

**For public hearing 10/23/18**

**Town of Carroll, New Hampshire  
Zoning Ordinance  
would read like this with  
Proposed Amendment No. 1 Part A**

**CONTENTS**

**ARTICLE I - PREAMBLE**

Section 101. Title

Section 102. Purpose

**ARTICLE II - DEFINITIONS**

Section 201. Word Definitions

Section 202. Definitions

**ARTICLE III - EXISTING USES**

Section 301. Non-Conforming Use and Non-Conforming Building

Section 302. Non-Conforming Lot

**ARTICLE IV - ESTABLISHMENT OF DISTRICTS**

Section 401. Establishment of Districts

Section 402. Zoning Map

Section 403. District Regulations

403.1 Residential: RES 1

403.2 Residential : RES 2

403.3 Residential - Business: R-B

403.4 Industrial: IND

403.5 Rural RU

**ARTICLE V - GENERAL PROVISIONS**

Section 501. Principal Use and Building

Section 502. Required Area

Section 503. Corner Lots

Section 504. Temporary Uses and Structures

Section 505. Off Street Parking

Section 506. Signs

Section 507. Outdoor Lighting

Section 508. Manufactured Homes

Section 509. [Reserved]

Section 510. Prohibiting Uses Which are a Nuisance or Detrimental to Other Property or the Public

**ARTICLE VI - OVERLAY DISTRICTS**

**For public hearing 10/23/18**

- Section 601. Village Overlay District
- Section 602 Airport Overlay District
- Section 603 Aquifer Protection Overlay District
- Section 604 Flood Hazard Area Overlay District
- Section 605 [Reserved]
- Section 606 [Reserved]

**ARTICLE VII - SPECIAL LAND USES**

- Section 701 Telecommunications Facilities
- Section 702 Excavations
- Section 703 Manufactured Home Parks
- Section 704 Planned Unit Developments
- Section 705 Accessory Dwelling Units

**ARTICLE VIII - ADMINISTRATION AND ENFORCEMENT**

- Section 801. Board of Selectmen
- Section 802. Zoning & Building Permit
- Section 803. Enforcement and Penalty
- Section 804. Board of Adjustment
  - 804.1 Organization
  - 804.2 Appeals
  - 804.3 Special Exceptions
  - 804.4 Variances
  - 804.5 Validity
  - 804.6 Acceptance
  - 804.7 Equitable Waivers of Dimensional Requirements

**ARTICLE IX - MISCELLANEOUS**

- Section 901. Severability
- Section 902. Effective Date
- Section 903. Validity

(Additional formatting and numbering corrections/improvements to take place after Town Meeting)

**ARTICLE I  
PREAMBLE**

**Section 101. Title**

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Carroll," and is hereafter referred to as "this Ordinance."

**Section 102. Purpose**

This Ordinance is adopted pursuant to the authority conferred by the planning and zoning enabling legislation of the State of New Hampshire Revised Statutes Annotated, Title LXIV, Chapters 672-677, as amended, in order to promote the health, safety and general welfare; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; to conserve valuable natural and scenic resources; and to preserve the rural qualities of the Town.

**ARTICLE II  
DEFINITIONS**

**Section 201. Word Definitions**

The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The present tense includes future tense, the singular number includes the plural, and the plural number includes the singular.

The words shall and will are mandatory; the word may is permissive.

The words used or occupied include the words intended, designed, or arranged to be used, or occupied.

The word incidental means use does not change the primary use of the building or premise.

**Section 202. Definitions**

Act – When used in Section 701 Telecommunications Facilities, "Act" means the federal laws governing telecommunication facilities, as amended, including the Telecommunications Act of 1996, and FCC regulations promulgated thereunder.

Added Use - The addition or inclusion of any use which substantially differs from the previous use of a building or land.

Accessory Building - A subordinate building or a portion of the main building, the use of which is incidental to that of the main or principal building.

**For public hearing 10/23/18**

Accessory Dwelling Unit (ADU) – A dwelling unit that is within or attached to a one family dwelling or accessory building, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Accessory Use - A use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or lot. The following examples are considered accessory uses, but are not limited to, antennas, swimming pools, satellite dishes, garages, barns, storage sheds, storage of a registered camper or recreational vehicle, and renewable energy facilities for on-site use including wind, solar and geothermal. All accessory uses must follow zoning set-back requirements. Antennas and towers shall be set back the greater of the minimum required for the district or a distance at least 125% of the height.

Antenna - Any exterior apparatus designed for telephone, radio, television, personal communications (PCS), pager network or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

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

Building - A constructed unit forming a shelter for persons, animals, or property and having a roof and being permanently located on the land. Where the context allows, the word "building" shall be construed as followed by the words "or parts thereof."

Co-Location - Locating telecommunication facilities from more than one provider on a single site.

Change of Use - The alteration of any use from the existing use of the building or land to a use which is substantially different.

Conditional Use Permit – A permit issued by the Planning Board as authorized by RSA 674:21 Innovative Land Use Controls.

Condominium - A form of ownership of real estate in which units are owned individual and open space and group facilities are held in common ownership. Condominium conversions shall be considered as subdivisions of land and shall be subject to subdivision review by the Planning Board.

Cul-de-sac Street - A street having one open end and being permanently terminated at the other end by a vehicular turnaround. A cul-de-sac street shall not provide entrance to other streets.

Dimension Stone - Rock that is cut, shaped or selected for use in blocks, slabs, sheets, or other

## **For public hearing 10/23/18**

construction units of specified shapes or sizes and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridge revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which sections of dimension stone are to be produced. Dimension stone does not include earth.

Earth - Sand, gravel, rock soil or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally-occurring unconsolidated materials that normally mask the bedrock.

Excavation - A land area which is used, or has been used, for the commercial taking of earth, including all slopes.

Excavation Area - The surface area within an excavation site, where excavation has occurred or is eligible to occur under the provisions of this ordinance.

Excavation, Incidental - Excavations that are exclusively incidental to the lawful construction or alteration of a building or structure, parking lot or way including a driveway on a portion of the premises where the removal occurs. It may also include agricultural activities, normal landscaping or minor topographical adjustments.

Excavation Site - Any area of contiguous land in common ownership upon which excavation takes place.

Dwelling, Single-Family - A detached building designed for or used as the living quarters for one family. The term shall not be deemed to include hotel, motel, rooming house, camper or recreational vehicle.

Dwelling, Two-Family - A building designed for or used as the living quarters by two families living independently of each other in individual dwelling units.

Dwelling, Multi-Family - A building designed for or used as the living quarters for three or more families living independently of each other in individual dwelling units.

Dwelling Unit - One room or rooms connected together, constituting a separate independent establishment for owner occupancy, rental or lease and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking, sanitary and sleeping facilities.

Expansion of Use - Alteration of an existing building or use of land which does not result in a substantial difference to the use which existed before alteration. Expansion of a non-conforming use or building must be approved by the Zoning Board of Adjustment in accordance with the provisions of Article III, Section 301.

Family: Any number of persons related by blood, marriage or adoption, or a group of persons

## **For public hearing 10/23/18**

not related by blood, marriage or adoption living together as a single housekeeping unit. For a group of unrelated individuals living together as a single housekeeping unit, there shall be no more than two people for each bedroom.

FAA- Federal Aviation Administration.

FCC - Federal Communications Commission.

Frontage - The width of a lot measured along its common boundary with the street line.

Groundwater: Subsurface water that occurs beneath the water table in soils and geologic formations.

Height - The vertical distance between a mean finished grade at the structure and the highest point of the roof of a structure and, when referring to a tower or other telecommunications structure, the highest point on the tower or structure, even if such highest point is an antenna. Building height shall be measured from the uphill side, ground level next to building, within one foot of the foundation of building.

Home Business - Any use conducted entirely within a dwelling or an accessory building, with no more than one (1 FTE) employee working on the premises who does not reside in the primary or accessory dwelling on the premises, which use is clearly incidental and secondary to the use of the building for dwelling purposes and does not change the character thereof. Such occupation shall not cause emission of dust, noise, fumes, vibration or smoke to such a degree as to create a nuisance.

Impervious: Not readily permitting the infiltration of waters.

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

Junkyards - The definition of junkyards set forth in RSA 236:112, as amended, is incorporated herein. Motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126 are excluded from the definition.

Kennels - Any location where breeding, raising, boarding, caring for, and/or keeping more than three dogs or cats or other small animals or a combination thereof (except litters of animals not more than 6 months of age) is carried on for commercial purposes.

Light Manufacturing - A manufacturing use that is non-polluting in terms of air, water, and noise and which, in general, is not offensive to the character of the community.

## **For public hearing 10/23/18**

Lodging: All living accommodations intended primarily for use or lease on a temporary basis, not intended for year-round occupancy or as a primary residence for other than the owner and/or employees, such as hotels, motels, inns, cottages, bed and breakfast, guest homes, boarding houses, time-share condominiums, and certain employee housing. Includes customary accessory uses for guests such as dining rooms and bars, laundry, and recreational facilities. Does not include campgrounds.

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

Lot, Corner - A lot situated at the intersection of, and abutting two streets which have an angle of intersection of not more than 135 degrees. A lot abutting on a curved street shall be deemed a corner lot if the tangents to the curve at its points of intersection with the side lot lines meet at the interior angle of not more than 135 degrees.

Lot of Record - A lot of record shall mean a parcel of land or any part thereof designated on a deed or plat already recorded or so to be recorded with the Register of Deeds by its owner(s) as a separate lot.

Main or Principal Building or Use - A building or use which houses or constitutes the principal activity on the premise.

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

Manufactured Housing - The term manufactured housing shall mean any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required facilities, which include plumbing, heating and electrical systems contained therein.

Motel - A building or group of buildings which contains four or more apartments or living accommodations, with or without kitchens, and which constitutes primarily the temporary abode of persons who have their residence elsewhere. This shall include hotels.

Multi-family dwelling - A building containing three or more dwelling units.

Non-Conforming Building - A non-conforming building means any structure or part thereof not in compliance with the zoning ordinance covering building bulk, dimensions, height, area, yards or density where such a structure conformed to all applicable laws, ordinances and regulations prior to the enactment of this Zoning Ordinance.

## **For public hearing 10/23/18**

Non-Conforming Use - A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto and that does not conform to the use regulations of the district in which it is located.

Off Highway Recreational Vehicle (OHRV) - Any mechanically propelled vehicle used off a public way for recreational or pleasure purposes and dependent on the ground or other surfaces for travel. All legally registered motor vehicles and snowmobiles used off the highway for these purposes shall be deemed as an OHRV.

Outdoor Storage - Storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.

Permitted Use - Permitted uses are those uses listed which are allowed by right, without a Special Exception from the Zoning Board of Adjustment or a Conditional Use Permit from the Planning Board, providing the standards established by this Ordinance are met.

Planning Board – The Carroll Planning Board.

Planned Unit Development (PUD) – A development granted a Conditional Use Permit by the Planning Board to enable flexibility and thereby promote a higher quality of large scale development by considering project proposals based upon a comprehensive, integrated plan rather than the specific constraints applicable to piecemeal lot-by-lot development under conventional zoning.

Principal use or principal building – The primary use or building on a lot; any use or building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises. A complex of related businesses on a single lot, or a single building housing multiple businesses or combination of commercial and residential uses shall be considered as a single principal use.

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 65 days out of the year.

