

## MONT VERNON, NEW HAMPSHIRE

### REGULATIONS

- I Zoning Ordinance
- II Wetland Zoning Regulations
- III Subdivision Regulations
- IV Non-residential Site Plan Review Regulations
- V Excavation Regulations
- VI Driveway Regulations

Published 2004

Revised October 2022

**CHANGES**

**I. ZONING ORDINANCE**

dated March 1980  
amended March 9, 1982  
revised November 23, 1988  
amended March 1989  
amended March 1991  
amended March 1993  
amended March 1994  
amended March 2000  
amended March 2001  
amended March 2002  
amended March 2003  
amended March 2004  
amended March 2005  
amended March 2006  
amended March 2007  
amended March 2008  
amended March 2009  
amended March 2022  
amended March 2023  
amended March 2024

**II. WETLAND CONSERVATION REGULATIONS**

dated March, 1980  
amended March, 1991  
amended March, 1994  
amended March 2005  
amended March 2006  
repealed March 2021

**III. SUBDIVISION REGULATIONS**

dated March, 1980  
amended March 13, 1984  
revised November 23, 1988  
amended March, 1991  
amended March, 1994  
amended September 1996  
amended May 12, 1998  
amended March 28, 2006  
amended January 9, 2007  
amended September 23, 2008  
amended December 9, 2008  
amended April 13, 2010  
amended June 22, 2010

**IV. NON-RESIDENTIAL SITE PLAN REVIEW REGULATIONS**

dated March, 1980  
amended March, 1994  
amended March 10, 1998  
amended May 12, 1998  
amended December 9, 2008

**V. EXCAVATION REGULATIONS**

dated March 25, 1980  
amended March 1994

**VI. DRIVEWAY REGULATIONS**

dated January 9, 2018  
amended March 2020

**APPENDIX A - GLOSSARY**

Amended March 2000  
Amended March 2006  
Amended March 2008  
Amended June 2010

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**REFERENCE: Zoning Ordinance Changes**

3/11/69	Zoning established
3/9/71	Building Code voted
3/7/72	Amended Art V-B Art III-C; C2, C3
3/72	Building Code voted
3/4/75	Open Space proposed (defeated)
3/8/77	Wetland voted BOCA code 1975 replaces 1972 (update)
3/13/79	Historic District established Amended Art III-D, lot and yard regulations Amended Art III-C & Da, open space Amended Art III-B.I, Home Business
1980	Complete revision and compilations of Ordinance
3/8/83	Limited Commercial District established
3/13/84	Amended Art VI-D Amended Art III, sec 8 Amended Art V, sec I-a
3/12/85	Amended Art I, Preamble Amended Art VII, VIII, IX, X, XI, numbering
3/10/87	Proposed amending Art III-D9 (back lot) Proposed amending Art III-F (attached housing) BOTH defeated
3/8/88	Proposed back lot zoning (defeated) Proposed attached housing zoning (defeated)
3/14/89	Amended Art IV-B
3/12/91	Amended Wetland (passed) Amended Art III-D (passed) Planned Unit Development (defeated) Expand Limited Commercial District (defeated)
3/9/93	Amended Art III-C2 (Glossary and housekeeping changes) Amended Art VI Amended Art D.7 multi soils (defeated)
3/8/94	Clerical corrections, renumbering, index and table of contents added
9/24/96	Underground utilities requirements added Amended Chapter III-411.1
3/10/98	Telecommunications Facilities requirements added Chapter I paragraphs 306; Chapter IV, Article 10
5/12/98	Electronic file format added Chapter III, paragraph 605.1(c); Chapter IV, paragraph 201.1(j); Chapter IV, paragraph 201.1(k)
3/14/00	Amended Appendix A – Glossary Removed paragraph “BUILDING OR STRUCTURE HEIGHT” Changed definition “HEIGHT” Amended Chapter 1 Zoning Ordinance added Chapter I Article VI Managed Commercial and Conservation Zone
3/13/01	Amended Chapter I, Section I-305(c) Replaced paragraph I-305.3(c)
3/12/02	Amended Chapter I, Section I-304.5 Multiple Soils Districts within Lots Removed paragraphs I-304.5(a), -(b), and – (c) and replaced them
3/11/03	Amended, added I-307 Impact Fees for New Residential Development (passed) Amended, I-305.3(e) open space ordinance (passed) Amended I-401 Non-residential zoning (passed) Amended I-401 Non-residential zoning petition article (defeated)

