 20 feet to any side or rear property line.

#### F. Boundaries of Commercial District

1. 250 feet back from edge of highway on either side of Alstead Road (Whitcomb Road) from intersection of Whitney (Old Cheshire Turnpike) and Alstead Road (Whitcomb Road) for 500 feet.
2. 250 feet back from edge of highway on the west side of Bellows Falls Road (Main Street-Route 12) from Cold River to Blanchard Brook.
3. 250 feet from edge of highway on the east side of Bellows Falls Road (Main Street) from Dearborn Road (Upper Walpole Road) to North Road.
4. Area bounded by Bellows Falls Road (Main Street), Dearborn Road (Upper Walpole Road), the

Walpole Village Precinct. The following lots of record: Map 12, Lots 55-6 through 55-12, Lots 55-14 through 55-20, Lots 55-22 through 55-28 incorporating the Dearborn Circle and Burrows Lane residential development are permanently removed from this zoning district as voted by the Town citizens at the March 13, 2007 Town Meeting and in accordance with the procedures outlined in NHRSA 675:3 Methods of Enactment in Certain Towns and Village Districts. Lots 55-5 and 55-21 approved for commercial district at March 12, 2019 Town Meeting by Town citizens.

5. Area bounded by Bellows Falls Road (Main Street), Route 12 (Bellows Road), and Mill P Brook.

6. Area bounded by Turnpike Street (Main Street) to the corner of High Street and (Old) North Main Street, 175 feet northerly along (Old) North Main to a point, thence 75 feet easterly parallel to High Street, thence 175 feet southerly to High Street, High Street, School Street, a line 175 feet north of Middle Street, east side of Washington Square, Westminster Street, and Elm Street.

## ARTICLE VII

### **Industrial District**

#### Preamble

The purpose for establishing an Industrial District is to provide within the Town area in which manufacturing operations may be carried on without infringing on the health, welfare and quiet of the residents of the Town. Manufacturing operations are those in which materials are changed physically in form, changed chemically or mixed to provide other compounds. The area provided for industry must be highly specific to the nature of the manufacturing operation. Chemical or physical research might well be conducted in close proximity to a Residential District and yet manufacture of glue or explosives could not. Hence, it is the intent of the Ordinance to require each Planning Board, the Board of Adjustment, after considering the facts in light of the welfare and benefit of the community, may allow such industry in either the Rural-Agricultural District or Commercial District as an Exception. Such an Exception may later be made part of the Industrial District by amendment of this Ordinance.

Industrial and manufacturing operations in the sense that the materials entering the operation are changed in form, size or composition before shipment.

#### C. Requirements:

All industrial establishments in this district shall meet the following requirements:

1. An industry shall be located at least eighty-five feet (85) from the center line of any right-of-way and not less than twenty feet (20) from each side or rear boundary.
2. The lot area in the industrial district shall be not less than 25,000 square feet and every lot shall have a minimum frontage of 150 feet.
3. An industry must provide adequate off street parking and loading facilities for freight and delivery trucks, employee's and customer's parking.
4. An industry must obtain a permit for its establishment from the Board of Adjustment after the Board has had a recommendation from the Planning Board and is satisfied that the industry shall not offend at the location selected by reason of emission of smoke, dust, noise, odor, fumes or water pollution.

D. Boundaries of Industrial District:

1. Area occupied in 1965 by the Cold River Sand and Gravel Corporation, bounded by the North Walpole Precinct, Residential District Type B, Drewsville Road (Whitcomb Road), Town-owned land occupied by the Town Dump (Map 014-012-000)
2. Area occupied in 1965 by Hicks Machine Company on Bellows Falls Road (65 Maplewood, Main Street).
3. Area occupied in 1965 by Hubbard Farms Hatchery on Turnpike Street (165 Main Street).
4. Area bounded by Westmoreland Town Line, Route 12 (Bellows Road), center of Houghton Brook, right of way of Boston and Maine Railroad.

E. Special Exceptions

1. Commercial operations by Special Exception from the Board of Adjustment under the same provisions as apply to the use permitted under Article VI, the Commercial District.
  - a) Consideration of Planning Board recommendation on the project based on its determination following a public hearing that:
    1. property currently zoned for commercial operations is either unavailable for the proposed use.
    - 2.) the proposed use is appropriate and consistent with the Town's Master Plan.
  - b) Each proposed use must show it will not infringe on the primary established use of the district.
  - c) No commercial venture or use shall be permitted which would cause any undue hazard to health, safety or property values or which could be offensive to the public because of noise, vibration, excessive traffic, unsanitary conditions, noxious odors, smoke or similar reason.
  - d) All signs shall meet the requirement of Part D of the General Provisions of the Zoning Ordinance.

**ARTICLE VIII**  
**Rural/Agricultural District**

A. Preamble:

The purpose for establishing a Rural/Agricultural District is to provide ample area for pursuit of agriculture including, but not limited to: dairy farming, poultry raising and timber harvest. Within this district in Walpole, it is expected that residential living will be enjoyed on what were once farms of large acreage, with or without lease of some of the land for tillage and the usual agricultural pursuits. The Planning Board recognizes that there may be fewer active farm units in the Town in the future, but probably these will use more land by lease or other arrangement. It may be that in the future, amendment to this Ordinance may be needed to increase the Residential District along certain highways, yet retaining the arable land set back from those highways for this Rural/Agricultural District.

B. Uses Permitted.

A building may be erected, altered or used and a lot may be used or occupied, only for the following  
13.  
purposes and in accordance with the following provisions:

One single or one two-family dwelling per lot, with private garages and accessory buildings.

Residences may be used to house such customary uses by the owner or tenant as office for doctors, lawyers, real estate or insurance, or other recognized professions, or such home occupations as hair dressing or dress-making, except that the number of persons employed at any one location shall not number more than two persons in addition to the owner or tenant. Adequate off-street parking shall be provided on the premises.

Mobile homes on individual lots, when placed on a permanent foundation and meeting the standards set forth in HUD Safety, Health and Construction Standards of 1978, and any subsequent amendments thereto.

Usual and ordinary farming activities.

Farm buildings located at least one hundred feet from any Residential District boundary line.

Roadside stands for the sale of farm products raised on the premises.

Stables and riding academies.

Plant nurseries and greenhouses.

Veterinary hospitals.

#### C. Special Exceptions

1. Industrial, manufacturing and commercial operations by Special Exception from the Board of Adjustment when fulfilling the following requirements:

Consideration of Planning Board recommendation on the project based on its determination following a Public Hearing that:

property currently zoned for industrial, manufacturing and commercial operations is either unavailable or inadequate for the proposed use;

and the proposed use is appropriate and consistent with the Town's Master Plan.

Each proposed use must show that it will not infringe on the primary established use of the district.

No industrial, manufacturing or commercial venture or use shall be permitted which could cause any undue hazard to health, safety or property values or which could be offensive to the public because of noise, vibration, excessive traffic, unsanitary conditions, noxious odor, smoke, or other similar reason.