Regulated substance: Petroleum, petroleum products and substances listed under 40 Code of Federal Regulations 302, as amended, excluding the following substances: ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, potassium hydroxide, potassium permanganate, and propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

Retail Business - Includes shop and store for the sale of retail goods, personal service shop and department store and shall exclude warehouses.

Sanitary protective radius: The area around a well which must be maintained in its natural state



## **For public hearing 10/23/18**

as required by Env-Dw-301 or 302 (for community water systems) and Env-Dw 405.13 (for other public water systems).

Secondary containment: A structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated substance container that will be stored there.

Setback – The required distance from the street right-of-way, side lot line and rear lot line within which primary and accessory buildings and uses are prohibited.

Snow dump - A location where snow which is cleared from roadways and/or motor vehicle parking areas is placed for disposal. However, the plowing and deposit of snow on residential, business and industrial premises where the snow has fallen shall not be considered to be a "snow dump."

Special Exception - A use of a building or lot which may be permitted under this Ordinance only upon application to the Board of Adjustment and subject to the approval of that Board, and only in cases where the words "Special Exception" in this Ordinance pertain.

Stratified-drift aquifer - A geologic formation of predominately well- sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.

Surface water - streams, lakes, ponds, and tidal waters, including marshes, water courses, and other bodies of water, natural or artificial.

Telecommunications Facility - Includes "wireless telecommunications facilities" such as any structure, antenna, tower or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCR) and common carrier wireless exchange access services, includes "conventional telecommunications facilities" such as any telecommunications facility installed within, upon or across a public right-of-way utilizing poles, wires, conduits or similar equipment, whether installed above or below ground.

Tower - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

Use, Permitted - Use specifically allowed in a zoning district, excluding illegal uses and non-conforming uses.

Variance - Such departure from the terms of this Ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize only under the terms of Section 804.4 and applicable statutes of the State of New Hampshire. RSA 674:33

**For public hearing 10/23/18**

Warehouse - Includes warehouse, wholesale establishment, bulk storage and bulk sales outlet.

Yard - That portion of a lot not formed by the required setback which may not be occupied by a building or other structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

Yard, Rear Depth - The depth of the rear yard shall be measured from the rear lot line to the rearmost building.

Yard, Side Depth - The depth between the side of the principal building or accessory building and the nearest side lot line.

**ARTICLE III  
EXISTING USES**

**Section 301. Non-Conforming Use and Non-Conforming Building**

Any lawful building, or use of a building, or land, or parts thereof in existence at the time of the adoption of this Ordinance, or of any amendment thereto, may be continued although such building or use does not comply with the provisions herein. Such building or use shall be lawful if there was compliance with existing regulations in effect. Changes in the use of the building or land, or expansions of the use or building, are subject to the following.

Any building or use existing on the effective date of this Ordinance which does not conform to the requirements of this Ordinance may be continued indefinitely, but it shall not be:

- a. Expanded, unless granted a Special Exception by the Board of Adjustment, which, for nonconforming buildings, shall find such expansion or extension does not increase the degree of nonconformance, and for uses, does not create a greater nuisance or detriment after consideration of factors such as, but not limited to, the nature of the use itself, volume and type of traffic, noise, vibration, odors, lighting, glare, hours of operation, building size and mass, and impervious area.
- b. Changed to another non-conforming use, unless granted a Special Exception by the Board of Adjustment which shall find that such use is equally appropriate or more appropriate to the district than the existing non-conforming use after consideration of factors such as, but not limited to, the nature of the use itself, volume and type of traffic, noise, vibration, odors, lighting, glare, hours of operation, building size and mass, and impervious area.
- c. Restored to other than a conforming use after damage from any cause unless the non-conforming use is reinstated within one year of such damage.

**For public hearing 10/23/18**

- d. Re-established, if such use has been discontinued for a period of one year or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not confer the right to do so.
- e. Nothing in this section shall be deemed to prevent normal maintenance and repair on a non-complying building, provided that such action does not increase the degree of non-compliance.

**Section 302. Non-Conforming Lot**

- a. Where a single lot of record at the time of passage of this Ordinance or amendment does not conform to the area and frontage requirements of the district in which it is located , such lot may be occupied by any use permitted in that district provided the use conforms to front, side and rear yard setbacks and all other applicable provisions of this ordinance.

**ARTICLE IV  
ESTABLISHMENT OF DISTRICTS**

**Section 401. Establishment of Districts**

The Town of Carroll is hereby divided into the following Districts:

- RES 1: Residential
- RES 2: Residential
- R-B: Residential – Business
- IND: Industrial
- RU: Rural

**Section 402. Zoning Map**

1. The Districts as established in Section 401 are shown on the map entitled ***Town of Carroll New Hampshire Zoning Map*** dated April 1, 2017 available at the Town Office. The map is part of this Ordinance.
2. When interpreting the Zoning Map in regard to the Residential - Business District, the portions shown as following US Route 3 and US Route 302 shall be interpreted as including all land within 500 feet of the road right-of-way
3. When interpreting the Zoning Map in regard to the Residential 1 District, the portion shown as following Little River Road shall be interpreted as including all land within 200 feet east of the road right-of-way.

## For public hearing 10/23/18

### Section 403. District Regulations

This section lists the permitted uses, special exceptions, conditional uses, yard and building requirements, and any other provision specifically relating to the various districts.

#### **403.1 Residential: RES 1**

The following uses are permitted within this district:

- a. Single and two family dwellings, with private garage
- b. Schools
- c. Libraries
- d. Churches
- e. Municipal Buildings and facilities
- f. Accessory Buildings or uses
- g. Manufactured Homes
- h. Lodging

The following uses are allowed only by special exception:

- a. Hospitals, nursing homes and convalescent homes
- b. Museums and cultural facilities
- c. Business and Professional Offices
- d. Day care centers
- e. Home business
- f. Multi-family dwellings
- g. Off-premise signs
- h. Sale or rental of new or used OHRV
- i. Telecommunications facility

The following uses shall be allowed only with a Conditional Use Permit:

- a. Accessory Dwelling Unit
- b. Planned Unit Development

The minimum lot size in this district shall be one acre. Multi-family buildings in this district shall have an additional area of 10,000 square feet for every 1,000 square feet of livable space in addition to the minimum lot area required for a single-family dwelling. Minimum frontage along the principal access shall be 150 feet. Minimum setback requirements are as follows:

- Front setback - 30 feet
- Side setback - 20 feet
- Rear setback - 50 feet

The maximum building height shall be 2 1/2 stories or 33 feet, whichever is less.

**For public hearing 10/23/18**

**403.2 Residential : RES 2**

The following uses are permitted within this district:

- a. Residential and Institutional
  - (1) Single and two family dwellings, with private garage
  - (2) Multi-family dwellings
  - (3) Schools
  - (4) Libraries
  - (5) Day care centers
  - (6) Hospitals, nursing and convalescent homes
  - (7) Churches
  - (8) Municipal buildings and facilities
  - (9) Museum and cultural facilities
  - (10) Public utility facilities including substations, pumping stations, and sewerage treatment facilities.
- b. Commercial
  - (1) Retail businesses and services including storage and distribution related thereto but exclusive of junkyards and gasoline sales, without drive-through services.
  - (2) Business and professional offices.
  - (3) Lodging
  - (4) Research laboratories
  - (5) Banks and other financial service institutions.
  - (6) Restaurants.
  - (7) Accessory buildings and uses.
  - (8) Theatres and places of assembly exclusive of drive-in theatres.
  - (9) Outdoor recreation facility
  - (10) Golf course
  - (11) Indoor recreation facility

The following uses are allowed only by Special Exception:

- a. Excavations
- b. Sale or rental of new or used OHRV
- c. Home business
- d. Convenience store with or without gasoline sales
- e. Retail businesses and services including storage and distribution related thereto but exclusive of junkyards and gasoline sales, with drive-through services.
- f. Gasoline service stations and motor vehicle repair service
- g. Parking facilities serving off-site uses.
- h. Telecommunications facility

The following uses are allowed only with a Conditional Use Permit:

**For public hearing 10/23/18**

- a. Accessory dwelling unit
- b. Planned unit development

The following uses are allowed as accessory uses to Permitted Commercial Uses:

- a. Personal Services
- b. Spas, health clubs

The minimum lot size in this district shall be one acre. Apartment buildings in this district shall have an additional area of 10,000 square feet for every 1,000 square feet of livable space in addition to the minimum lot area required for a single-family dwelling. Minimum frontage along the principal access shall be 150 feet. Minimum yard setback requirements are as follows:

- Front setback - 30 feet
- Side setback - 20 feet
- Rear setback - 50 feet

The maximum building height shall be 2 1/2 stories or 33 feet, whichever is less.

**403.3 Residential - Business: R-B**

The following uses are permitted in this district:

- a. Single and two-family dwellings, with private garage
- b. Schools
- c. Libraries
- d. Churches
- e. Municipal buildings and facilities
- f. Accessory buildings or uses
- g. Retail business and services including storage and distribution-related thereto but exclusive of junkyards and gasoline sales, without drive-through services.
- h. Banks and other Financial Institutions
- i. Business and Professional Offices
- J. Lodging
- k. Restaurants
- l. Theatres, club and halls
- m. Day Care Centers
- n. Home businesses
- o. Personal Services
- p. Spas, health clubs
- q. Indoor recreation facility
- r. Convenience store with or without gasoline sales
- s. Gasoline service stations and motor vehicle repair service
- t. Parking facilities

**For public hearing 10/23/18**

- u. Medical or health care services

The following are allowed only by Special Exception:

- a. Multi-family dwellings
- b. Hospitals, nursing and convalescent homes
- d. Museum and cultural facilities
- e. Campgrounds
- f. Light manufacturing facilities
- g. Sale of new cars, used cars or rentals or any combination thereof.
- h. Off premise signs
- i. Retail business and services including storage and distribution-related thereto but exclusive of junkyards and gasoline sales, with drive-through services
- j. Sale of motorhomes, campers, and pre-manufactured homes.
- k. Research laboratories
- l. Pawn shops
- m. Sale or rental of new or used OHRV
- n. Heavy equipment sales
- o. Telecommunications facility

The following uses are allowed only with a Conditional Use Permit:

- a. Accessory dwelling unit
- b. Planned Unit Development

The minimum lot size in this district shall be one acre. Apartment buildings in this district shall have an additional area of 10,000 square feet for every 1,000 square feet of livable space in addition to the minimum lot area required for a single-family dwelling. Minimum frontage shall be 100 feet. The minimum yard setback requirements are as follows:

- FRONT SETBACK: Commercial - 40 Feet  
Residential - 30 Feet
- SIDE SETBACK: 20 Feet
- REAR SETBACK: 25 Feet

The maximum building height shall be 2 ½ stories or 33 feet, whichever is less.