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3/9/04	Amended I-304.5(b) and (c) multiple soils definitions (passed)
3/8/05	Replaced II-302.2 Replaced I-309.3 Replaced 1-306 Replaced 1-406
10/11/05	Added III-421 Phasing to subdivision regulations
12/13/05	Amended III-404.4 by removing sentence regarding hammerheads
12/13/05	Amended III-301 through III-304 Application Procedure, Review for Acceptance, Review for Approval, and Action of the Board.
3/14/06	Amended Table I-304.1 Key to Soil Types (passed) Amended II-401 (passed) Amended II-402 (passed) Amended II-403 (passed) Amended Appendix A – Glossary (passed)
3/28/06	Amended III-704
1/9/07	Amended Chapter III Subdivision Regulations
3/13/06	Amended I-305.3(d) (passed) Amended I-305.3(g) (passed) Added I-310 Housing for Older Persons (passed)
3/11/08	Amended I-204 (passed) Added I-311 (passed) Amended Appendix A – Glossary (passed)
9/23/08	Amended Chapter III Subdivision Regulations – Road Regulations
12/9/08	Added III-901 Special Flood Hazard Areas Added IV-1101 Special Flood Hazard Areas
3/10/09	Added I-701 Flood Plain Ordinance (passed)
4/13/10	Amended III-420.9
6/22/10	Amended III-420 and III-705 Added 'Private Road' to Glossary
3/09/22	Removed Chapter II Wetland Conservation Regulations Added Chapter I Article 8 Wetlands Overlay District Added I-304.5(d)
3/14/2023	Amended I-308 Accessory Dwelling Units (passed)
3/13/2024	Amended I-701 Flood Plain Ordinance (passed)

**CHAPTER I  
ZONING ORDINANCE  
FOR THE TOWN OF MONT VERNON, NEW HAMPSHIRE**

**ARTICLE 1 - PREAMBLE**

**I-101** In pursuance of authority conferred by Title LXIV of the NH Revised Statutes Annotated, Chapters 672-677 inclusive and as such may from time to time be amended, and for the purpose of promoting the health, safety, morals, prosperity, convenience or general welfare, as well as to provide efficiency and economy in the process of development of the incorporated Town of Mont Vernon, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights of way, by preserving the rural charm now attached to our Town, and to insure the wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements, the following Ordinance is enacted by the voters of the Town of Mont Vernon in Town Meeting convened.

**ARTICLE 2 - DISTRICTS**

**I-201** For the purpose of this Ordinance, the Town of Mont Vernon is divided into the following districts as shown on the master plan map filed with the Town Clerk, which map is made part of this Ordinance.

- I-201.1 Residential (R)
- I-201.2 Rural Residential (RR)
- I-201.3 Limited Commercial District (LC)
- I-201.4 Managed Commercial and Conservation Zone (MCCZ)

**I-202** The Residential District perimeter shall include the following streets and roads and all land and buildings within 500 feet of the central point of such streets and roads and their terminating boundaries:

- I-202.1** Main Street from the south boundaries of Lots 10-26 and 10-53-3 on Route 13, northward to the junction at Beech Hill Road and Blood Road; and New Boston Road to the junction of Blood Road.
- I-202.2** The following streets and roads shall be included in their entirety: Blood Road; Harwood Road; Grand Hill Road; Boutwell Road; Smith Road; Hillcrest Avenue.
- I-202.3** Old Wilton Road from the intersection at Main Street to the intersection at Harwood and Upton Roads.
- I-202.4** All land and buildings included within the perimeter boundaries established by this Article and shown on the master plan map shall be considered in the Town Residential District.