Each proposed use shall provide adequate off-street parking, including loading facilities for freight and delivery trucks, and parking spaces for employers, employees and customer vehicles. Additional parking may be required based on the size and nature of the business.

14.

Businesses shall be located at least 65' from the center line of any right of way and not less than 20' from each side or boundary. Greater distances for setbacks and boundaries may be required according to the nature of the business.



All signs shall meet the requirements of Part D of the General Provisions of the Zoning Ordinance.

No retail commercial building shall be permitted which exceeds 40,000 square feet in gross floor area

#### D. Land Standards

Lot Area. The lot area in the Rural/Agricultural District shall not be less than 40,000 square feet for each dwelling unit and every lot shall have a minimum frontage of 200 feet.

Yard Requirements. No building or other structure shall be erected closer than sixty-five (65) feet to the center line of the abutting right-of-way nor closer than twenty feet (20) to any side or rear property line.

#### E. Boundaries of Rural/Agricultural District.

The Rural/Agricultural District shall comprise all lands in the Town not specifically allotted to the North Walpole Village precinct, Residential, Commercial, Industrial or Timberland Districts.

### **ARTICLE IX** **Timberland District**

#### Preamble:

The purpose for establishing a Timberland District in Walpole is to provide at this time, when large areas (approximately eight square miles) are not inhabited nor have any habitable structures thereon, a plan for the orderly development of these areas in the future as the town grows and expands. In the meantime, these lands, potentially valuable for timber cultivation- but less suitable for general farming, continue to provide attractive areas for recreational use such as: hunting, fishing, hiking and horseback riding.

#### C. Uses Permitted

Any use permitted in the Rural/Agricultural District shall be permitted in this District. However, a building may be constructed in this District provided a permit is obtained from the Board of Adjustment whose duty it shall be to grant such permit only on the recommendation of the Planning Board and when they are satisfied that it shall meet the following qualifications:

All sanitary provisions in Article IV Section C of this Ordinance.

Highways and access roads thereto are of such width, curvature, grade and construction that "they can be used by motorized fire fighting equipment and can be cleared of snow to provide year-round access.

D. Nothing in this section shall prevent the use of a trailer, hunting camp or logging camp as long as it is shown to the Board of Selectmen that the use is temporary and it will comply with Article IV section C of this Ordinance, in which case a permit may be granted for a period not to exceed six months.

#### Boundaries of Timberland District:

1. Cheney Hill Land. Area bounded by a line one quarter of a mile from Hitchcock Road, Whitney Road (Old Cheshire Turnpike), Valley Road, 2400 feet on Tavern Road (Cheney Hill Road), Alstead Town Line.

15.

2. Eaton Hill Land. Area bounded by a line one quarter of a mile from the following roads or residences within these roads and as adjusted to avoid small strips as shown on the Walpole Zoning Map: Dearborn Road (Upper Walpole Road), Hubbard Road (Old Drewsville

Road), Hayes Road, Valley Road, Dodge Road (LeClair Road), Valley Road, March Hill Road, Maple Grove Road, Ramsey Hill Road, Reservoir Road, Hubbard Road (Old Drewsville Road).

3. Derry Hill Land. Area bounded by a line one quarter of a mile from the following roads: March Hill Road, Barnett Hill Road, Alstead Town Line, Surry Town Line, County Road, Crehore Road, County Road, Watkins Hill Road, Thompson Road.

4. Sheep Hill Land. Area bounded by a line one quarter of a mile from the following roads: Wentworth Road, County Road, Westmoreland Town Line, and as adjusted on and shown by the Walpole Zoning Map to avoid small strips of land in the District.

Land Standards:

1. Lot Area. The lot area in the Timberland District shall be not less than 40,000 square feet for each dwelling unit and each lot shall have a minimum frontage of 200 feet.
2. Yard Requirements. No building or other structure shall be erected closer than sixty-five feet to the center line of the abutting right-of-way nor closer than twenty feet to any side or rear

**ARTICLE IX-1**

**Retirement Community Overlay District**

A. AUTHORITY: A Retirement Community Overlay District is hereby established in the Town of Walpole pursuant to RSA 674:21, Innovative Land Use Controls.

B. PURPOSE: The Retirement Community Overlay District shall serve the following purposes:

1. provide for appropriate sites within the town for the development of housing and related facilities to serve the needs of people age sixty-two (62) years and older.
2. regulate the intensity and mix of the different types of housing units required to meet the needs of these senior citizens so as to provide ample outdoor and livable space and to retain a sense of personal identity, intimacy and human scale within the development.
3. To provide ample-sized meeting rooms and recreational facilities for the comfort and convenience of the residents.
4. Through site plan review by the Planning Board, to provide for review of the bulk, height and spacing of buildings, architectural design of the buildings, and the circulation and parking pattern within the development to ensure that adequate light, air, privacy and open space for passive recreation and landscaped amenities are provided.
5. To provide such accommodation in a manner harmonious with the surrounding land uses while protecting the natural resources and open space.

16.

6. To preserve the town's residential character.

C. APPLICABILITY: The Retirement Community Overlay District shall only apply to the Residential B and Commercial Districts.

D. DEFINITIONS:

Building Height - The vertical distance from the mean finished grade of the ground adjoining the building to the highest point on the roof for flat or shed roofs, to the deck line for mansard roof, and to the mean height between eaves and ridges for gable, hip and gambrel roofs. Not included are spires, cupolas, TV antennae, or other part of structures which do not include potentially habitable floor space.

Common Area - Any land area, other than Open Space, set aside for common ownership as a result of Retirement Community Development, including areas for common facilities. The following uses shall be allowed within the Common Area: active recreation such as tennis courts, swimming pools, etc.; and community water and sewer systems.

Common Facilities - Built facilities which are commonly owned by the property owners within a Retirement Community Development. Common facilities may be proposed but are not required. They may include streets, rights-of-way, common buildings, wells, water and waste treatment systems, and recreation facilities.

Homeowners Association - A private non-profit organization (corporation, association, or other legal entity) established by the developer to manage, maintain, support, and finance the common facilities and open space of a Retirement Community Development, and to enforce certain covenants and restrictions.

Open Space - Undeveloped land set aside for common or individual ownership as a result of a Retirement Community Development, with conservation easements and other deeded restrictions to ensure that the land will remain permanently open and undeveloped. A condition of approval under the Retirement Community Overlay District is that Open Space may not be further subdivided. Only the following uses shall be allowed within the Open Space: passive recreation, gardening, and horticulture.

Retirement Community Development - A form of residential development where the density of dwelling units is no greater than would be permitted in the district in which the Retirement Community Development is located, but where the lot size and other dimensional standards may be reduced in exchange for the preservation of permanently protected open space, recreational land, forests, and/or farmland.