IN COMMERCIAL USE ONLY - the following minimum yard setbacks are required:

- ONE STORY BUILDING: 20 feet side setback  
25 feet rear setback
- TWO STORY BUILDING: 30 feet side setback

**For public hearing 10/23/18**

35 feet rear setback

THREE STORY BUILDING: 40 feet side setback  
40 feet rear setback

(must meet the maximum height requirement of 33 feet)

**403.4 INDUSTRIAL: IND**

The following uses are permitted within this district:

- a. Business and Professional Offices
- b. Wholesale businesses
- c. Storage of building material for retail trade
- d. Warehouses for storage and distribution
- e. Light manufacturing facilities
- f. Accessory building and uses
- g. Storage facilities - Personal
- h. Contractor yard
- i. Heavy equipment sales
- j. Parking Facilities
- k. Lumber mill
- l. Medical or health care services
- m. Entertainment venues

The following are allowed only as a Special Exception:

- a. Public utility facilities including substations, pumping stations, and sewerage treatment facilities
- b. Excavation
- c. Off premises signs
- d. Heliports
- e. Sale or rental of new or used OHRV
- f. Solar and wind energy generation
- g. junkyards
- h. Telecommunications facility

The following uses are allowed only with a Conditional Use Permit:

- a. Planned unit development

The minimum lot size shall be four acres. For each square foot of industrial space there shall be two square feet of open space. The minimum setbacks are as follows:



**For public hearing 10/23/18**

FRONT SETBACK: 100 feet

SIDE AND REAR SETBACK: 25 feet or 50% of the building height, whichever is greater except when abutting a residential district where it shall be a minimum of 50 feet.

The maximum building height shall be 50 feet, and associated appendages such as stacks, towers, water supplies and the like shall not exceed 90 feet. Adjustments to these heights on an individual basis may be authorized as a special exception.

**403.5 Rural RU**

The following uses are permitted within this district:

- a. Single-family dwellings and private garages
- b. Farms and related uses, excluding piggeries
- c. Forests and related uses
- d. Municipal recreation, including golf courses
- e. Public water supply
- f. Public utilities facilities including substations, pumping stations, and sewerage treatment facilities
- g. Cemeteries
- h. Accessory building and uses
- i. Schools
- j. Libraries
- k. Churches
- l. Municipal building and facilities
- m. Manufactured homes.
- n. Lodging

The following uses are allowed only as a Special Exception:

- a. Campgrounds
- b. Excavations
- c. Hospitals, nursing homes and convalescent homes
- d. Museums and cultural facilities
- e. Business and Professional offices
- f. Day care centers
- g. Multifamily dwellings
- h. Off-premise signs
- i. Two-family dwelling
- j. Manufactured Home Parks
- k. Sale or rental of new or used OHRV
- l. Solar and wind energy generation

**For public hearing 10/23/18**

- m. Lumber mill
- n. Home business
- o. Telecommunications facility

The following uses are allowed only with a Conditional Use Permit:

- a. Accessory dwelling unit
- b. Planned unit development

The minimum lot size in this district shall be two acres. The minimum lot size for single-family dwellings in this district shall be one acre where municipal water is available and shall meet the setback requirements as setback stated in Residential 1. Apartment buildings in this district shall have an additional area of 10,000 square feet for every 1,000 square feet of livable space in addition to the minimum lot area required for a single-family dwelling.

The minimum frontage required along the principal route of access shall be 200 feet.

The minimum yard setback requirements are as follows:

- FRONT SETBACK: 40 feet
- SIDE SETBACK: 30 feet
- REAR SETBACK: 50 feet

The maximum building height shall be 2½ stories or 33 feet, whichever is less.

**ARTICLE V  
GENERAL PROVISIONS**

The following provisions shall apply to all districts except where listed.

**Section 501. Principal Use and Building**

There shall be only one principal use and one principal building on a lot unless otherwise approved as part of a Planned Unit Development. A business complex or commercial property with related uses shall be considered a single principal use for this purpose.

**Section 502. Required Area**

Space required under these regulations to satisfy area, yard or other open space requirements in relation to one building shall not be counted as part of a required open space for any other building.

**Section 503. Corner Lots**

## **For public hearing 10/23/18**

In the Residential 1, Residential-Business and Rural Districts, the side yard of a corner lot shall have a width equal to the minimum front yard setback required in each district.

On a corner lot regardless of the district, within the triangular area formed by the intersection of two street property lines and a third line joining them at points twenty-five feet away from their intersection, there shall be no obstruction to vision between the height of three feet and ten feet above the surface of each street.

### **Section 504. Temporary Uses and Structures**

- a. Temporary permits may be issued to a lot owner by the Selectmen or their designee to allow said owner to live in a camper or recreational vehicle during the active construction of a dwelling for a period not exceeding one year. Documentation of disposal of waste in compliance with NHDES regulations must be provided to the Selectboard or their designee each month. Such permits may be renewed upon application for an additional period of one year as long as construction is active.
- b. A registered camper or recreational vehicle on a private lot with or without a single family dwelling may be used as a seasonal dwelling for up to fourteen (14) days per year without a permit. On an undeveloped lot only, a single registered camper or recreational vehicle may be utilized as a seasonal dwelling for greater than fourteen (14) days per year by the lot owner upon issuance of a permit from the Selectboard or designee. Proof of a primary residence (other than the undeveloped lot which is the subject of the permit) shall be required. Documentation of disposal of waste in compliance with NHDES regulations must be provided to the Selectboard or their designee each month.

### **Section 505. Off Street Parking**

- a. Two off-street parking spaces per dwelling unit shall be provided for single and two family dwellings. These parking spaces, whether outdoor or in a garage, shall be (10) feet wide by twenty feet long. For other land uses parking shall meet the requirements of the Town of Carroll Site Plan Review Regulations.
- b. All parking shall be designed to ensure that no backing out onto private or public roads will occur.
- c. Adequate off-street loading area shall be provided by all commercial, industrial and institutional use. The area shall be located so that all vehicles that are maneuvering, loading and unloading shall be clearly out of the road right-of-way.

### **Section 506. Signs**

- a. Every sign shall be constructed of durable material and shall be maintained in good condition and repair.

**For public hearing 10/23/18**

- b. There may be by right one on-premises, free-standing sign for each lot whose principal use is for commercial purposes and one on-premise for each business, which is affixed to the building housing the business. Additional signs for permanent or temporary use shall only be allowed by the Board of Adjustment as a Special Exception.
- c. Any property owner given written notice that their sign(s) are in violation of existing code will be fined up to \$100.00 per day, per violation until sign(s) conform to code. (7 day grace period)
- d. Purpose and intent. The principle guiding these regulations is that signing should not destroy or detract from the scenic vistas, compete unnecessarily with the natural environment which is a major asset to the town's tourist-based economy or proliferate in number with competitive advertising sales campaigns. Therefore, recognizing that any business needs identification and that the public needs direction, the following regulations are written for the special needs of Carroll. These regulations are to encourage the use of street graphics which are compatible with the community character, readable and clear, non-distracting to vehicular traffic and maintained in safe and good repair.
- e. Application permit requirements.
  - (1) No sign or advertising device, including advertising devices affixed to a vehicle and allowed to remain on the premises with the intent to serve as a sign, shall be erected on any premise or affixed to the outside of any structure or be visible from the outside of any structure except as specified herein.
  - (2) No sign shall be erected or placed in the Town of Carroll without a permit.
- f. Existing uses and nonconforming uses.
  - (1) Every sign lawfully in existence at the time of adoption of these regulations may continue in existence and be maintained but shall not be changed in any of its dimensions, such as height, diameter, width, thickness, circumference and perimeter, or moved or replaced unless it is made to comply with the provisions of these regulations and a permit obtained. Nevertheless, a pre-existing nonconforming sign may be reduced in overall height and/or the message portion reduced in square footage area, and in the latter, the message area surface may be changed so as to more nearly comply with the provisions of these regulations.
  - (2) Maintenance is considered to be only the following actions: repainting; other surface renewal; change of message on the same surface;

**For public hearing 10/23/18**

replacement of any sign surface, support framework or component with substantially similar construction material or component. A permit is required for any maintenance except repainting, other surface renewal or change of message on the same surface.

- (3) Any nonconforming sign, the use of which has been discontinued voluntarily or involuntarily for a period of three (3) months, shall not be re-established, restored or repaired unless it is made to comply with this ordinance.

g. The following signs do not require a sign permit:

- (1) Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, names of occupants of the premises or other noncommercial identification.
- (2) Street signs in conformance with the Town requirements.
- (3) Directional signs no greater than four (4) square feet in area, to indicate entrance and exit driveways, if they are one-way.
- (4) Any sign required by federal, county, state or local law.
- (5) Legal notices, "No Trespassing" signs, identification, information or directional signs shall be no greater than twelve (12) square feet.
- (6) Business name and directional signs no greater than three (3) square feet located over doorways.
- (7) Signs located on rolling stock of licensed common carriers or registered and inspected motor vehicles fit for highway use and not used to defeat the spirit of this ordinance.
- (8) National, state, provincial and religious flags for patriotic, religious or decorative uses. No unrelated message may be displayed on any flag.
- (9) Signs not exceeding one (1) square foot with any of the following messages: "Open", "Closed", "Vacancy", "No Vacancy".

h. Signs permitted in All Districts:

- (1) One (1) freestanding sign per lot, whose principal use is for commercial purposes, with not greater than one hundred (100) square feet of message area. Height of the message area shall not exceed fifteen (15) feet, with the total height, including structural supports, not to exceed twenty (20) feet. Height shall be determined by the height from undisturbed ground directly under the sign. Overall width, excluding structural supports, shall not exceed twelve (12) feet. Where two (2) or more businesses are located in a single building or within attached buildings or within a cluster of buildings sharing a common vehicular entrance and exit, only one (1) freestanding sign is permitted. Each business may have by right one on-premise, attached sign which is affixed to the building housing the business.
- (2) One (1) appendage may be added under the message face of a free standing or hanging sign. The appendage sign area is to be considered

**For public hearing 10/23/18**

- part of the total message area.
- (3) On lots where only a single business exists, one (1) identifying wall sign and/or wall graphic is allowed, not to exceed ten percent (10%) of the area of the building face to which it is attached.
  - (4) Places of business serving food to the public at specified hours only or not solely in the restaurant business or bar-restaurant serving continuously during the period they are open may place an additional sign in front of their place of business advertising the hours meals are served. The message area is not to exceed six (6) square feet. The message of the sign will be portable and removed at the end of the serving period.
- i. The following temporary signs are allowed in all districts without a permit and are exempt from street line setback provisions as would otherwise apply hereunder in the respective districts. All other signs which are temporary by manner of placement on the lot or by construction or readily movable, and not exempted from permit specifically under this subsection, shall otherwise only be erected and located on any lot in conformity with the full provisions of the Zoning Ordinance.
- (1) One (1) non--illuminated sign per lot advertising only the sale or lease of the premises thereon shall not exceed six (6) square feet in message area.
  - (2) Window signs attached to the exterior or interior of a window, provided that the sign area does not exceed fifty percent (50%) of the total window area per wall face.
  - (3) Special promotional signs for public or institutional events no larger than forty (40) square feet of message area, special promotional signs or banners for public or institutional events that cross a public or private road no larger than two hundred (200) square feet of message area.
  - (4) Signs erected for an election, primary or referendum, provided that they are erected in accordance with State of NH law, if applicable, or, if not applicable, erected no sooner than twelve (12) weeks before the date of the erection, primary or referendum and removed no later than two (2) weeks after that date.
  - (5) One (1) sign on premises identifying garage, barn or lawn sales but only on the day or days of the sale and two (2) preceding days, not to exceed (12) square feet.
  - (6) For construction in progress: one (1) sign identifying the owner, architect, contractor and/or developer, to be removed within one (1) month of completion of the project, not to exceed twelve (12) square feet in size.
- j. Illumination:

**For public hearing 10/23/18**

- (1) No sign visible from a public street shall be permitted of the flashing, blinking or alternating type of digital type operating by alternating lighting giving information of a public service type message and/or advertising services or products.
  - (2) All illuminated signs shall be so arranged as to direct or shield the light away from public streets and adjoining structures.
  - (3) Signs may be illuminated either by internal or external light sources.
  - (4) Signs, whether illuminated or not, shall not rotate, revolve or move mechanically in any way in whole or in part.
- k. No freestanding signs shall be attached or supported within the limits of the public right-of-way. No signs shall be placed in such a position as to endanger street traffic by obscuring a clear view of or to cause confusion with official street signs and signals. No privately owned signs shall project over a public or private street or sidewalk, except hanging signs provided herein. No sign shall project above the parapet or eaves of a building.
- l. All surfaces and supporting structures of signs, whether erected prior to the effective date of this regulation or not, shall be maintained in a safe and slightly condition to the satisfaction of the Board of Selectmen or its authorized agent. Failure to correct a violation within thirty (30) days after notice thereof shall constitute a violation subject to prescribed remedies, whereupon the designated town official may remove or cause to be removed said sign.
- m. Sign measurement:
- (1) The measurement of the area of a sign shall be the message area and shall be considered to include all lettering elements of a sign, accompanying designs and symbols, together with background, whether open or closed, on which they are displayed, but not including any supporting framework or bracing which is incidental to the sign and which is not designed to attract attention.
  - (2) Where the sign consists of letters, symbols or devices affixed to the surface of a building, the area shall be measured by a single continuous perimeter drawn to enclose the extreme limits of the letters, symbols or devices.
  - (3) The area of one (1) side of a double-faced sign shall be regarded as the total area of the sign. For double-faced signs, each face must be attached directly to the other.
- n. All signs, including exempted and temporary signs must be on the lot to which they apply, except for off premise signs which shall be directional in nature and conform to Chapter 236 Laws of NH.

**Section 507. Outdoor Lighting**

**507.1 Statement of Purpose and Intent**

The purpose of this section is to preserve the rural character and dark skies of the Town of Carroll. Appropriately regulated and properly installed, outdoor lighting will maintain and complement the Town's character and contribute to the safety and welfare of the residents of the Town and to its visitors. This ordinance is intended to enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, providing for lighting that will complement the character of the Town, reduce glare, minimize light trespass, reduce the cost and waste of unnecessary energy consumption and prevent the degradation of the night sky. The goal of this lighting ordinance is to recognize the benefits of outdoor lighting and provide clear guidelines for its installation.

**507.2 Applicability**

Except as provided in Section 507.4 below, Section 507.3 shall apply to commercial, industrial, agricultural, and residential structures and uses. Whenever an existing outdoor lighting fixture or installation is being modified, extended, expanded or added to, that fixture or installation shall be subject to the requirements of this Ordinance. Owners or operators of non-conforming fixtures and installations are encouraged to bring their outdoor lighting into voluntary compliance with these requirements.

**507.3 Requirements**

- a. All outdoor light fixtures shall be fully shielded so that no direct light is projected above a horizontal plane passing through the light source.
- b. All outdoor lighting shall be designed, located, shielded and maintained in such a manner as to prevent light trespass or glare onto adjacent properties and public ways.
- c. Lighting fixtures used to illuminate any outdoor advertising sign, street sign, or directive sign shall be mounted on top of the sign structure, shielded in such a manner as to prevent light trespass and/or glare and directed to the target area to avoid light spillage.
- d. Exterior commercial and industrial lighting shall be designed to adequately illuminate the site and parking areas without causing glare, excessive illumination or light trespass on neighboring properties or streets.
- e. Flood or spot lamps must be aimed no higher than 45 degrees above straight down (half way between straight down and to the horizontal plane).
- f. For purposes of this section "light trespass" occurs when the light emitted directly from the lamp or fixture shines beyond the property boundary. For purposes of this section "glare" means any light, direct or indirect, which reduces a normal viewer's ability to see at any location beyond the property boundary.

**507.4 Exceptions**



## **For public hearing 10/23/18**

The requirements contained in Section 507.3 above shall not apply to the following structures and uses:

- a. Existing non-conforming structures and uses and those existing non-conforming structures and uses where the fixtures and installations are being replaced but not modified, extended, expanded or added to.
- b. All temporary lighting required for construction projects related to road construction and repair, installation of sewer and water facilities and other public and private infrastructure.
- c. All temporary emergency lighting needed by the police or fire departments or other emergency services including vehicular luminaries.
- d. All hazard warning luminaries required by Federal regulatory agencies except that those luminaries shall be in conformance with the federally required minimum lumen output requirement for the specific task concerned.
- e. Seasonal/decorative lighting displays using multiple low wattage bulbs.

### **Section 508. Manufactured Homes**

Each manufactured home shall stand on material providing stability to bear the weight of the home at all times of the year and having adequate gradient or crown to provide for proper surface drainage.

### **Section 509 [Reserved]**

### **Section 510. Prohibiting Uses Which are a Nuisance or Detrimental to Other Property or the Public**

#### **510.1 General Prohibition on Nuisance Uses**

No land within the Town of Carroll shall be used in a manner which constitutes a public or private nuisance, or which is otherwise unduly disorderly, unsightly, obnoxious, offensive or detrimental to the public welfare or to the owners or occupants of adjacent property.

#### **510.2 Emissions**

No use shall emit odors, dust, smoke or noise which cause a hazard or danger to the health, comfort, safety or welfare of any person or which have a tendency to cause injury or damage to property, businesses, or vegetation.

#### **510.3 Structures or Uses Damaged or Under Construction**

Any structure damaged by fire, wind, or other causes beyond the owner or occupant's control shall, within a reasonable time, be either repaired or razed, with all debris completely removed,

## For public hearing 10/23/18

and all excavations filled to ground level. No structure or use, whether conforming or nonconforming, shall be allowed to be maintained in a damaged or unfinished condition for more than one year, unless a special exception is granted by the Zoning Board of Adjustment, provided, however, that this one-year provision shall not be construed as permitting an owner or occupant to maintain a building or structure in violation of Section 408.5.

### 510.4 Littering, Waste and Illegal Dumping

- a. No person shall dump, deposit, throw or leave, or cause or permit the dumping, depositing, placing, throwing, leaving or maintaining of any waster, garbage, refuse, litter as defined by RSA 236:91,II, on any public or private property in the Town of Carroll, whether or not such person is the lawful owner or tenant in possession of such property, unless such litter or junk is placed into receptacles designed for the secure storage of such materials.
- b. Any receptacle in which such materials are to remain for more than three consecutive days shall have lids which are impenetrable by animals. No such materials shall be deposited outdoors in trash bags, whether standing alone or beside or on top of another type or receptacle, unless such bags are to be properly deposited or transported elsewhere the same day.
- c. Any person utilizing outdoor trash receptacles, including those commonly referred to as "dumpster," shall keep the top of the receptacle and surrounding area clean and free of loose garbage or other waste.
- d. By the Town, to any properly licensed salvage yard or junkyard, or to waste products normally generated by properly licensed or permitted excavations or mining operations, or by farming, logging, or sawmill operations otherwise in compliance with applicable laws.
- e. This section shall not be construed to diminish the Town's authority to enforce any other applicable laws, or to utilize other applicable legal remedies, as provided by other ordinance or state or federal law.

### 510.5 Property Maintenance Standards

No building or structure in the Town of Carroll, or any part thereof, whether primary or accessory, shall be maintained in such a manner that any of the following conditions exist:

- a. Missing, broken or boarded windows or doors;
- b. Collapsing or deteriorating exterior walls, roofs, stairs, porches, handrails, railings, basement hatchways, chimneys, flues, or floors;
- c. Exterior walls which contain holes, breaks, or loose or rotting materials;
- d. Foundation walls which contain open cracks and breaks;

## **For public hearing 10/23/18**

- e. Overhangs such as canopies, marquees, signs, awnings, stairways, fire escapes, standpipes or exhaust ducts which contain substantial rust, rot or other decay;
- f. Infestations of rats or other vermin;
- g. Fences with broken or rotted boards or which are otherwise in a dilapidated condition;
- h. In the case of any premises regularly occupied by persons other than the owner(s), any condition which violates the minimum standards set forth in RSA 48-A:14.
- i. Any other condition similar to the above, which reflects a level of maintenance with a similar tendency to adversely affect the occupants of a structure, adjoining property, or the character of the neighborhood.

### **510.6 Enforcement**

In addition to any other applicable remedy at law, the provisions of this section may be enforced by written order or notice of violation, issued by the Board of Selectmen, Building Inspector, Code Enforcement Officer, or their designee; provided that any construction, interpretation or application of the terms of this ordinance implicated by such notice or order shall be subject to appeal to the Zoning Board of Adjustment, as set forth in Section 704.2 of this Ordinance and RSA 676:5. Nothing in this section shall in any way diminish the authority of the Town to enforce the State Building Code, State Fire Code, laws pertaining to the Health Officer under RSA 147, or any other applicable ordinance or state or federal law.

## **ARTICLE VI OVERLAY DISTRICTS**

### **Section 601. Village Overlay District**

#### **601.1 Purpose**

In addition to the general purpose of the Carroll Zoning Ordinance as set forth in Section 102, this section is adopted pursuant to RSA 674:16, and RSA 674:21, Innovative Land Use Controls. This section is intended to promote beneficial consolidation of land development within an existing unique and historic White Mountain resort setting with a corresponding increase in open space, to permit efficient layout of roads and buildings, to improve the delivery of public safety services, to encourage transportation alternatives and a pedestrian-friendly village area, and to promote mixed commercial and retail uses and a community environment within the Village Overlay District. The provisions of this section are intended to complement the Concept Plan provisions of this Ordinance, but not to alter or affect the existing Concept Plan adopted thereunder.

#### **601.2 Village Overlay District**

The Village Overlay District is an overlay district which is superimposed over the existing

## **For public hearing 10/23/18**

underlying RES 2 District in order to allow flexibility from those requirements otherwise applicable in the RES 2 District. The boundaries of the Village Overlay District shall be as depicted on the Village Overlay District Map dated December 18, 2007 and that is attached hereto as Appendix A. The map is also on file in the Town offices.

Mixed uses (a combination of permitted uses or those allowed by special exception as set forth in Section 303.2) may be combined on a single lot or on multiple lots within the Village Overlay District and within individual buildings within the Village Overlay District. Any building that combines commercial with any other use shall be deemed a commercial use for purposes of calculating area limitations under Section 303.2.

### **601.3 Flexible Requirements for Parking and Transportation, Roadway Engineering Standards, Building Height, and Signage**

Any requirements otherwise applicable for the RES 2 District pertaining to parking and transportation, roadway engineering, building height, and signage shall not apply to the Village Overlay District, provided that an applicant for final subdivision approval or site plan review, shall, as part of the application, identify those requirements which would otherwise apply, and the specific degree of variation and flexibility which is being proposed. For building height, an applicant must specify each particular building that is proposed to exceed 33' in height. The Planning Board shall approve the proposed flexible approach in these four areas if the applicant demonstrates, to the Board's satisfaction, that the proposal is protective of the safety and welfare of residents and the public, including the scenic qualities of the RES 2 District, will not adversely impact Town services, and is otherwise consistent with the purposes of this section. Reasonable costs for public safety equipment necessitated by a subdivision or site plan approval under this section may be imposed by the Planning Board.