**I-203** The Rural-Residential District shall include all lands and buildings not contained within the boundaries of the Residential (R) and Limited Commercial (LC) Districts. (3-9-82)

**1-204** The Limited Commercial District shall include all lands and buildings bounded as follows: Beginning at the point on Route 13 which is 2800 feet north of the Milford/Mont Vernon town boundary, continuing westerly along a line parallel to the Milford/Mont Vernon town boundary to a point of intersection with Hartshorn Brook, thence southerly along the course of said brook to the point of intersection with the Milford/Mont Vernon town boundary, thence easterly along said boundary crossing Route 13, to the southeast corner of Mont Vernon, thence north following the Mont Vernon/Amherst town boundary to the southeast corner of lot 2-68, thence northeastward following the boundary of lot 2-68 to where it rejoins with the Mont Vernon/Amherst town boundary (thus excluding lot 2-68). The bound continues northward until it reaches lot 2-65, thence follows the boundary of 2-65 westward to the place of beginning on Route 13. (3-11-08)

**I-205** Although specific areas are not set aside for two-family and multi-family dwellings, the establishment of such uses that can be shown to be an asset to the Town is encouraged. Application for the initiation of such uses shall be made to the Board of Adjustment which shall act on such application in accordance with the procedure set forth in **Article 5, Section I-502.1** (Special Exceptions) hereof. (3-9-82)

### **ARTICLE 3 - GENERAL PROVISIONS**

#### **I-301 EXISTING USES**

**I-301.1** **Nothing** in this Ordinance shall be construed to prevent continuance of any existing use of land or buildings or the replacement thereof.

#### **I-302 SANITARY PROTECTION**

**I-302.1** No privy, cesspool, septic tank, or sewage disposal area shall be constructed or maintained less than seventy-five (75) feet from the edge of a public water body or from a well, or from a dwelling other than that to which it is appurtenant.

**I-302.2** No waste waters or sewage shall be permitted to run free into a public water body or be discharged in any way that may be offensive or detrimental to the health of others. All such waste shall be conveyed away underground through use of an accepted sanitary system, or in such a way that it will not be offensive or detrimental to health.

#### **I-303 MANUFACTURED HOUSING**

**I-303.1** Manufactured housing shall be in accordance with RSA 674:32.

**I-303.2** In the Rural-Residential District, the Board of Adjustment after public hearing, may permit the establishment and operation of a manufactured home park, after written

application has been made to the Board of Adjustment accompanied by a text and map to describe the proposed location of the manufactured home park; a lot layout; plans for water supply, sewage disposal, garbage and trash disposal and drainage; and street layout and construction. The Board of Adjustment may grant such a permit only where it finds that the following standards in addition to the regulations of this ordinance, are met or exceeded:

- I-303.2(a)** A manufactured home park shall contain not less than five (5) acres.
  - I-303.2(b)** Each manufactured home site shall comply with the dwelling lot requirements of **I-304** of this Article.
  - I-303.2(c)** Sanitary protection requirements listed under **I-302** of this Article will be met.
  - I-303.2(d)** No buildings other than manufactured homes shall be located in a manufactured home park.
  - I-303.2(e)** The specific site is an appropriate location for such use.
  - I-303.2(f)** Such use will not adversely affect the neighborhood in which the manufactured home park is located.
  - I-303.2(g)** There will be no nuisance or serious hazard to vehicles or pedestrians.
  - I-303.2(h)** The use would not be seriously detrimental or offensive to owners of adjoining property or to the Town, nor would it tend to radically reduce property values of adjoining property or other property in the immediate vicinity.
- I-303.3** Permits issued pursuant to Article III, shall contain the provision that work must be commenced within six (6) months and completed within one (1) year of the date of issuance of said permit. If work is not commenced in accordance with this six-(6) month term, said permit shall expire without further action by the Board.