E. PERMITTED USES: In this district land may be used and buildings may be erected, altered or used for:

1. Detached and/or attached single-family uses and accessory uses thereto with a maximum of three (3) bedrooms per dwelling unit.
2. Duplex dwelling units with a maximum of three (3) bedrooms per dwelling unit.
3. Recreation buildings and grounds for activities, games and sports not carried on for financial gain.
4. Accessory buildings for the storage, repair and maintenance of equipment and vehicles used in the operation of a retirement community.
- 17.
5. Dining rooms, meeting facilities, and health care facilities necessary to provide services to residents of the development if appropriate.

F. OCCUPANCY ELIGIBILITY: Occupancy is restricted to persons age sixty-two (62) years or older, with the following exceptions:

1. A spouse under sixty-two (62) years old married to a resident over the age of sixty-two (62).
2. Adults between the age of eighteen (18) and sixty (62) only if their presence is required to minister to a resident over the age of sixty-two (62).

G. MINIMUM REQUIREMENTS shall be as follows:

1. TRACT SIZE: A proposed site shall consist of at least ten (10) acres of contiguous land in single or consolidated ownership and may include parcels separated by existing public roads, provided that such parcels abut. The development shall be non-subdividable. Multiple lots shall be consolidated prior to approval under this ordinance.
2. DENSITY: The maximum allowable density of the site shall be calculated based on the following:

TOTAL area of tract

MINUS area of all undevelopable lands which shall include all surface waters on the tract, all lands with slopes of 25 percent or greater, wetlands, and all lands located in the Floodplain District as defined in Article XVIII of the Zoning Ordinance

EQUALS total developable area

TOTAL developable area

MINUS area of all street and /or road rights-of-way within the development

DIVIDED by the minimum lot size for the district in which the project is located as specified in the Zoning Ordinance

MULTIPLIED by two (2)

EQUALS the maximum number of dwelling units permitted (rounded to the nearest whole number)

Applicants shall show that the site characteristics can accommodate the proposed density. Adequate and appropriate on-site space must be provided in each development for parking, buildings, water, sewage, utilities, and all other infrastructure and facilities, regardless of the maximum allowable densities.

3. BUILDING HEIGHT: No building erected in this district shall exceed thirty-five (35) feet in height.
4. FRONTAGE ON NEAREST PUBLIC RIGHT-OF-WAY: One hundred and fifty (150) feet.
5. SITE PERIMETER BUFFER: Each development must be situated within a permanently protected undeveloped site perimeter buffer, identified on the site plan, not less than fifty (50) feet wide which, unless already wooded and satisfactory to the Planning Board, is planted and landscaped to provide a visual barrier between the development and all adjacent property. The Planning Board may require additional buffer width where unique circumstances of an abutting  
18.  
use or property warrant. The intent is to insure adequate screening where mixed uses abut. The Site Perimeter Buffer can be counted toward the 50% set aside of permanently protected Open Space.
6. SETBACKS: All structures shall be set back at least fifty (50) feet from all adjoining property lines. There shall be a minimum of twenty-five (25) feet between all buildings.
7. OPEN SPACE: The overall site must have a minimum of fifty percent (50%) common open space, of which no more than twenty-five percent (25%) may be wetlands, slopes over twenty-five percent

(25%), or lands located in the Floodplain District as defined in Article XVIII of the Zoning Ordinance. This requirement does not apply to those slopes over twenty-five percent (25%) which have been created by prior human activity, which shall be re-graded to less than twenty-five percent (25%). Open space must be contiguous in a layout acceptable to the Planning Board. Rights-of-way, streets, driveways, and/or parking areas shall not be counted as Open Space.

8. UTILITIES: A proposed site shall be connected to either a community or municipal water and sewer system. The water system within the site shall be designed to provide the maximum flow practical for fire-fighting purposes as required by the State of NH Building Code (RSA 155-A). Each development shall conform to the regulations promulgated by the NH Department of Environmental Services with respect to water, sewerage, garbage, and other health measures. All utilities such as electric, telephone, and cable shall be required to be placed underground.

9. LIGHTING: Roads and main access ways to buildings shall include adequate lighting. The use of "full cut-off" type lighting shall be required for all public areas. A formal site-wide lighting plan shall be submitted, requiring Planning Board approval. Lighting of common and public areas shall be independently controlled from residential units and shall be minimized or turned off at an agreed upon "no later than" time at night. Light trespass, nuisance glare, and over-illumination due to excess wattage or inappropriate lighting type shall be prohibited. Adequate lighting for pedestrian safety shall be provided.

10. PEDESTRIAN TRAFFIC: The use of interconnecting walkways, trails and natural walking paths shall be an integral part of the design of any development to facilitate access between common areas, groups of dwelling units and open space areas. Easements shall be requested where trails or potential trails on abutting lands may allow for a local connection. Appropriate timing and restrictions may apply. Primary walkways and sidewalks shall meet Americans with Disabilities Act (ADA) requirements. Trails and natural walking paths are exempt from this requirement, but the Board encourages maximizing accessibility to residents.

11. BUILDING DESIGN: Architectural renderings and/or elevations of all buildings and all accessory buildings shall be provided which the Planning Board will evaluate in accordance with the Site Plan Review Regulations to confirm that proposed development is an appropriate scale and arrangement in light of the underlying zoning district, the prominence of the site, viewsheds, adjacent uses and the surrounding neighborhood.

12. LANDSCAPE PLAN: A landscaping plan acceptable to the Planning Board shall be provided consistent with the Landscaping and Off Street Parking and Loading requirements in the Site Plan Review Regulations.

19.

13. OFF-STREET PARKING: Parking for this district shall be provided in the following manner, and shall be in compliance with the appropriate subsections of off-street parking:
- a. Two (2) spaces per dwelling unit.
  - b. Adequate visitor's parking.

#### H. STREET REQUIREMENTS:

1. All streets and roads internal to the development shall be privately maintained unless the Board of Selectmen, upon recommendation of the Planning Board, presents a street to be a dedicated public roadway to the Town Meeting and the town accepts the roadway.
2. Where retained as private ways, streets shall be posted as such by standard street signs.
3. All streets shall be designed and constructed consistent with local requirements, unless the Planning Board determines that a modification of the width and/or construction standards of said streets will not be detrimental to the circulation or the safety of the development.
4. The number of new access points to existing and proposed public streets and major through roads shall be limited to two (2) unless otherwise determined by the Planning Board.

I. OWNERSHIP OF OPEN SPACE AND COMMON AREAS:

1. The developer shall hold, manage and maintain Open Space, Common Land, and Common Facilities within a Retirement Community Development until completion of all improvements, whereupon the developer shall transfer the ownership and management and maintenance responsibilities as set forth in Subsections I.2 and 3 below.

2. Common Areas and Common Facilities within a Retirement Community Development shall be owned by and bound by a homeowner's or condominium association or similar form of common ownership set by the developer. Membership in said association shall be mandatory for property owners and made a required covenant in any deed issued or passed. Articles of association or incorporation must be acceptable to the Planning Board and to Town Counsel.