### **Section 602 Airport Overlay District**

**602.1.** This Airport Overlay District , prepared under the authority of RSA 424:5, provides additional height limits for the purpose of protecting the safety of persons and property in the vicinity of Runway 9-27, a general aviation type airport with runway and primary surfaces as follows:

- a. Paved Runway: 2640' x 60'
- b. Primary Surface: 3040 X 250' (200 feet beyond each end of the paved runway)
- c. Field Elevation: 1459' MSL
- d. Airport Reference Point: (ARP)

71-32-48.2953W Longitude Estimated  
44-15-50.6307N Latitude

## For public hearing 10/23/18

e. Runway description: A paved landing area 2640' long x 60' wide whose centerline is generally on an East-West orientation.

**602.2.** Federal Aviation Regulations (FAR's), Part 77 effective May 1, 1965, as amended, establishes the standards used to determine the limit of height of obstructions in and surrounding airports.

### **602.3.** Surfaces Defined:

a. Primary Surface: A horizontal surface longitudinally centered on the Runway, the elevation of which is the same as the elevation of the nearest point on the runway centerline, the highest point of which is 1459' MSL, (estimated). The length of this surface is 3040' long and 250' wide as it extends 200 feet beyond each end of the runway.

b. Horizontal Surface: A horizontal plane 150' above the established airport elevation and is to be 1609', the perimeter of which is constructed by swinging arcs of 5000' radii from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.

c. Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 (1 ft. vertically to 20 ft. horizontally) for a horizontal distance of 4000'.

d. Approach Surfaces: Surfaces longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface (Runway 090-270). The inner edge of these surfaces are the same width as the primary surface, 250', and expand uniformly along the runway centerline extended to a width of 1250' at a horizontal distance of 5000'. The slope of these surfaces are inclined at a ratio of 20 to 1 (1 ft. vertically to 20 ft. horizontally) from the primary surface.

e. Transitional Surface: These surfaces extend outward and upward at right angles to the runway centerline and runway centerline extended at a slope of 7 to 1 (1 ft. vertically to 7 ft. horizontally) from the edge of the primary surface and from the sides of the approach surface.

**602.4.** The height of all obstructions shall be limited to the height or elevation that will not protrude into or be above the elevation of the surfaces described in Section 3.

**602.5.** No provision of Section 3 shall limit the height of a structure or tree to less than 30' above the ground upon which it is located.

## **For public hearing 10/23/18**

**602.6.** The Airport Reference Point (ARP) is located on the centerline of the runway approximately 1320' from each end of the runway and has an elevation of 1459' MSL.

**602.7** Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

### **Section 603 Aquifer Protection Overlay District**

#### **603.1 Purpose**

The purpose of the Aquifer Protection Overlay District is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to designated wells and/or aquifers identified as being needed for present and/or future public water supply.

#### **603.2. Aquifer Protection District**

The Aquifer Protection District is an overlay district which is superimposed over the existing underlying zoning districts and it imposes additional requirements and restrictions to those of the underlying, base district zoning. In all cases, the more restrictive requirement(s) and permitted uses shall apply. The boundaries of the Aquifer Protection District shall be the contact of sand and/or gravel deposits with other geologic deposits or boundary conditions within the subsurface, initially mapped as the boundary of the stratified-drift aquifer on Carroll Drinking Water Resources Map dated October 21, 2004, by the New Hampshire Department of Environmental Services.

The Planning Board may adjust the mapped boundary of the District upon the recommendation of a professional geologist using 1: 24,000 scale surficial geology map prepared by the New Hampshire Geological Survey, other existing data (including wells, borings, or other excavations of sufficient depth), or appropriate field testing methods.

#### **603.3. 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-Ws 421, Best Management Practice Rules.

### **603.4 Exemptions**

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

1. Any private residence is exempt from all Performance Standards.
2. Any business or facility where regulated substances are not stored in containers with a capacity of 5 gallons or more is exempt from Performance Standards 5 through 8.
3. Storage of heating fuels for onsite 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 Performance Standard 5.
4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by vehicle is exempt from Performance Standards 5 through 8.
5. Storage and use of office supplies are exempt from Performance Standards 5 through 8.
6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 5 through 8.
7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance.
8. Household hazardous waste collection projects under New Hampshire Code of Administration Env-Wm 401-03 (b)(1) and 501.01 (b) are exempt from Performance Standards 5 through 8.
9. Underground storage tank systems and above-ground storage tank systems that are in compliance with applicable state rules are exempt from inspections under this ordinance.

### **603.5 Permitted Uses**

All uses permitted by right or allowed by special exception in the underlying district are permitted in the Aquifer Protection District unless they are Prohibited Uses or Conditional Uses. All uses must comply with the Performance Standards unless specifically exempt under Section 603.4.

## **For public hearing 10/23/18**

### **603.6. Conditional Use Approval Required**

Planning Board approval must be obtained prior to commencing any of the following:

1. 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 plan is in place to prevent, contain, and minimize releases from catastrophic events such as spills or fires which may cause large releases of regulated substances.
2. Any use that renders impervious more than 15% or 2,500 square feet of any lot, whichever is greater.

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

### **603.7 Prohibited Uses**

The following uses are prohibited in the Aquifer Protection District:

1. The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.
2. The siting or operation of a solid waste landfill.
3. The outdoor storage of road salt or other deicing chemicals in bulk.
4. The siting or operation of a junkyard.
5. The siting or operation of a snow dump.
6. The siting or operation of a wastewater or septage lagoon.

### **603.8 Performance Standards**

The following Performance Standards apply to all uses in the Aquifer Protection District unless exempt under Section 10011:

1. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater a stormwater management plan shall be prepared which the Planning Board determines is consistent with the New Hampshire Stormwater Manual, current edition, published by NHDES.
2. Stormwater management plans shall demonstrate that stormwater recharged to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary.



## For public hearing 10/23/18

3. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets and Foods, August 1998, and any subsequent revisions thereto.
4. All regulated substances stored in containers with a capacity of 5 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.
5. Facilities where regulated substances are stored must be secured against unauthorized entry by means (a) of door(s) and/or gates(s) which is (are) locked when authorized personnel were not present and must be inspected weekly by the facility owner.
6. Outdoor storage areas for regulated substances 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.
7. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of 275 gallons or more of regulated substances are stored outdoors on any particular property.
8. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another.

### **603.9. Maintenance and Inspection**

1. For uses requiring Conditional Use approval from the Planning Board, for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded at the Coos County Registry of Deeds so as to run with the land on which such structures are located. The narrative description shall comply with the requirements of RSA 478:4-a.
2. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Selectboard or designee at reasonable times with prior notice to the landowner.
3. All properties within the Aquifer Protection District known to the Code Enforcement Officer or Building Inspector as using or storing regulated substances in containers with a capacity of 5 gallons or more, except for facilities

**For public hearing 10/23/18**

where all regulated substances storage is exempt from this Ordinance, shall be subject to inspections as provided herein.

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

**Section 604. Flood Hazard Area Overlay District**

The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study for the County of Coos, NH" dated February 20, 2013 or as amended, together with the associated Flood Insurance Rate Maps dated February 20, 2013 or as amended, which are declared part of this Ordinance and hereby incorporated by reference.

**Item I. Definition of Terms:**

Area of special flood hazard - the land in the floodplain within the Town of Carroll subject to a one percent (1%) or greater chance of flooding in any given year. The area is designated as Zone A on the FIRM. (Amended 2012)

Base flood - The flood having a one percent. chance of being equaled or exceeded in any given year.

Basement - Any area of the building having its floor subgrade (below ground level) on all sides.

Building - see "Structure"

Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, drilling, grading, paving, excavating, or drilling operation or storage of equipment or materials. (Amended 2012)

FEMA - Federal Emergency Management Agency. (ADOPTED MARCH 2003)

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study - An examination evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

## For public hearing 10/23/18

Flood Insurance Rate Map (FIRM) - An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - See "Flood elevation study"

Flood plain or flood-prone area - Any land area susceptible to being inundated by water from any source (see definition of "flooding")

Flood proofing - 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. ·

Floodway - see "Regulatory floodway"

Functional dependent use - 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 facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure - Any structure that is: (ADOPTED MARCH 2003)

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) by an approved state program as determined by the Secretary of the Interior, or
  - (ii) directly by the Secretary of the Interior in states without approved programs.

Lowest Floor - The lowest floor of the lowest enclosed area (including basement). An

## For public hearing 10/23/18

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 enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home - 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 connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes part trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.(Amended 2012)

Mean sea level - For purposes of the National Flood Insurance Program, 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.

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction - For purposes of determining insurance rates, means structures for which the "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. (Amended 2012)

100-year flood - See "base flood"

Recreational vehicle - 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. AMENDED MARCH 1994 (1)

Regulatory floodway - 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. (Amended 2012)

Riverine - Relating to, formed by, or resembling a river (including tributaries) , stream, brook, etc.

Special flood hazard area - See "Area of Special Flood Hazard"(Amended 2012)

## **For public hearing 10/23/18**

**Structure** - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Start of Construction** - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. 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 foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**Substantial damage** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. ADOPTED MARCH 2003

**Substantial improvement** - 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 be (1) the appraised value of the structure 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 improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include a project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications, which are solely necessary to assure safe living conditions or any alteration of a structure, listed on the National Register of Historic Places.

**Violation** - 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. (Amended 2012)

**Water surface elevation** - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

**Item II:** All proposed development in any special flood hazard areas shall require a permit.

**Item III:** The Building Inspector shall review all building permit applications for new

## **For public hearing 10/23/18**

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 and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) 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 and replacement water and sewer systems (including on-site systems) are proposed in flood prone areas the applicant shall provide the Building Inspector with assurance that new and replacement sanitary sewage 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 Building Inspector 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. The applicant must furnish this information.

**Item VI.** The Building Inspector 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 Building Inspector.

**Item VII.** In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau. (Amended 2012)

The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirements:

"No encroachments, including fill, new construction, substantial improvements, and other

## For public hearing 10/23/18

development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

### Item VIII.

1. In special flood hazard areas, the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from Federal, State, development proposals submitted to the community (example subdivision, site approvals, etc.) or other sources. (Amended 2012)
2. The Building Inspector's 100-year flood elevation determination will be used as criteria for requiring in Zone A that:
  - a. all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level;
  - b. that all new construction and substantial improvements of non- residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
    - (i) be flood proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (iii) be certified by a registered professional engineer or architect and 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 areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements: (1) the enclosed area is unfinished or flood resistant, useable solely for 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 floodwaters. 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

**For public hearing 10/23/18**

openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;

- e. Recreational vehicles placed on sites within Zone 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. (Amended 2012)  
A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. (Amended 2012)

**Item IX - Variances and Appeals: ADOPTED MARCH 2003**

- 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 Zoning Board of Adjustment shall notify the applicant in writing that:
  - a. 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
  - b. 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.

- 3. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33,1 (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; and
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief. (Amended 2012)
- 4. The community shall:



**For public hearing 10/23/18**

- a. maintain a record of all variance actions, including their justification for their issuance, and
- b. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

**Section 605 [Reserved]**

**Section 606 [Reserved]**

**ARTICLE VII  
SPECIAL LAND USES**

**Section 701 Telecommunications Facilities**

**701.1 Telecommunications Equipment and Facilities**

Findings. The Town of Carroll finds that regulation of the placement, spacing installation, location and number of both wireless and conventional telecommunications facilities, consistent with federal and state policies and law, is in the public interest (a) in order to reduce the potential adverse impacts of such facilities upon the unique natural assets of the Town, including its scenic mountain views, its recreational trail network accessing the White Mountain National Forest and its wilderness environment: (b) in order to minimize the number and height of towers, avoid congestion in their location and lessen their intrusive effect; (c) in order to conserve and enhance property values; and (d) in order to ensure the optimum location of such facilities.