### **I-304 LOT AND YARD REGULATIONS**

- I-304.1** The symbols shown in **Table I-304.1** shall be used to determine the District Classification of any and all tracts of land which are proposed for subdivision.
- I-304.2** The regulations pertaining to minimum lot sizes, minimum frontages, minimum depths, minimum front yard setbacks, and minimum side yard setbacks and minimum rear yard setbacks shall be as set forth in the Table of Lot and Yard Regulations (Table I-304.2) subject to further provisions of this Ordinance.

**TABLE I-304.1 KEY TO SOIL TYPES**

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**SYMBOL D – SLOPE CATEGORY**

- B - 0 to 8%**
  - C - >8 to 15%**
  - D - >15 to 25%**
  - E - >25%**
- 

**TABLE I-304.2 LOT AND YARD REGULATIONS**

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	Minimum setbacks from property line to building line			
	FRONTAGE FEET	FRONT SETBACK	SIDE SETBACK	REAR SETBACK
<b>DISTRICT 1 -- 2 ACRE ZONING</b>	200	50	30	50

Map Color Code -- yellow

Soil & Slope Reference:

- Symbol A - 1. Excessively drained  
2. Well drained
- Symbol B - 1. Glaciofluvial deposits (out wash/terraces)  
2. Glacial till material  
Marine or Glaciolacustrine deposits  
3. Very fine and silt deposits  
4. Loamy/sandy over silt/clay deposits  
5. Silt and clay deposits  
6. Excavated, regraded or filled
- Symbol C - 1. None  
2. Bouldery, with more than 15% of the surface covered with boulders (larger than 12 inches in diameter)  
3. Mineral restrictive layer(s) are present in the soil profile less than 40 inches below the soil surface—such as hard pan, platy structure, clayey texture. For examples of soil characteristics that qualify for restrictive layer, see Soil Manual for Site Evaluations in New Hampshire page 2-22, Figure 2-8.
- Symbol D - B - 0 to 8%  
C - >8 to 15%

Symbol E - Identifying the map as meeting the standards of a high intensity soil map.

**District 1 Classification** (2 Acres) permits very well drained soils with slopes not exceeding 15%.

**Table I-304.2 continued]**

	Minimum setbacks from property line to building line			
	FRONTAGE FEET	FRONT SETBACK	SIDE SETBACK	REAR SETBACK
<b>DISTRICT 2 -- 5 ACRE ZONING</b>	300	50	30	50

Map Color Code -- Red

Soil & Slope Reference:

- Symbol A -
  1. Excessively drained
  2. Well drained
  3. Moderately well drained
  4. Somewhat poorly drained
  
- Symbol B -
  1. Glaciofluvial deposits (out wash/terraces)
  2. Glacial till material  
Marine or Glaciolacustrine deposits
  3. Very fine sand and silt deposits
  4. Loamy/sandy over silt/clay deposits
  5. Silt and Clay deposits
  6. Excavated, regraded, or filled
  
- Symbol C -
  1. None
  2. Bouldery, with more than 15% of the surface covered with boulders (larger than 12 inches in diameter)
  3. Mineral restrictive layer(s) are present in the soil profile less than 40 Inches below the soil surface--such as hard pan, platy structure, clayey texture. For example, of soil characteristics that qualify for restrictive layer, see Soil Manual for Site Evaluations in New Hampshire, page 2-22, Figure 2-8.
  - X. Areas where depth to bedrock is so variable that a single soil type cannot be applied will be mapped as a complex of soil types and will have a Symbol C or X.
  
- Symbol D - B through E  
 (When symbol A is 4, then Symbol D may not exceed 15%; if Symbol C is an X, then Symbol D may not exceed 15%)
  - B - 0 to 8%
  - C - >8 to 15%
  - D - >15% to 25%

**District 2 Classification** (5 Acres) Permits moderately drained or deep soils with slopes not to exceed 25% or somewhat poorly drained soils with slopes not to exceed 15%.