3. Open Space shall be owned by one or a combination of the following:

a. A homeowner's or condominium association or similar form of common ownership set forth by the developer;

b. A conservation trust or private nonprofit organization such as the Society for the Protection of NH Forests, The Audubon Society, or the Monadnock Conservancy, which has as its purpose the preservation of open space through ownership and control;

c. The Town of Walpole, subject to acceptance by the Town;

d. The State of New Hampshire for permanent open space uses;

e. A private landowner such as a farmer or forest manager that will manage it for uses consistent with the provisions of this ordinance.

J. PERMANENT PROTECTION OF OPEN SPACE: All Open Space in a Retirement Community Development, whether held privately or in common, shall be restricted in perpetuity as open space through the use of conservation easements that legally restrict the development rights to that property.

20.

1. The easement may be so worded as to permit or restrict public access, to allow or disallow recreational development, and similar provisions.
2. The burden of the easement conveyed hereby shall run with the property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the U.S. Government, or the Town of Walpole, consistent with

Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the Purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

K. SUBMISSION AND REVIEW PROCEDURE:

1. An application for development in this overlay district shall begin with a Conceptual Plan Review by the Planning Board. The Conceptual Plan shall contain a plan for phasing the proposed development. This phasing plan must indicate at which periods the various types of dwelling units will be constructed and contain an estimate of possible impacts on the Town of Walpole, and must also include a recreation plan indicating proposed indoor and outdoor facilities for use by all residents of the development.

2. The Planning board shall review and approve or disapprove site plans for all proposed retirement community housing developments. Subdivision approval shall also be required when a parcel of land is modified through division or consolidation. Any entity desiring to operate and maintain any site as housing for older persons, shall apply to the Planning Board for the establishment of a development and/or expansion of an existing development within the Town of Walpole under the procedure contained herein and further specified in the Site Plan Review Regulations, and if required, Subdivision Regulations, as may be amended from time to time. The review of any site proposed for retirement community housing shall take into account its proximity to those support services necessary to meet the needs of the elderly. Where support services are absent or remote, provisions for such services shall be provided by the developer.

3. A completed application for the Retirement Community Development shall contain at a minimum the following information:

- a. A demonstrated need for additional Retirement housing.
- b. If Applicable, a Subdivision Plan showing all the information required in the Walpole Subdivision Regulations;
- c. Site Plan showing all the information required in the Walpole Site Plan Review Regulations;
- d. Typical architectural renderings and/or building elevations and floor plans of all proposed buildings.
- e. A Landscaping Plan indicating the existing vegetation to be retained and that to be removed as well as the type, size, and numbers of all proposed new plantings;
- f. A Lighting Plan for the entire site;
- g. Copies of all legal documents associated with the development including the Homeowners Association By-Laws, Articles of Incorporation, protective covenants and deed restrictions, etc.;
- h. A timetable for completion of the Retirement Community Development.

L. ENFORCEMENT: The enforcement of this Article is vested with the Board of Selectmen. Upon any well-founded information that this Article is being violated, the Selectmen shall, within 14 days, undertake such steps as are legally available to them pursuant to RSA 676:15, 17, 17-a, 17-b.

M. SEVERABILITY: The invalidity of any provision of this Article shall not affect the validity of any other provision, nor any prior decisions made on the basis of the valid provisions of this Article.

N. EFFECTIVE DATE: This Article shall take effect upon its passage, and as amended.

## **ARTICLE X** **Non-Conforming Uses**

- A. Any non-conforming lot, dwelling, or business may continue in its present use.
- B. When any existing non-conforming use of land or building has been discontinued for one year the land and building shall thereafter be used only in conformity to this Ordinance, except that the Board of Adjustment, after public hearing, may permit the resumption of said non-conforming use.
- C. A non-conforming lot may not be voluntarily reduced in size.
- D. A non-conforming use may be expanded or enlarged or changed to another non-conforming use after the Board of Adjustment determines, after public hearing, that the proposed expansion, enlargement, or change will not materially increase the hazard or nuisance value of the non-conformity.

## **ARTICLE XI** **Board of Adjustment**

The five (5) member Zoning Board of Adjustment will be an elected body per RSA 673:3, commencing in 1992. The Board of Adjustment shall conform in membership and term of office to the provisions of

Chapter 673, Sections 3 and 5, N.H.R.S.A. 1983. This Board shall act with full powers granted said Board by Chapters 672-677.

## **ARTICLE XII** **Administration and Enforcement**

### A. Administration

1. Building Permit Required: A building permit shall be required in order to erect, alter, enlarge, change the use of, relocate, remove or demolish a building; and to convert a dwelling from seasonal to year-round occupancy.

22.

2. Exemptions: Exempted from this requirement are: buildings less than one hundred (100) square feet in size and used as an accessory building to the principal use; general repairs and maintenance; the replacing in kind of structural components; and remodeling where the purpose for which the building is to be used is not changed, or where the exterior walls of the building are not to be altered.



3. The Board of Selectmen shall issue any and all permits required when the building or land use for which the permit is sought will be in accordance with the provisions of this Ordinance or in accordance with any Variance or Special Exception granted by the Board of Adjustment.

4. A fee to cover the administrative costs of the permit process shall be determined by the Selectmen.

B. Enforcement

1. It shall be the duty of the Board of Selectmen, and the Board is hereby given 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 an injunction in the Superior Court or by any other appropriate action.

**ARTICLE XIII**  
**Amendments**

This ordinance may be amended by a majority vote as provided for in Chapter 675, N.H.R.S.A., 1983.

**ARTICLE XIV**  
**Penalty**

Any violation of this Ordinance shall be made punishable by a fine of not more than \$100.00 for each day such violation may exist after the conviction date; provided, however, that the total fines imposed for any single violation shall not exceed \$500.00.

**ARTICLE XV**  
**Saving Clause**

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

**ARTICLE XVI**  
**Effective Date**

This Ordinance shall take effect upon its passage.

**ARTICLE XVII**  
**Definitions**

A. Accessory Building means a building subordinate to the main building on the lot and used for purposes customarily incidental to those of the main building.

23.

B. Building is a structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

C. Lot of Record means land designated as a separate and distinct parcel in a legally recorded deed or plan filed in the records of Cheshire County, NH.