**701.2 Intent**

- a. In compliance with Section 253 of the Act, the Town hereby states that it does not intend to create barriers to the ability of any entity to provide interstate and intrastate telecommunications services.
- b. The Town hereby states its intent not to discriminate against or favor providers of telecommunications facilities and services.

**701.3 Purposes and Guidance Standards**

The purposes of this Article, which shall serve as standards for guiding its administration, are as follows:

- a. To preserve the authority of the Town to regulate the siting of telecommunications facilities and to determine the optimum location for such

**For public hearing 10/23/18**

facilities in order to provide telecommunications services to the community quickly, effectively and efficiently:

- b. To enable the Town to take such steps as may be needed to reduce any adverse impacts such facilities may create, including but not limited to, impacts upon aesthetics, environmentally sensitive areas, recreational uses of wild lands, health and safety and property values;
- c. To encourage the use of innovative siting and configuration options, including siting possibilities beyond the political jurisdiction of the Town; to require cooperation and co-location between competitors and the exhaustion of all other reasonable alternatives before the construction of new towers is permitted: and
- d. To ensure that there is an adequate assumption of responsibility for maintenance, repair and safety inspections of operational facilities, for the prompt and safe removal of abandoned facilities and for the removal or upgrade of facilities that are technologically outdated.

**701.4 Regulation of Telecommunication Facilities:**

- a. In accordance with RSA 674:16(11) and 674:21, authorizing the adoption of innovative land use controls the location, siting, establishment, erection, installation or operation of a telecommunications facility within the Town of Carroll is hereby declared to be a use, either a primary or accessory use, which is allowed only when authorized by special use permit.
- b. Responsibility for issuance of special use permits shall be vested in the Carroll Planning Board and made part of its Site Plan Review jurisdiction.
- c. Except to the extent of any inconsistency with federal or state law, and subject to the standards contained in Section 409 of this ordinance, the Carroll Site Plan Review Regulations shall operate with regard to communications structures, equipment and facilities as they do with regard to any other use to which they apply; provided, however, that the Planning Board may make and adopt special provisions of those Regulations for the governing of such structures, equipment or facilities.
- d. Unless such special provisions of the Site Plan Review Regulations explicitly provide otherwise:
  - (1) towers, antennas or other telecommunications facilities shall be located and designed so as to preserve the ability of the public to enjoy the mountain scenery surrounding the Town, including, particularly, views of the Presidential Range of the White Mountains;
  - (2) the use of alternative technologies, co-location, stealth technology and/or other camouflaging such as placement inside part of a proposed or existing structure to reduce the visual impact shall be thoroughly studied and determined to be infeasible before the construction of any new towers are approved;

## For public hearing 10/23/18

- (3) no telecommunications tower shall exceed 180' in height;
  - (4) telecommunication towers, antennas and other electrical and mechanical equipment shall be made with neutral finish or color or others treated so as to reduce their visual impact;
  - (5) towers shall only be artificially lighted if required by some applicable authority, and such lighting shall be designed so as to cause the least impact upon surrounding properties or the community;
  - (6) towers shall not contain any permanent or temporary signs, writing,
  - (7) symbols or other graphic representation of any kind, except as may be allowed or required by the Planning Board in the interests of public safety;
  - (8) towers shall be set back a distance of 125% of the height of the tower from the nearest lot line or any off-site structure;
  - (9) towers, guys, accessory structures and other telecommunications facilities and equipment shall comply with setback requirements applicable to commercial uses;
  - (10) towers over 90 feet in height shall not be located within three miles of any existing tower that is over 90 feet in height;
  - (11) towers shall be enclosed by security fencing at least 6 feet in height and shall be equipped with appropriate anti-climbing devices; and
  - (12) access for motorized vehicles to sites where telecommunications facilities are located shall conform to Town requirements relating to driveways whenever possible: but if the Planning Board determines that such conformity is not feasible, it may permit such access subject to any conditions it deems reasonable necessary to minimize the impact of the access route upon the surrounding environment.
- e. For purposes of determining whether the installation of a tower or antenna complies with Town regulations, including but not limited to set-back, lot coverage and other requirements, the boundaries and dimensions of the entire lot shall control, even though the tower or antenna may be located on a leased parcel within the lot.
- f. The installation operation of telecommunications equipment or facilities shall not be considered, or permitted, as an extension of a nonconforming use.

### 701.5 Applicability

- a. Antennas or towers located on property owned, leased or otherwise controlled by the Town shall be permitted as of right and shall not be required to receive a special use permit: provided that a license or lease authorizing such antennas or towers shall have been issued by the Board of Selectmen and Site Plan Approval shall have been granted by the Planning Board.

## For public hearing 10/23/18

- b. Telecommunications facilities shall not be considered infrastructure, essential services or public utilities and the siting of such facilities shall constitute a use of land to be regulated by this ordinance and Town regulations.

### 701.6 Performance Standards and Abandonment

- a. All towers, antennas and other telecommunications facilities and equipment shall meet or exceed current standard and regulations of the FAA, FCC and any other agency of the federal or state governments having controlling regulatory authority and if such standards or regulations are changed, the owners or operators of such facilities or equipment shall ensure that it complies with the revised standards or regulations within 6 months of the effective dates of the revision, unless a more stringent compliance schedule is mandated by the controlling authority; and failure to comply in accordance with the applicable schedule shall constitute abandonment and shall be grounds for the removal of such facilities or equipment at the owner's expense through execution of the posted security.
- b. The owner of the tower, antenna or other telecommunications facilities and equipment shall be responsible for ensuring that such facilities and equipment at all times conform to Town regulations and meet the applicable standards published by the Electronics Industries Association, as such standards may be amended from time to time; and if, upon inspection, the Selectmen determine that such regulations or standards are not being met, or that the facilities or equipment pose a danger to person, property or the community, they shall notify the owner of the defects in writing and if the owner shall not, within 30 days, remedy such defects, his failure to do shall constitute abandonment and shall be grounds for the removal of the facilities and equipment at the owner's expense through execution of the posed security.
- c. Any antenna or tower that is not operated for a continuous of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner provides proof of quarterly inspections, such antenna or tower shall be removed in accordance with the following procedure:
  - (1) The Planning Board shall hold a public hearing after due notice to abutters and to the last known owner/operator of the antenna or tower.
  - (2) If, at such hearing, the Planning Board determines that the antenna or tower is, in fact, abandoned, it shall issue a declaration of abandonment to the owner/operator.
  - (3) Within 90 days of issuance of such declaration, the owner shall remove the abandoned structure and, if he shall not, the Town may execute the security and have the structure removed at the owner's expense.
  - (4) If there are two or more users of a single tower, the provisions of this subsection shall not become effective until all users cease using such tower.

### 701.7 Waivers

## For public hearing 10/23/18

- a. In accordance with Section 253 of the Act, and with RSA 674:21 (V)(g), if any entity believes that the procedure or standards contained in this ordinance or in Site Plan Review Regulations have created a barrier to its ability to provide interstate or intrastate telecommunications services, it may apply to the Planning Board for administrative relief in accordance with the waiver provisions of the Site Plan Review Regulations and the Planning Board may grant such waivers if it determines that:
  - (1) strict adherence with such regulations is not required to effectuate the purposes of this ordinance.
  - (2) strict compliance would create practical difficulty and unnecessary inconvenience; or
  - (3) strict compliance would potentially cause a conflict with the Act.

### **701.8 Security Bonds**

- a. Before, and as a condition of, the approval of a Site Plan filed in connection with the installation of any telecommunications facility, the Planning Board may require the developer or installer to file with the Town a bond in an amount adequate to cover the costs of removing the facility, together with any structures or equipment appurtenant thereto, and of returning the site to its condition prior to such installation.
- b. The provisions of the Site Plan Review Regulations relating to performance bonds, shall apply to a bond required under this Section; provided, however, that it shall remain on file with the Town, and shall not be released unless the installation has been decommissioned, dismantled and removed.
- c. The Planning Board shall require the owner/operator of any antenna or tower to provide, annually, proof that it is maintaining adequate liability insurance covering accident or damage.

### **Section 702 Excavations**

#### **702.1. Purpose**

The regulations of this Section are intended to conserve valuable natural resources, secure public safety, protect adjoining land uses, insure a second use for excavated sites, and to promote the general welfare of the Town of Carroll.

#### **702.2. Applicability**

The regulations apply to excavation, grading, filling or removal of any earth, loam, topsoil, sand,

## For public hearing 10/23/18

gravel, clay or stone on public or private land in the Town of Carroll. Such activity which (1) occurs on a lot for which a building permit has been issued or (2) involves a volume of less than 1,000 yards and material is used on the property that it is taken from are excluded from the requirements of this article.

### 702.3. Regulator/Conflicts

Pursuant to RSA 155-E:1, the Planning Board shall be the regulator authorized to issue excavation permits pursuant to RSA 155-E and this article of the Ordinance. In the event of any conflict between the provisions of RSA 155-E, the more restrictive provisions shall apply.

### 702.4. Plan Requirement

As a condition for the granting of an excavation permit, the owner or operator of a site on which resources are proposed to be excavated, graded, filled or removed, shall submit and have approved by the Planning Board a plan for site operation and reclamation. Five (5) copies shall be submitted to the Board. The excavation permit must be granted before any work commences. This plan must include information on the following items:

- a. Locational map of property on which activity will occur, with property lines, roads, and abutters' names.
- b. Map at scale of one inch equals 100 feet of the entire property with (1) delineation of the areas to be excavated, graded, filled or removed (2) topography (3) existing vegetation and (4) waterways.
- c. Description and volume of resources to be excavated, graded, filled or removed on a year-to-year basis for a period of 10 years or the duration of the project.
- d. Map and description of necessary roads, access ways, buildings and structures proposed.
- e. Depth of seasonal high and average water tables.
- f. Provisions for safety, traffic control and visual screenings.
- g. Provisions for removal or storage of debris.
- h. Provisions for continuous slope stability throughout the operation.
- i. Provisions for sediment and erosion control throughout the operation.
- j. A plan for final reclamation of the site within 12 months after the expiration date of the permit, or of the completion of the excavation, whichever occurs first, in accord with 155-E:5 Minimum and Express Reclamation Standards. The reclamation plan shall include detailed information on topography, re-vegetation, drainage, stability and soil characteristics in sufficient detail so as to form the basis for the amount of the bond (see Section 702.7).

This plan shall be developed by a certified engineer or surveyor. Informal meetings between the Planning Board and the owner or operator may be held prior to official submission of the plan. The Conservation Commission may request one meeting with the owner or operator during the review period. One copy each of the original shall be provided to the Board of Selectmen and

## **For public hearing 10/23/18**

the Conservation Commission.