*[Table I-304.2 continued]*

	Minimum setbacks from property line to building line			
	FRONTAGE FEET	FRONT SETBACK	SIDE SETBACK	REAR SETBACK
<b>DISTRICT 3 -- 5 ACRE ZONING WATERSHED AREA</b>	300	50	30	50

Map Reference - US Geological Survey

**District 3 Classification** (5 Acres) applies to all land within the watershed area, except non-buildable District 4 land, regardless of its capabilities.

**DISTRICT 4 -- NON-BUILDABLE**

Map Color Code -- Brown, Green

Soil and Slope Reference:

The presence of any of the following symbols identifies a soil as District 4, regardless of the other symbols.

- Symbol A -
  - 5. Poorly drained
  - 6. Very Poorly drained
  - 7. Not determinable (to be used only with Symbol B)
- Symbol B -
  - 7. Alluvial deposits
  - 8. Organic materials--fresh water
  - 9. Organic materials--tidal marsh
- Symbol C -
  - 4. Bedrock present in the soil profile 0 to 40 inches below the soil surface (bedrock is either a lithic or paralithic contact—see Soil Taxonomy p. 48-49)
  - 5. Subject to flooding
  - 6. Does not meet fill standards (see addendum--Standards for Fill Material) (only to be used with Symbol B-6)
- Symbol D -
  - E. >25% +

The presence of the following combination of symbols also indicates a District 4 soil.

- Symbol A is 4 and Symbol D is 15% or higher.
- Symbol C is X and Symbol D is 15% or higher.

**District 4 Classification** (non-buildable) prevents the development of a parcel or parcels of land which have poorly drained soils, standing water, shallow bedrock or severe slope.



DISTRICT 5 - LAND BORDERING N.H. RT. 13	Minimum setback from property line to building line			
	FRONTAGE FEET	FRONT SETBACK	SIDE SETBACK	REAR SETBACK
	500	90	30	50

**District 5 Classification** is an overlay classification that dictates frontage and setback requirements for all land bordering N.H. Route 13 to a depth of 200 feet.

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*[Table I-304.2 continued]*

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**EXAMPLES:**

A parcel or parcels of land determined to consist mostly of a 232DH determination would be classified as district 2 or five-acre zoning as a result of severe slope 15%-25%, with well-drained soils.

Another example is a parcel or parcels of land determined to consist mostly of a 521BH determination which would classify the land as District 4 or non-buildable. Symbol A, or the number 5 signified poorly drained soils even though Symbols B through E indicate no other restrictive features.

The most decisive criteria in determining the proper district classification will usually be drainage class and slope class while also considering any other restrictive features present. In determining a district classification, the most restrictive feature will be considered the determining factor.

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*[End of Table 1-304.2]*

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**I-304.3 BOUNDARIES**

For the purposes of this ordinance, soils boundaries shall be determined by the scale distance from the nearest visible prominent town road as shown on the aerial photomaps, to the nearest 1/32 inch (31 ft.).

**I-304.4 LOCATION OF ON-SITE DISPOSAL FIELDS**

To avoid high concentration of effluent discharges in a localized area, no disposal fields shall be located between the sidelines, setbacks and the property line. All on-site disposal systems in District 1, 2, & 3 shall be placed in the soil most suitable for septic tank absorption field.

**I-304.5 MULTIPLE SOILS DISTRICTS WITHIN LOTS**

**I-304.5(a)** When multiple soil district soils exist within a lot proposed for subdivision, the number and type of lots allowed shall be calculated as follows:

$$\text{The number of 5-acre lots} = \frac{\text{Total District 2 soils} + \text{Total District 3 soils}}{5}$$

$$\text{The number of 2-acre lots} = \frac{\text{Total District 1 soils}}{2} \quad (\text{Amended March 12, 2002})$$

**I-304.5(b)** 5-acre lots must contain not less than 5 acres.  
*(Amended March 12, 2002, and again March 9, 2004)*

**I-304.5(c)** 2-acre lots must contain not less than 2 acres.  
*(Amended March 12, 2002, and again March 9, 2004)*

**I-304.5(d)** Each lot must contain a contiguous non-wetland area sufficient in size and configuration to support all existing and proposed structures and utilities such as wells and septic systems.  
*(Moved from Wetlands Chapter March 9, 2022)*