- D. Frontage means the length of a lot bordering on a public street. Where a lot borders on more than one public street, the frontage shall be on that street on which the lot has the greatest length, unless otherwise designated by the owner.
- E. Public Street means any highway, street, road, avenue, land or other right-of-way over which the public has a right to pass and repass, and which the State, County or Municipality has a responsibility to maintain.
- F. Trailer means any vehicle or similar portable structure used, and intended to be used, as an office, shop or dwelling having no foundation other than wheels, hacks or skirting, and having none of the following: running water, sanitary facilities, bath facilities, and toilet.
- G. Mobile Home means any structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width, and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein.
- H. Mobile Home Park means the land on which two or more mobile homes are parked and occupied for living purposes, regardless of whether or not a charge is made for such accommodations.
- I. Tourist Home means any place consisting of a room or groups of rooms located in a residence where transient accommodations for sleeping or living purposes are provided for a price.
- J. Home Products, Products and Crafts mean and include everything of an agricultural nature grown, produced, conditioned, or otherwise processed on the property of the resident, also such articles as are manufactured or altered by members of the household or bona fide resident of any property.
- K. Non-Conforming Use means the use of any building, structure or land which does not conform to the use regulations of the district in which it is located.
- L. Sign means a structure, building wall or other outdoor surface or any device used for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, or to display, identify and publicize the name or product or service of any person.
- M. A Wall Sign is defined as any sign attached to, painted on, or applied to a building. All wall signs shall be located on the primary building in which a permitted non-residential use takes place and shall not extend above the roof line of the building. A sign that is affixed to a building shall lie flat against the wall showing only one face.
- N. A free-standing sign is defined as any sign not attached to a building. Structural elements of a free-standing sign shall not be used in calculation the area of such sign. A free-standing sign may have two sides exhibiting advertising matter, and only one side shall be used in calculating the area of such sign.
- Planning Board is a board of seven members elected by the voters and whose function, among other duties, is the study of a preparation of the Zoning Ordinance and any amendments thereto.
- P. Dwelling: Means a building of common foundation. A one or two family dwelling will share the same foundation per lot.

**ARTICLE XVIII**  
**Flood Plain District**

Preamble:

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 County of Cheshire, NH" dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps dated May 23, 2006 or as amended, which are declared to be part of this ordinance and are hereby incorporated by reference.

The purpose of establishing a Flood Plain District is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
2. Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
3. Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters.
4. Controlling, filling, grading, dredging, or other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Item I

A. Definitions:

1. **Area of Special Flood Hazard** is the land in the flood plain within the Town of Walpole subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map.
2. **Base Flood** means the flood level having a one-percent possibility of being equaled or exceeded in any given year.
3. **Basement** means any area of a building having its floor sub-grade on all sides.
4. **Development** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving excavation to drilling operations or storage of equipment or materials.
5. **Flood Insurance Rate Map** (FIRM) means the official map incorporated with this ordinance, on  
25.  
which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Walpole.
6. **Flood Insurance Study** see *flood elevation study*.
7. **Floodway** see *regulatory floodway*.
8. **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
9. **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.
10. **Floodplain or Flood-Prone Area** means any land area susceptible to being inundated by water from any source (see definition of flooding).
11. **Flood Proofing** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
12. **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.
13. **Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
14. **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 registered historic district or a district preliminarily determined by the
  - c. Secretary to qualify as a registered historic district;
  - d. 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
  - e. 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 the Secretary of the Interior, or
    2. Directly by the Secretary of the Interior in states without approved programs.
15. **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.
16. **Manufactured Home** means a structure, transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.
17. **Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
18. **Mean Sea Level** means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
19. **New Construction** means, for the purposes of determining insurance rates, structures for which the
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- "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
20. **100 Year Flood** see "Base Flood."
21. **Recreational Vehicle** means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

22. **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 cumulatively increasing the water surface elevation more than a designated height.

23. **Special Flood Hazard Area** see “area of special flood hazard.”

24. **Structure** means for flood plain 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.

25. **Start of Construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or

26. **Foundation** 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 not part of the main structure.

27. **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 fifty percent of the market value of the structure before the damage occurred.

28. **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 the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, “Substantial improvements” 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 specification which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structures’ continues designation as a “historic structure”.

29. **Violation** means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44CFR ( ) 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

30. **Water Surface Elevation** means the height, in relation to the National Geodetic Vertical Datum

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(NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

#### B. Boundaries:

The Flood Plain District includes all special flood hazard areas south of Cold River designated as Zone A on the Walpole Flood Insurance Rate Map.

C. Regulations:

1. In the Flood Plain District all development is prohibited except by Special Exception.
2. No Special Exception shall be granted for placement of manufactured housing within the Flood Plain District.
3. The proposed development must be otherwise permitted in the underlying district.
4. Certification by a NH registered professional engineer must be provided by the applicant demonstrating that the proposed development in a flood way will not result in any increase in flood levels during the occurrence of the 100 year flood.
5. Any proposed new construction or substantial improvement (50% or more of the market value of structure including prefabricated) must (1) Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, (2) Use construction materials and utility equipment that are resistant to flood damage, and (3) Use construction methods and practices that will minimize flood damage.

All new construction and substantial improvement of structures have the lower floor elevated or flood proofed to or above the base flood level.

6. All new and replacement water and sewer systems be located, designed, and constructed to minimize infiltration and impairment by floodwaters.
7. Obtain permits for all proposed development within the Flood Plain District.
8. Provide evidence that all necessary permits have been received from these governmental agencies as required by federal or state law.

Item II

All proposed development in any special flood hazard areas shall require a permit.

Item III

The Selectmen 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 in a flood-prone area, all new construction or substantial improvements shall:

- a. be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydro-static loads, including the effects of buoyancy.
- b. Be constructed with materials resistant to flood damage,  
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- c. Be constructed by methods and practices that minimize flood damages,
- d. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Item IV

Where new or replacement water and sewer systems (including on-site systems) are proposed in flood-prone areas the applicant shall provide the Selectmen 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.

#### Item V

The Selectmen shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been flood-proofed, the as built elevation (in relation to mean sea level) to which the structure was flood-proofed. This information must be furnished by the applicant.

#### Item VI

The Selectmen shall review proposed developments to assure 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. It shall be the responsibility of the applicant to certify these assurances to the Selectman.

#### Item VII

1. 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 Environmental Service Department and submit copies of such notification to the Selectmen. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Selectmen.
2. The applicant shall submit to the Selectmen, 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. Along watercourses with a designated regulatory floodway 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. In Zone A the Selectmen shall obtain, review and reasonably utilize any floodway data available from Federal, State, or to other sources as criteria for requiring that development meet the floodway requirements of this section.
4. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM, unless it is demonstrated 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.

#### Item VIII

1. In special flood hazard areas the Selectmen shall determine the 100 year flood elevation in the following order of precedence according to the data available:
  - a. In Zones A1-30, AH, AE, V1-30, and VE refer to the elevation data provided in the communities Flood Insurance Study and accompanying FIRM or FHBM.

- b. In unnumbered A Zones the Selectmen shall obtain, review, and reasonably utilize any 100 year flood elevation data available from: federal, state, development proposals submitted to the community (i.e. subdivisions, site approvals) or other source.
  - c. In Zone AO the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least two feet.
2. The Selectboard's 100-year flood elevation determination will be used as criteria for requiring in Zones A, A1-30, AE, AH, AO, and A that:
- 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 improvement 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 hydro-static 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 flotation, 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;
  - d. For all new construction and substantial improvements fully enclosed area 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 flood waters. 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  
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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 floodwaters;
  - e. Proposed structures to be located on slopes in special flood hazard areas Zones AH and AO shall include adequate drainage paths to guide flood waters around and away from the proposed structures.