### **702.5. Standards**

The requirements which follow apply to every excavation, grading, filling, or removal of earth resources permitted under this article:

- a. Hours of operation shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, excluding legal holidays.
- b. A buffer zone of 200 feet shall be maintained between any permitted activity and public rights-of-way and adjacent properties.
- c. A buffer zone of 150 feet shall be maintained between any body of water (e.g., wetlands, ponds, streams, etc.) and any activity, structure or equipment.
- d. No slopes steeper than one vertical to two horizontal shall be allowed to exist for more than five days.
- e. No activity shall occur below the seasonal high water table depth without the specific approval of the Planning Board and Conservation Commission.
- f. If the proposed re-use of the excavated area is for building, the minimum elevation of the bottom of excavation shall be four feet above seasonal high water table or conforming to the original grade prior to any excavation or disturbance of the earth. Minimum slope shall be 1:4.
- g. If the proposed re-use of the excavated area is for vegetation (open space), the minimum elevation of the bottom of excavation shall be two feet above the seasonal high water table or conforming to the original grade prior to any excavation or disturbance of the earth. Minimum slope shall be 1:2.

### **702.6. Decision Process**

Within 30 days after receipt of a completed plan, the Planning Board shall hold a public hearing. The Board shall notify all abutters by mail. Within 60 days after the public hearing, the Planning Board shall make the final decision. If the Plan is approved and excavation permit granted, the Board should attach any conditions deemed necessary and appropriate to the purpose of this regulation, relating to considerations listed below, road and waterway setbacks, and bond requirements.

The Board shall make a decision based upon the following considerations:

- a. Public safety.
- b. Noise and air pollution.
- c. Traffic-related problems.
- d. Water quality.
- e. Water supply.

## **For public hearing 10/23/18**

- f. Slope stability.
- g. Impact on adjoining land uses.
- h. Visual impact.
- i. Other factors which are relevant to the public health and welfare of the community.

The Board shall consult with the Coos County Conservation District, the Board of Selectmen and the Conservation Commission in the review of specific details of the submitted plan.

### **702.7. Bonding**

- a. A bond must be posted each year of operation whose monetary value is determined by the area to be excavated that year and the current market value of loam, seed and labor to restore the area to be ecologically self-supporting through permanent vegetation cover.
- b. In addition, the bond shall be sufficient in monetary value to repair any town road found damaged due to the hauling of gravel, sand, earth, etc., associated with any permitted activity.
- c. The bond shall be held by the Town Treasurer and shall only be returned after reclamation is complete and approved by the Planning Board and Conservation Commission.

### **702.8. Inspection**

An authorized agent for the Town shall have the right to inspect the operations to insure compliance with the approved plan and these regulations.

### **702.9. Duration of Permit**

The excavation permit and approved plan shall have a duration of no more than 10 years. The Planning Board shall require reapplication.

### **702.10. Existing Activity**

- a. Owners or operators of property on which resources are being excavated, graded, filled or removed before the effective date of this regulation shall obtain a temporary approval within 2 months of that date. Temporary approval shall be granted by the Board of Adjustment upon receipt of a map showing property lines, present area of activity, anticipated exterior limits and names of abutters.
- b. Within 6 months after receiving temporary approval, the owner or operator must submit a plan as described in Section 603 and is then subject to all the provisions of this article.



**Section 703 Manufactured Home Parks**

**703.1. Planning Board**

Subdivision approval by the Planning Board is required for Manufacturing Home Parks.

**703.2 Regulations**

a. A manufactured home park shall have an area of at least 10 acres and there shall be at least ten (10) manufactured home spaces available at first occupancy.

b. Manufactured home parks shall provide for individual home spaces, driveways, park and recreational open space.

c. Each individual manufactured home site shall have at least 10,000 square feet of area, with at least 70 feet of frontage on an approved right-of-way and a depth of at least 100 feet

d. Each manufactured home site shall have at least parking spaces for two cars on site.

e. A portion of the total land area of the manufactured home park shall be dedicated for recreational and/or open space for use by the park's residents.

f. Setbacks for each individual living unit shall be at least 30 feet from the right-of-way and 20 feet from the side and back plot lines. All accessory buildings shall also meet these setback regulations.

g. All utilities (i.e., electric, telephone, gas, etc.) shall be provided to each site by the developer. It shall be the responsibility of the individual site owner/lessee to connect to the required utilities.

h. Manufactured home parks shall have public water and sewerage, if available. .

i. If public water and sewerage are not available, the density of the manufactured home park will be determined by the NH Water Supply & Pollution Control Commission's recommendations for lot sizes for on-site water and septic systems based on the specific soil type found in the proposed park site. The Planning Board may use such additional professional services and advice it deems necessary to determine the final density of the proposed manufactured home park. The cost of this information will be borne by the developer.

j. All access rights-of-way to the park shall be built to the Town/State roadway standards. The Planning Board reserves the right to waiver these standards if over-riding circumstances require it.

k. A green strip at least 10 feet in width shall be maintained adjoining the boundaries of the

**For public hearing 10/23/18**

property and planted with trees or shrubs to provide a permanent screen.

I. All State of New Hampshire requirements for manufactured home parks shall be met.

**Section 704 Planned Unit Developments**

**704.1 Concept Plan**

a. The Planning Board may issue a Conditional Use Permit for a Planned Unit Development in any District in which it is allowed in Article IV. For the purpose of providing a guideline for an overall development under this Ordinance, and to ensure that individual sections of the Planned Unit Development are developed in a well-planned relationship to each other and to the total plan, it is a requirement of this Ordinance that prior to the submission of Subdivision Plans for particular sections of the Planned Unit Development, an applicant shall submit a Concept Plan covering all the land to be developed by said applicant illustrating the following site information, basic planning assumptions and development objectives:

- (1) The anticipated distribution of permitted uses on the land to be developed.
- (2) The proposed general layout of major road systems.
- (3) The proposed major common open space systems.
- (4) A description of the major water, sewer and drainage systems.
- (5) The topography of the land in intervals of not more than 600 feet per inch.
- (6) A map describing the area to be developed.
- (7) A statement establishing the anticipated overall density of dwelling units for the total project.
- (8) A statement establishing the anticipated percentage of land uses for the total project.

b. Action on Concept Plan

The Planning Board shall review the Concept Plan following the procedures provided in RSA 676:4 Board's Procedures on Plats, as amended.

c. Review Standards

In reviewing the Concept Plan, the Planning Board shall consider whether or not said Plan effectively addresses the following:

- (1) The availability of essential services to future residents.
- (2) The adequacy of the proposed major road system and its ability to handle traffic generated by the proposed development.
- (3) The preservation of appropriate open space for recreational and scenic purposes.
- (4) The effects of the proposed development upon the needs of the Town as a

**For public hearing 10/23/18**

whole.

d. Approval - Effect

Approval of the Concept Plan shall not constitute approval of any particular Subdivision Plan or Site Plan subsequently submitted, but said approval shall constitute an approval of the stated dwelling unit density and percentages of land use to be applied to the total development. The location of permitted uses as shown on the approved Concept Plan may be subsequently altered by Subdivision Plans and Site Plans provided that any such alteration does not violate the approved number of dwellings, land use percentages and other conditions of approval..

**704.2. Subdivision Plans**

a. Content

Any applicant owning land within the district for which a Planned Unit Development Concept Plan approval has been obtained must, prior to the erection of any buildings or sale of any subdivided lots, submit to the Planning Board an application for approval for a Subdivision Plan covering that portion of the land for which final approval is sought setting forth the following:

- (1) Subdivision plat or plats showing proposed lot and parcel lines drawn to the scale provided in the Subdivision Regulations of the Town of Carroll.
- (2) Location of existing and proposed public roads and rights-of-way and their relationship to similar public facilities in proximity to the area shown in the plan.
- (3) Location of easements.
- (4) Location of existing water courses.
- (5) Designation of land use to be applied to each parcel and total number of acres devoted to each permitted use.
- (6) The density of land use to be allocated to parts of the area to be developed.
- (7) The use, approximate height, bulk, and location of buildings and other structures.
- (8) The location, function, ownership and manner of maintenance of common and open space.
- (9) The substance of covenants, grants of easements or other restrictions to be imposed upon the use of land, buildings and structures including proposed easements for public utilities.
- (10) Maximum number of dwelling units to be erected.
- (11) Location and design of public utilities which will serve the property.
- (12) Designation of ownership of adjoining parcels.
- (13) The provisions for parking of vehicles.

b. Action on Subdivision Plans and Site Plans

The Planning Board shall act on the Subdivision Plans and Site Plans according to the same

## For public hearing 10/23/18

procedure provided by statute for its acting on other subdivision and plat applications submitted to it.

### 704.3. Development Standards

The standards to be applied by the Planning Board in reviewing a Subdivision Plan or Site Plan are the following:

#### a. Site Improvements

- (1) There shall be provided within the planned development area a sanitary sewage disposal system or individual on-lot systems which shall be of sufficient size and type to collect and dispose of all sewage from the development area, in accordance with the laws, ordinances and regulations of the Town of Carroll and the State of New Hampshire.
- (2) There shall be provided within the planned development area a potable water system or individual on-lot systems of sufficient capacity and design to supply potable water.
- (3) There shall be provided within the planned development a drainage system in accordance with the Subdivision Regulations.
- (4) Within the planned development area, the dimensions and specifications of all roads and parking areas, whether or not dedication of them to the Town of Carroll is contemplated, shall conform to all applicable Town and State requirements.

#### b. Environmental

- (1) The topography of the site must be suitable for the proposed development and engineered to prevent erosion.
- (2) To the fullest extent possible, all natural features such as lakes, streams, rock outcrops, topsoil, trees and shrubs shall be preserved and incorporated into the final landscaping design of the development.
- (3) Common open space shall be selected so as to preserve ecological resources to the fullest extent possible.

#### c. Maintenance of Common Open Space

The Subdivision Plan shall contain such provisions for the ownership and maintenance of the common open space as reasonable to insure its continuity and conservation. The program to accomplish this objective may include but shall not be limited to one or more of the following alternatives.

- (1) The creation of organization(s) comprised of property owners within the development. Such organization shall not be dissolved nor shall it dispose of any

## For public hearing 10/23/18

common open space which it may own by sale or otherwise, without first offering to dedicate same to the Town. The Planning Board shall consider the covenants and restrictions in the plan relating to such organization to determine the adequacy of the organization from the perspective of meeting its obligations and properly maintaining facilities. The Planning Board may also examine for these purposes the articles and bylaws of such organization, as well as restrictions to be placed in deeds confirming the organization's rights and duties. The applicant developer shall maintain control of land to be controlled by such an organization and shall be responsible for its conservation and/or maintenance until development sufficient to support the organization has occurred.

- (2) Dedication of all or some of the common open space to the Town or other governmental entity or authority or charitable organization.
- (3) Continuing ownership by the original developer, his successors, or assigns of common open space (including improvements thereon).

### d. Dimensional Requirements

In issuing a Conditional Use Permit for a Planned Unit Development, the Planning Board may reduce or waive minimum lot size, minimum setbacks, maximum percentage of lot coverage and minimum lot width. However, all dwelling units shall be so sited as to have access to a street, court or walkway adequately designed for maintenance and emergency services and for the safety and convenience of residents.

### f. Subdivision Regulations of the Town of Carroll

The Subdivision Regulations of the Town of Carroll shall apply to development under this Ordinance except insofar as they are inconsistent with any provision of this Ordinance. Moreover, notwithstanding any provision of the Subdivision Regulations, it is recognized that:

- a. Where a road is divided into separate roadways, in each direction, the minimum right-of-way requirement for a road may be appropriately reduced for each separate roadway.
- b. In areas of steep terrain, a switchback type of road alignment may be used and the 150 feet centerline radius requirement may be modified accordingly.
- c. The reference of the word "blocks" in the Subdivision Regulations shall not preclude design of roads in accordance with topography and natural features, it being recognized that streets should intersect as near to right angles as possible.
- d. In areas not served by a public water system, a private well may be used to supply lots and dwelling units, there being no requirement that each lot or dwelling unit have its own individual well. Where such common use is made, the right of the individual lots and dwelling units to use such well shall be appropriately secured and protected.