**I-304.6 PROCEDURE FOR PLANNING BOARD REVIEW**

**I-304.6(a)** Whenever a plat or other evidence is submitted showing a soil district boundary that is designated by soil and slope classification and such boundary differs from the boundary designated on the soil's limitation district map, the Planning Board shall adjust such boundary upon submission of the following:

- (i)** A detailed topographic layout of the subdivision and the proposed lots prepared by a registered land surveyor.
- (ii)** A revised soils map of the Town of Mont Vernon and/or evidence submitted by a soils scientist qualified in soils classification, including a written report of his on-site field inspection.
- (iii)** The soil boundary as shown on the soils limitation district map shall be overlaid on the plat and the newly proposed boundary location shall be indicated on the same plat by a broken line.

**I-304.6(b)** The Planning Board shall reserve the right to withhold action on such plat pending the results of an on-site and/or other investigation by the Board of its appointed agent.

**I-304.6(c)** The final boundary location shall be confirmed and/or determined by the Planning Board.

**I-304.7 LOT OR YARD SIZE REDUCTION**

No conforming lot or open space on the lot (yard setback) shall be reduced in size or separated in ownership if by such action it shall become non-conforming.

**I-304.8 LOT OF RECORD**

Where a lot in separate ownership at the time of passage of this ordinance does not conform to the area and frontage requirements of this ordinance, such lot shall be considered as meeting the minimum requirements of this ordinance.

**I-304.9 SEPARABILITY CLAUSE**

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

**I-305 OPEN SPACE DEVELOPMENT REGULATIONS**

*(Single Family Dwellings)*

**I-305.1 GENERAL:** The Planning Board may approve Open Space Development in accordance with the following regulations, and such other regulations as may apply.

**I-305.2 PURPOSE:** The purpose of Open Space Development to which any such development must adhere, are:

**I-305.2(a)** To promote the conservation of the natural and scenic environment and the development of community uses in harmony with the natural features of the land.

**I-305.2(b)** To establish living areas within the Town that provides a balance of community needs, such as a diversity of housing opportunities, adequate recreation and open space areas, easy accessibility to these and other community facilities, and pedestrian and vehicular safety.

**I-305.2(c)** To provide for efficient use of land, streets and utility systems.

**I-305.2(d)** To stimulate imaginative and economical approaches to land use and community development.

**I-305.2(e)** To decrease town expenses traditionally associated with new developments.

**I-305.3 GENERAL REGULATIONS**

**I-305.3(a)** Open Space Development shall be permitted in all districts in which residential uses are permitted. An owner or owners, or a duly authorized agent thereof, of a tract of land may submit to the Planning Board a subdivision plan for an Open Space Development according to the procedures and provisions of the Subdivision Regulations of the Town of Mont Vernon.

**I-305.3(b)** The maximum number of dwelling units, permitted in any Open Space Development shall be determined by dividing the Net Tract Area by the minimum lot size for the Zoning District in which the development is located. The Net Tract Area of a parcel of land shall be defined as the total area of the parcel, minus all land recorded as designated Wetland and all area with a slope of greater than 25%.

**I-305.3(c)** Minimum frontage requirements which would be required in a conventional grid pattern subdivision may be waived in open space development as long as the requirements set forth in Sections: I-305.2 (Purpose), I-305.2(a), (b), (c), (d) and (e) of the Mont Vernon Zoning Regulations are met; however, in either case Open Space developments will be required to have a setback of a minimum of one hundred (100) feet from the existing roads and abutters. The Planning Board shall determine the number of curb cuts to be made on existing roads, with a maximum of three (3) for any open space subdivision. The criteria for determination shall be I-305.2 (Purpose), I-305.2 (a), (b), (c), (d) and (e) of the Mont Vernon Zoning Regulations; the health, safety and welfare of the town; and the current (at the time of subdivision) condition of the existing town roads servicing the subdivision. For the purposes of this regulation, each curb cut of co-located and/or common driveways shall be considered a single opening. A landscaped buffer sufficient to provide division of transition between uses shall be provided within the required setbacks to conserve the natural and scenic environment. In no case shall the width of the buffer be less than the setbacks otherwise required in that district. *(Amended March 13, 2001)*