- f. All recreational vehicles placed on sites within **Zones A** shall either:
- (i) be on the site for fewer than 180 consecutive days;
  - (ii) be fully licensed and ready for highway use; or
  - (iii) 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 (c) (6) of Section 60.3.

Item IX - Variances and Appeals:

1. 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.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards, under state law that:
  - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - d. The Zoning Board of Adjustment shall notify the applicant in writing that:

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 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.

4. The community shall:
  - a. maintain a record of all variance actions, including the justifications for their issuance,
  - b. and report such variances issued in its annual or biennial report submitted to FEMA’s Federal Insurance Administrator.

## ARTICLE XIX

### **Wellhead Protection Overlay District Ordinance**

#### A. Preamble

Natural Resource Overlay Districts comprise those areas with characteristics that require protection and land management practices which minimize environmental degradation. The restrictions within each district are designed to permit uses appropriate to the area while protecting health, safety, and general welfare of the Town of Walpole and its citizens, now and in the future.

The regulations in this Article overlay and supplement the provisions on the underlying zoning districts. Where any provisions of these overlay zoning districts are in conflict with provisions of

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the underlying zoning district regulations, other ordinances of the Town of Walpole, or the State of New Hampshire, the more restrictive provisions shall apply.

#### **SECTION I. AUTHORITY**

Pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, II relative to innovative land use controls, the Town of Walpole hereby adopts the following regulation.

## SECTION II. PURPOSE

The purpose of the Wellhead Protection Overlay District is to balance the value of groundwater as an important source of drinking water for the Town of Walpole with the economic impact of restricting a variety of uses within the Wellhead Protection Overlay District.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated public drinking water wells.

Intent of the Wellhead Protection Overlay District:

To promote public health, safety and general welfare of the community

To protect, preserve and maintain existing and potential groundwater supplies, groundwater recharge areas, and wellhead protection areas within known aquifers.

To protect the groundwater and wellhead protection areas of the Town from adverse development, inappropriate land use practices and depletion.

## SECTION III. DEFINITIONS

A. Aquifer: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

B. Biosolid: Biosolids is the term used for any sludge derived from sewage wastewater treatment facility that meets the standards for beneficial reuse, that is or has received a sludge Quality Certification or SQC.

C. Bulk Storage of Materials: Deicing material that are ordered, stored, issued and sold by weight is known as bulk materials.

D. Groundwater: Water in the sub-surface zone at or below the water table in which all pore spaces are filled with water.

E. Impervious: Not readily permitting the infiltration of water.

F. Impervious Surface: A surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen, wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.

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G. Junkyard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

H. Leachable Wastes: Waste material, including solid wastes, sludge and agricultural wastes

that are capable of releasing contaminants to the surrounding environment.

I. Mining: The activities performed in the extraction of minerals including the excavation of pits, removal of mineral, removal of dimension stone, disposal of overburden and the construction of roads for the haulage of mining materials.

J. Non-Contact Cooling Water: Water which flows through a heat exchanger providing a physical barrier between the water and the process being cooled.

K. Positive Limiting Barrier: A depression (e.g. groove) in the surface of an otherwise level impervious area designed to impede the flow and contain spilled substances with the perimeter of the impervious area.

L. Process Water: Wastewater from an industrial process.

M. Public water system: A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year

N. Regulated Substance: Substances listed under 40 CFR 302, 7-1-05 edition or most current, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

O. Sanitary Protective Radius: The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 373.12 and Env-Dw 372.14 (for other public water systems) or most current versions.

P. Seasonal High Water Table: The depth from the mineral soil surface to the upper most soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Engineer or other qualified professional approved by the Planning Board.

Q. Secondary Containment: A structure such as a berm or dike with an impervious surface which is adequate to hold 110 percent of the volume of the largest regulated-substances

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container. (See Env-Wq 401.03(i) for reference).

R. Snow Dump: For the purposes of this ordinance, a location where snow, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

S. Solid Waste: Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He-P 1901.03 or more current version. Solid waste includes solid, liquid, semi-solid, or contained gaseous waste

material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities.

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

U. Wellhead Protection Area: The surface and subsurface area surrounding a water well or well field supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

V. Hazardous Waste Facility: Any location at which hazardous waste is subjected to treatment, storage or disposal and may include a facility where hazardous waste has been generated.

#### **SECTION IV. WELLHEAD PROTECTION OVERLAY DISTRICT**

The Wellhead Protection Overlay District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Wellhead Protection Areas for the River Well and the Watkins Hill Well, sources for the public drinking water system for the Town of Walpole. The wellhead protection area for the River Well is depicted on a map entitled “Wellhead Protection Area for River Well, Walpole, NH (EPA ID 2401010-001) and dated January 2003. The wellhead protection area for Watkins Hill well is depicted on a map entitled Wellhead Protection Area for Watkins Hill Well, Walpole, NH (EPA ID 2401010-002) and dated November 2014. The Wellhead Protection Overlay District encompasses the surface and subsurface areas surrounding the aforementioned public water system wells through which contaminants are reasonably likely to move toward and reach such wells.

#### **SECTION V. DETERMINATION AND ADJUSTMENT**

##### **A. Determination**

Where the boundary of the Wellhead Protection Overlay District, as delineated, is doubted or disputed by the owner, applicant, or abutter of the land in question, the burden of proof shall be upon the disputing party or parties to show where it should be properly located. At the request of the Planning Board, the Town of Walpole may engage services of a professional such as a geologist, soil scientist, or staff from a state or federal agency to determine more accurately the location and extent of the resource in question at the scale of the subdivision plat or site plan, at the expense of the disputing land owner, applicant, or abutter. The Planning Board shall have the authority to make the final determination as to the location of a disputed boundary.

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##### **B. Adjustment**

The Planning Board may, based upon appropriate findings and evidence, recommend an adjustment of the boundary or area designation of the Wellhead Protection Overlay District, including reducing or expanding the designation area to more correctly define the location and the extent.

#### **SECTION VI. APPLICABILITY**

This Ordinance applies to all uses in the Wellhead Protection Overlay District, except for those uses exempt under Section XIII (Exemptions) of this Ordinance.