## For public hearing 10/23/18

### 704.4. Staging

#### a. Sections of Subdivision Plan

When the development shown in a Subdivision Plan is to take place over a period of years, the developer shall include in said plan a schedule of construction for the various sections of the plan. If the schedule is approved by the Planning Board as being reasonable, the applicant shall be entitled to precede in accordance with the schedule without seeking further approval of his final plans, it being understood that the applicant can always proceed ahead of the schedule.

#### b. Application of Area and Density Requirements

Recognizing that all of the land whose development is described in the Concept Plan will not be developed at the same time and that flexibility in the overall development should be maintained consistent with the standards contained in the Ordinance, the Planning Board of the Town of Carroll may allow for a greater density or intensity of land use for any section of development for which it gives final approval than would be permitted for the overall development. However, such greater density or intensity of land use for any section shall be offset by a smaller concentration in other sections or by an appropriate reservation of common open space on the remaining land by a grant of easement or covenant. To maintain development flexibility, such reservation shall, as far as practicable, defer the precise location as such common space until an application for final approval is submitted.

#### c. Reliance on Subdivision Approval

It is recognized that the applicant, upon receiving Subdivision approval may construct public improvements designed to serve as part of all of the approved development, even if construction is to proceed by sections. To the extent that an applicant in good faith relies on final approval to construct substantial improvements, it is recognized that he will obtain a vested right to proceed with his finally approved plans for the areas affected by these substantial improvements.

#### d. Performance Guarantees

As a condition of approval of Subdivision Plans, or before undertaking any construction following approval of a Subdivision Plan, the applicant shall make such performance bond or bonds as may be determined by the Planning Board to be reasonably required to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of said plan before completion.

### **Section 705. Accessory Dwelling Units**

Where permitted by Conditional Use Permit, an Accessory Dwelling Unit (ADU) shall comply with the following:

**For public hearing 10/23/18**

1. Only one (1) ADU shall be permitted per single family dwelling.
2. An ADU shall have an independent means of access, either through an independent exterior door or through a common space such as a hallway to an exterior door. For accessory dwelling units located within or attached to the principal dwelling unit, there must be an interior door between the two units.
3. All ADUs must be attached or within a single family dwelling or accessory building.
5. The area of an ADU may not exceed 30% of the total floor area of the single family dwelling, including the ADU, or 750 feet, whichever is larger.
6. At least one parking space is required to accommodate the ADU.
7. The ADU must maintain the aesthetic continuity with the principal dwelling unit as a single family dwelling.
8. A camper, recreational vehicle or manufactured home may not be used as an accessory dwelling unit.

**ARTICLE VIII  
ADMINISTRATION AND ENFORCEMENT**

**Section 801. Board of Selectmen**

It shall be the duty of the Board of Selectmen to enforce and administer the provisions of the Ordinance. The Board of Selectmen may appoint a Building Inspector, Code Enforcement Officer, or other designee to issue any and all building permits requested when in their opinion the proposed permit meets all the requirements of the Ordinance.

**Section 802. Zoning & Building Permit**

**802.1** A Zoning & Building Permit shall be required prior to:

A-1: For Commercial construction all new or altered structures

A-2: For home construction all new or altered structures except:

1. One story detached accessory building limited to 200 square feet that has no plumbing and is not to be used as living space for people and provided that the siting of the structure meets set back requirements.
2. Fences not over 6 feet high.
3. Water tanks supported directly on grade, if the capacity does not exceed 5,000 gallons and the ratio of height to diameter does not exceed 2 to 1.
4. Sidewalks and driveways not over 30 inches above grade.
5. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
6. Swings and other playground equipment.
7. Prefabricated swimming pools less than 24 inches deep.

**For public hearing 10/23/18**

8. Window awnings, supported on the exterior wall, that do not project more than 54 inches from the exterior wall.
9. Interior improvements that do not increase the footprint of the building and do not increase the value of the structure by more than 25%.

A-3: The movement of a building or sign.

A-4: The construction of additional signs as stipulated in Section 406 beyond those allowed by right.

A-5: The construction or alteration within any existing building which will add to the number of dwelling units.

A-6: A change in use with the property.

A-7: Adding a use to the property.

B-1: Any alteration or restoration that effects a Commercial Building compliance with fire and/or public safety codes, or alters the Structure of footprint of the building shall require a building permit.

**802.2** Two copies of an application shall be submitted and shall include a plan showing:

- a. The shape, dimensions, area and location of lot involved.
- b. The buildings or structures to be erected, constructed, moved or expanded.
- c. Any private driveway entering upon a right-of-way.
- d. Outhouses will have an impermeable holding tank constructed of either plastic or concrete.

Proof shall be submitted that all approvals required for individual sewage disposal systems have been obtained.

**802.3** The Board of Selectmen or designee shall act upon any application within 30 days after it has been received. If a permit is denied, the reasons for denial shall be clearly stated. The Board of Adjustment may by appeal, special exception or variance direct the issuance of a permit.

**802.4** A Zoning & Building Permit shall be valid for one year. A one-year extension may be granted upon application to the Board of Selectmen or designee.

**802.5** No permit shall be transferable to a subsequent owner.

**802.6** A Certificate of Occupancy will be required before renting, leasing, or using building for which Zoning & Building Permit was granted. A Certificate of Occupancy shall be granted only if:



## **For public hearing 10/23/18**

- a. All Zoning and Town Ordinances were adhered to
- b. All Zoning & Building Permit restrictions or requirements were complied with.

**802.7** The Selectmen or designee shall have the right to inspect a building and/or property after a Zoning & Building Permit is granted and an inspection is required before a Certificate of Occupancy is granted.

**802.8** The Board of Selectmen will be responsible for establishing the fee structure for permit applications . The Board of Selectmen prior to signing the Certificate of Occupancy will collect the total sum.

### **Section 803. Enforcement and Penalty**

**803.1** If any violations of this Ordinance occurs, the Board of Selectmen shall institute, in the name of the Town of Carroll, any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate such violation.

**803.2** Any person who violates this Ordinance shall be subject to fines and penalties as provided by state law, including but not limited to RSA 676:15, 676:17, 676:17-a or 676:17-b . No action may be brought under this provision unless the alleged offender has had at least seven days' written notice that a violation exists.

**803.3** The Board of Selectmen may appoint a Building Inspector, Code Enforcement Officer or other designee who, upon such appointment, shall have such administrative duties and enforcement powers as specifically identified by the Selectmen as would otherwise be delegated to the Selectmen or Building Inspector by this Ordinance or by state law.

### **Section 804. Board of Adjustment**

**804.1 Organization:** There is hereby created a Board of Adjustment and its five members shall be elected and the Selectmen shall appoint alternates. The Board of Adjustment shall have the terms and powers conferred by Chapter 31, New Hampshire RSAs, as it is or may be amended.

**804.2 Appeals:** The Board of Adjustment shall hear and decide any case in which it is alleged there is an error in any order, requirements, decisions or determinations made by any official in the enforcement of this Ordinance.

#### **804.3 Special Exceptions**

##### **a. General Provisions**

As defined by RSA 674:33, The Board of Adjustment has the power to hear and decide applications for Special Exceptions and provided by this Ordinance. The Board may, in

## For public hearing 10/23/18

appropriate cases and subject to appropriate conditions and safeguards, as determined by the Board, authorize the Selectboard or designee to issue a permit for such Special Exceptions use. Before an application is approved, the Board shall determine that the proposed use will conform to such requirements including:

1. Required Plan. A plan for the proposed development of a site for a Special Exception shall be submitted with the application and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and other pertinent information that the Board may deem necessary to determine if the proposed use meets the requirements of this Ordinance:
2. Expiration. A permit for a Special Exception shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than one year for any reason, and a new application shall be submitted for continuance for such Special Exception.
3. Existing Violations. No permit shall be issued for a Special Exception for a property where there is an existing violation of this Ordinance unless the granting of Special Exception will correct the violation.
4. Criteria for a Special Exception. In order for a Special Exception to be granted the proposed use shall not adversely affect:
  - (1) The capacity of existing or planned community facilities
  - (2) The character of the area affected including, but not limited to, consideration of such factors as the nature of the proposed use itself, noise, vibration, volume and type of traffic, lighting, glare, odors, hours of operation, amount of impervious surface, or building size and mass
  - (3) Traffic on roads and highways in the immediate vicinity

### **b. Standards Applicable to Special Exceptions**

If deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the Town as a whole, the Board of Adjustment shall impose standards in granting a Special Exception. These additional standards may include the following:

1. Increasing the required lot size or yard dimensions in order to provide a buffer between the proposed use and that of adjacent properties.
2. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
3. Controlling the location and number of vehicular access points to the property.
4. Increasing the street width adjacent to the property.
5. Increasing the number of on-site off-street parking or loading spaces required.
6. Limiting the number, location and size of signs off premise.

**For public hearing 10/23/18**

7. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
8. Specifying a time limit for initiation of construction, alteration, or enlargement of a structure to house an exception.
9. Providing for specific layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize effect on adjoining property.
10. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Board of Adjustment.
11. Specifying standards for operation of this Special Exception so that it will be no more objectionable to the neighborhood by reasons of traffic, noise, odors, and vibrations, flashing lights or hours of operation than will be the operation of a permitted use at this site.
12. Specifying that in case of the remodeling of existing structures into two-family or lodging house use that the remodeling of the structure would be done in such a manner that it will not substantially change the exterior appearance of the structure.
13. Requiring such additional, reasonable conditions and safeguards as it may deem necessary to implement the purpose of this Ordinance and to protect the best interests of the surrounding property and the neighborhood.

**804.4** The Board of Adjustment may authorize a Variance from the terms of this Ordinance where the Board finds that all of the following conditions apply:

a.

1. The variance will not be contrary to the public interest;
  2. The spirit of the ordinance is observed;
  3. Substantial justice is done;
  4. The values of surrounding properties are not diminished; and
  5. The literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
- (1) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
  - (ii) The proposed use is a reasonable one.

b. If the criteria in subparagraph a. are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict

## **For public hearing 10/23/18**

conformance with the and a variance is therefore necessary to enable a reasonable use of it.

**804.5 Validity:** Any special exception or variance granted by the Board of Adjustment shall be valid only two years unless an extension is approved by the Board of Adjustment for good cause.

**804.6 Acceptance:** Acceptance of the terms of a variance or special exception must be submitted in writing to the Board of Adjustments within 60 days or shall be deemed invalid.

### **804.7 Equitable Waivers of Dimensional Requirements**

a. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

1. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
2. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;
3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and
4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

b. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

c. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.

**For public hearing 10/23/18**

d. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

**ARTICLE IX  
MISCELLANEOUS**

**Section 901. Severability**

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

**Section 902. Effective Date**

This Ordinance and subsequent amendments thereto shall take effect immediately upon adoption.

**Section 903. Validity**

Whenever the provisions of this Ordinance or rulings made under the authority thereof differ from or appear to be in conflict with any other ordinances or regulation, that provision or ruling which imposes greater restriction or higher standard shall govern.