**I-305.3(d)** Open Space Development shall not have to provide the minimum frontage and acreage around each dwelling as required elsewhere in the Zoning Ordinance. All buildings shall be at least 25 feet from all boundaries. Such development shall be designed and constructed as to achieve the purposes of Open Space Development as set forth in Section 2 of the Regulations. *(Amended March 13, 2007)*

**I-305.3(e)** Open Space Development shall have at least forty per cent (40%) of the Net Tract Area set aside as common open space for the use and enjoyment of the residents of the development and/or the general public and shall be permanently restricted for open space. The designated open space may include water bodies, wetlands, and/or steep slopes, but these shall not count toward the acreage calculation of the open space parcel(s). Recreation facilities and equipment as determined through consultation with the Planning Board may be constructed or installed by the developer. The location, variety, accessibility and orientation to other uses of this common open space shall be suitable to the type and character of the proposed development and to the location of development within the Town. *(Amended March 11, 2003)*

**I-305.3(f)** Open Space within the Development shall be either deeded to the Town of Mont Vernon, or shall be protected by recreation and/or conservation easements; or shall be leased or conveyed to be permanently protected in other suitable ways

approved by the Planning Board with a Public Meeting held prior to making final approval so as to guarantee the following:

- (i) The continued use of such land for the intended purposes.
- (ii) Continuity of proper maintenance for those portions of the open space land requiring maintenance.
- (iii) When appropriate, the availability of funds required for such maintenance.
- (iv) Recovery for loss sustained as a result of casualty, condemnation or otherwise, and in the case of a homeowner's association or similar form of ownership, that the membership and obligation of the residents of the Open Space Development be automatic upon conveyance of title or lease to individual dwelling units.

**I-305.3(g)** The Open Space Development Plan shall show the layout of all roads. All roads shall be built to the Town requirements for public acceptance; except that right-of-way and pavement widths for residential streets may be reduced according to the standards adopted by the Planning Board in consultation with the Fire Department and the Board of Selectmen and may, with the approval of the Planning Board, remain in private ownership. Road(s) must be completed or bonded to the satisfaction of the Selectmen prior to issuance of building permits. *(Amended March 13, 2007)*

**I-305.3(h)** All Open Space Developments, located along Route 13 within the Town of Mont Vernon, New Hampshire, will be allowed a single access per development and only if access is not available through other acceptable means.

**I-305.4 REVIEW STANDARDS**

**I-305.4(a)** The review of an Open Space Development conducted by the Planning Board with consultation with the Selectmen, Road Agent and Fire Department under these regulations shall ascertain that adequate and appropriate provisions have been made by the owner or his authorized agent for the following:

- (i) Traffic circulation and access, including adequacy of adjacent streets, entrances and exits, traffic flow, sight distance, curb cuts, turning lanes, and existing or recommended traffic signalization.
- (ii) Pedestrian safety and access.
- (iii) Emergency vehicle access.
- (iv) Storm water drainage based upon a ten-year storm frequency, utilizing on-site absorption wherever practical.

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- (v) Recreation facilities and resources.
- (vi) Water supply and wastewater disposal shall meet all State and Town requirements.
- (vii) Environmental factors such as protection against pollution, noise, odor, and the protection of natural land features.
- (viii) Preservation of areas of significant historic conservation, and scenic values.
- (ix) Utilization of topography, slope, and sun orientation in overall layout of the Development.
- (x) Compatibility in the design and location of different types of dwelling units.

**I-305.4(b)** In addition, the Planning Board shall review the plan to assure compliance with the provisions of the standards set forth in **I-305.3** and other town regulations and ordinance. The Planning Board shall also ascertain that the plan minimizes the encroachments of the Open Space Development upon neighboring land uses.