## **SECTION VII. PERFORMANCE STANDARDS**

The following Performance Standards apply to all uses in the Wellhead Protection Overlay District unless exempt under Section XIII:

- A. For any use that will render impervious more than 15 percent or more than 2,500 square feet of any lot, whichever is greater, a storm-water management plan shall be prepared which the Planning Board determines is consistent with the current revision of the “New Hampshire Stormwater Manual, Volumes 1-3”.
- B. Conditional uses, as defined under Section XI shall develop storm-water management and pollution prevention plans and include information consistent with “Developing Your Stormwater Prevention Plan: A Guide for Industrial Operators” (US EPA, Feb 2009) or more current edition. The plan shall demonstrate that the use will:
  - 1) Meet minimum storm-water discharge setbacks between water supply wells and constructed storm-water practices as found within the “Innovative Land Use Planning Techniques: A Handbook for Sustainable Development, Section 2.1 Permanent (Post-Construction) Stormwater Management”, (DES, 2008 or later edition).
  - 2) Minimize the release of regulated substances by developing and implementing a source control plan that identifies pollution prevention measures.
  - 3) Stipulate that the expansion or redevelopment activities shall require an amended storm-water plan and may not infiltrate storm-water through areas containing contaminated soils without completing a Phase I Assessment in conformance with the most current version of ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).
  - 4) Maintain a minimum of four feet vertical separation between the bottom of a storm-water practice that infiltrates or filters storm-water and the average seasonal high water table as determined by a licensed hydrogeologist, soil scientist, engineer, or other qualified professional as determined by the Planning Board.
- C. Animal manures, fertilizers, and compost must be stored in accordance with the manual Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Food, July 2008, and any subsequent revisions.
- D. All regulated substances stored in containers with a capacity of five gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;

- E. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner;
- F. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells and outside the sanitary protective radius of wells used by public water systems.
- G. Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must be constructed in such a way to minimize the accumulation of water in the containment area and contact between precipitation and storage container(s).
- H. Containers in which regulated substances are stored must be clearly visibly labeled in accordance with local state, and federal regulations and must be kept closed and sealed when material is not being transferred from one container to another.
- I. On any property within the wellhead overlay district, where land-disturbing activities are to take place, all inactive wells not in use or properly maintained at the time the site work plan is submitted, shall be considered abandoned and must be sealed by the well owner in accordance with the most current version of the New Hampshire Water Well Board Rules (We 604).
- J. Blasting activities shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells;
- K. All transfers of petroleum from delivery trucks and storage containers over five gallons in capacity shall be conducted over an impervious surface having a Positive Limiting Barrier (PLB) at its perimeter.

## **SECTION VIII. SPILL PREVENTION, CONTROL, AND COUNTERMEASURE PLAN (SPCC)**

Conditional uses, as described under Section XI, Part (A), using regulated substances shall submit a spill control and countermeasure plan (SPCC) to the Walpole Fire Chief or other official designee who shall determine whether the plan will prevent, contain, and minimize releases from

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ordinary or catastrophic events such as, spills, floods, or fires that may cause large releases of regulated substances. It shall include at a minimum:

1. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
2. Contact list and phone numbers for the facility response coordinator or official

designee, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.

3. A list of all regulated substances in use and locations of use and storage;
4. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
5. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating the ground.

## **SECTION IX. PERMITTED USES**

### **A. Permit Required:**

All site plan proposals located within the Wellhead Protection Overlay District shall be reviewed by the Planning Board and/or Zoning Board of Adjustment and shall conform to the provisions of this ordinance. No conditional uses shall be conducted within the Wellhead Protection Overlay District unless a Conditional Use has been approved by the Planning Board. The Planning Board is hereby authorized to attach any reasonable conditions to such approval regarding construction and operation.

Procedure on Application: The Planning Board shall act upon the applications in accordance with the procedural requirements of the Site Plan Review Regulations and NH RSA 676:4 Boards Procedures and Plats.

## **SECTION X. PROHIBITED USES**

The following uses are prohibited in the Wellhead Protection Overlay District. (See Table 1).

1. Disposal of solid waste (Brush and stumps are acceptable only if generated from clearing land and buried on the same site. A copy of the site plan which is required to be filed with the Commissioner of the Department of Environmental Services, in accordance with RSA 149-m for on-site burial of stumps, must be submitted to the Planning Board for its files).
2. Subsurface storage of petroleum and other hazardous materials.
3. Above-ground storage of petroleum and petroleum products in quantities greater than 660 gallons for a single tank or 1320 gallons for multiple-tank systems.
4. Disposal of liquid or leachable wastes are prohibited, except from a single or multi-family residential subsurface disposal systems, spreading of animal manure using Best Management Practices or approved commercial or industrial systems which discharge human waste only.
5. Industrial uses which discharge contact type process waters on site. Non-contact cooling water is permitted.

6. Bulk outside storage of road salt or other deicing materials.
7. Snow dumps comprised of snow which has been brought from outside of the Wellhead Protection Overlay District.
8. Mining except for earth excavation carried out in compliance with the Town of Walpole's Regulation Governing Earth Excavation including any subsequent amendments and a Conditional Use issued under Section 4 of this Ordinance and RSA 155-E.
9. All on site handling, disposal, storage, processing or recycling of regulated substances in greater than household quantities (e.g. five gallons).
10. Automotive service and repair shops, fuel sales, junk yards and salvage yards.
11. Concrete, asphalt, and tar manufacturing.
12. Fueling and maintenance of large earth-moving equipment.
13. Sewerage/wastewater treatment system.
14. Hazardous Waste Facility

## **SECTION XI. CONDITIONAL USES**

The Planning Board may approve a Conditional Use for a use which is otherwise permitted in the underlying district if the permitted use is involved in one or more of the following:

- A. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Section VII, is approved by the Walpole Fire Department;
  - B. Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater.
  - C. Any activities that involve blasting of bedrock.
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- D. To receive approval for a Conditional Use, the proposed use must either be permitted by right or by special exception in the underlying zoning district.
  - E. All uses permitted by right or by special condition in the underlying zoning district which are neither prohibited ("P") nor require an approved Conditional Use (CU") under this Section shall be assumed permitted by right or by Conditional Use in the Wellhead Protection Overlay District.



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

The Planning Board may require that the applicant provide data reports prepared by a professional engineer or qualified groundwater consultant to assess any potential damage to the Town’s public drinking water sources that may result from the proposed use. The Planning Board may engage such professional assistance as is required to adequately evaluate such reports and to evaluate in general, the proposed use. Costs of any of the above mentioned services shall be paid by the applicant.

In the Wellhead Protection Overlay District, the requirements of the underlying districts continue to apply, except that uses are prohibited where indicated by “P” in Table 1. Uses indicated by CU require a conditional use approval from the Walpole Planning Board.

Table 1. List of Prohibited Uses and Conditional Uses which require approval by the Planning Board in the Wellhead Protection Overlay District, Walpole, NH (“P” Prohibited; “CU” Conditional Use).

<ul style="list-style-type: none"> <li>• Disposal of Solid Waste</li> </ul>	Brush and stumps are acceptable only if generated from clearing land and buried on the same site. A copy of the site plan which is required to be filed with the Commissioner of the Department of Environmental Services, in accordance with RSA 149-m for on-site burial of stumps, must be submitted to the Planning Board for its files.	P
<ul style="list-style-type: none"> <li>• Subsurface storage of petroleum and other hazardous materials.</li> </ul>	39.	P
<ul style="list-style-type: none"> <li>• Above ground storage of petroleum and other hazardous materials in quantities greater than 660 gallons in a single tank or 1320 gallons for multiple tank systems.</li> </ul>	Spill prevention measures must be implemented including: A 110% secondary containment vessel, covered tank housing areas, routine monitoring, corrosion prevention measures, and the creation of a Spill Prevention, Control, and Countermeasure (SPCC) plan.	CU
<ul style="list-style-type: none"> <li>• Disposal of liquid or leachable wastes</li> </ul>	Except from a single or from a multi-family residential subsurface disposal systems, spreading animal manure using Best Management Practices or approved commercial or industrial systems which discharge human waste only.	P

<ul style="list-style-type: none"> <li>Industrial uses which discharge contact type process waters on site. Non-contact cooling water is permitted.</li> </ul>		P
<ul style="list-style-type: none"> <li>Bulk Storage of salt/deicing materials</li> </ul>		P
<ul style="list-style-type: none"> <li>Snow Dump</li> </ul>	Specifically a snow dump comprised of snow and materials brought from outside the Town Wellhead Overlay District Protection Districts.	P
<ul style="list-style-type: none"> <li>Mining</li> </ul>	Except for earth excavation carried out in compliance with the Town of Walpole's Regulation Governing Earth Excavation including any subsequent amendments and a Conditional Use is approved under Section 4 of this Ordinance and RSA 155-E.	P
<ul style="list-style-type: none"> <li>Regulated Substance(s)</li> </ul>	Substances listed under 40 CFR 302, 7-1-05 edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.	
<ul style="list-style-type: none"> <li>Automotive service and repair shops,</li> </ul>		P
<ul style="list-style-type: none"> <li>Junk Yards</li> </ul>		P
<ul style="list-style-type: none"> <li>Fuel Sales</li> </ul>		P
<ul style="list-style-type: none"> <li>Salvage yards</li> </ul>	40.	P
<ul style="list-style-type: none"> <li>Concrete, asphalt, and tar manufacturing</li> </ul>		P
<ul style="list-style-type: none"> <li>Permanent facilities for fueling &amp; maintenance of large earth-moving equipment</li> </ul>		P
<ul style="list-style-type: none"> <li>Sewerage/wastewater treatment system</li> </ul>	Excluding domestic septic systems	P
<ul style="list-style-type: none"> <li>Hazardous waste facility</li> </ul>		P

<ul style="list-style-type: none"> <li>• Industrial, commercial, institutional and governmental uses</li> </ul>	(That are not otherwise prohibited by this Overlay District).	CU
<ul style="list-style-type: none"> <li>• Stormwater infiltration pond and leaching basin</li> </ul>		CU
<ul style="list-style-type: none"> <li>• Cleaning Service (i.e. laundry, auto)</li> </ul>		CU
<ul style="list-style-type: none"> <li>• Food processing plant</li> </ul>		CU
<ul style="list-style-type: none"> <li>• Wood preserving &amp; furniture stripping</li> </ul>		CU
<ul style="list-style-type: none"> <li>• Excavation/grading</li> </ul>		CU
<ul style="list-style-type: none"> <li>• Electronic circuit assembly</li> </ul>		CU
<ul style="list-style-type: none"> <li>• Metalworking Shop</li> </ul>		CU
<ul style="list-style-type: none"> <li>• General Service and Repair shop</li> </ul>		CU
A1. Manufacturing facility		CU
B2. Laboratory		CU

## SECTION XII. EXISTING NONCONFORMING USES

Existing nonconforming uses may continue without expanding or changing to another nonconforming use, but must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practices Rules.

When any existing non-conforming use of land or building has been discontinued for one year the land and building shall thereafter be used only in conformity to this Ordinance, except that the Board of Adjustment, after public hearing, may permit the resumption of said non-conforming use.

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## SECTION XIII. EXEMPTIONS

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

A) Any private residence is exempt from all the Performance Standards;

B) Any business or facility where regulated substances are stored in containers with a capacity less than five gallons is exempt from Section VII, Performance Standards, section E through H;

C) Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Section VII Performance Standard E;

D) Storage of motor fuel in tanks attached to vehicles fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Section VII Performance Standards E through H;

E) Storage and use of office supplies is exempt from Section VII Performance Standards E through H;

F) Temporary storage of construction materials on a site where they are to be used is exempt from Section VII Performance Standards E through H if incorporated within the site development project within six months of their deposit on the site;

G) The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;

H) Household hazardous waste collection projects regulated under the NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b) are exempt from Section VII Performance Standards E through H.

I) Facilities with above ground petroleum and petroleum product storage tanks with a capacity of 660 gallons or less for a single tank or 1320 gallons or less for multiple tank systems shall be exempt from inspections under Section XV of this ordinance.

#### **SECTION XIV RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS**

Where both the State and the municipality have existing requirements the more stringent shall govern.

#### **SECTION XV. MAINTENANCE AND INSPECTION**

A. For uses requiring Planning Board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Section VII Performance Standards shall be recorded so as to run with the land on which such structures are located, at

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the Registry of Deeds for Cheshire County. The description so prepared shall comply with the requirements of RSA 478:4-a.

B. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Board of Selectmen or designee at reasonable times with prior notice to the landowner.

C. All properties in the Wellhead Protection Overlay District known to the Board of Selectmen or designee as using or storing regulated substances with a capacity of five or more gallons , except for facilities where all regulated substances storage is exempt from this Ordinance

under Section XIII, may be subject to inspections under this section.

D. The Town of Walpole may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the Town of Walpole as provided for in RSA 41-9:a.

#### **SECTION XVI. ENFORCEMENT PROCEDURES AND PENALTIES**

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676 or RSA 485-C.

#### **SECTION XVII. SAVING CLAUSE**

If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the Ordinance.+

#### **SECTION XVIII. APPEALS**

Any person who is aggrieved of an administrative decision made under the provisions of this ordinance may appeal to the Zoning Board of Adjustment, under the provisions of RSA 674:33. The Zoning Board of Adjustment shall also have the power to authorize such variance from the terms of the Ordinance as will not be contrary to the public interest, if, owing to special condition, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship so that the spirit of the Ordinance shall be preserved and substantial justice done. The Zoning Board of Adjustment shall request from the Planning Board and the Conservation Commission an advisory decision before rendering any decision on a request for a variance under this Section.

#### **SECTION XIX. LIABILITY**

Nothing in this ordinance shall be construed to imply that the Town of Walpole has accepted any of an owner/developer's liability if a permitted facility or use contaminates groundwater in any aquifer.

#### **SECTION XX. EFFECTIVE DATE**

This ordinance shall be effective upon adoption by the legislative body.

March, 2015