#### **I-305.5 SEPARABILITY CLAUSES**

**I-305.5(a)** The invalidity of any provision of this Amendment shall not affect the validity of any other provision.

### **I-306 TELECOMMUNICATIONS FACILITIES**

*(Telecommunications Facilities ordinance adopted March 8, 2005)*

#### **Section I-306.1.1 Title**

These regulations shall officially be known, cited, and referred to as the Wireless Communications Service Facility Regulations of the Town of Mont Vernon, hereinafter within this ordinance referred to as "these regulations."

#### **Section I-306.1.2 Purpose and Goals**

1. This ordinance is designed and intended to balance the interests of the residents of the Town of Mont Vernon, Wireless Communications Service facility providers and Wireless Communications Service customers in the siting of Wireless Communications Service facilities within the Town of Mont Vernon, so as to preserve the health, welfare and safety of the Town and its residents and to ensure the coordinated development of communications infrastructure. This

ordinance establishes general guidelines for the siting of Wireless Communications Service facilities to enhance and fulfill the following goals:

2. To preserve the authority of the Town of Mont Vernon Planning Board to provide for reasonable opportunity for the siting of Wireless Communications Service facilities and to allow for the provision of such facilities to take place effectively and efficiently.
3. To ensure that Wireless Communications Service facilities are provided compatibly with the visual and environmental features by preserving the Town of Mont Vernon's unique viewsheds and scenic values, in particular, but not limited to, those associated with the views from Route 13 and the Town-owned Lamson Farm.
4. To reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, aircraft flight corridors, migratory bird flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
5. To provide for co-location and minimal impact siting options through an assessment of technology, innovative technology which reduces proliferation of Wireless Communications Service facilities, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.
6. To permit the construction of new Wireless Communications Service facilities only where all other reasonable opportunities have been exhausted, and to encourage the owners of Wireless Communications Service facilities to configure them in a way that minimizes the adverse visual impact of Wireless Communications Service Facilities.
7. To require cooperation and co-location, to the greatest extent possible, between competitors in order to reduce cumulative negative impacts on the Town.
8. To ensure that ongoing maintenance and safety inspections for all Wireless Communications Service facilities are carried out.
9. To avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
10. To provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building Code compliance; and to provide a mechanism for the Town to remove those abandoned facilities to protect the citizens from imminent harm and danger.

11. To provide for the removal or upgrade of facilities that are technologically outdated.

**Section I-306.1.3 Authority**

This ordinance is adopted by the Town of Mont Vernon in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 & 674:21 and procedurally under the guidance of 675:2, II as well as Section 704 of the Federal Telecommunications Act of 1996.

**Section I-306.1.4 Jurisdiction**

1. These regulations apply to all Wireless Communications Service Facilities as defined in Section I-306.2.2 (Words and Terms Defined) located within the boundaries of the Town of Mont Vernon, New Hampshire, or outside, as provided by law.
2. No Wireless Communications Service Facility may be constructed without an approved and signed site plan from the Planning Board.

**Section I-306.2.1 Definitions**

For the purposes of these regulations, certain abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural indicate the singular.

**Section I-306.2.2 Words and Terms Defined**

**Act** - the Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996 and its amendments, and shall include future amendments to the Communications Act of 1934.

**Affiliate** - When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.



**Alternative tower structure** - Innovative siting techniques shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Antenna** - Any exterior apparatus designed for telephonic, radio, television, personal communications service, pager network, or any other communications through the sending and/receiving of electromagnetic signals of any frequency and bandwidth.

**Antenna Array** - A collection of antennas attached to a mount to send and receive electromagnetic signals.

**Antenna Height** - The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**Antenna Support Structure** - Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic signals.

**Applicant** - A person who applies for a Wireless Communications Service Facility siting. An applicant can be the owner of the property or someone who is authorized to represent the owner, such as a builder, developer, optional purchaser, consultant, or architect.

**Average Tree Canopy Height** - An average height found by inventorying the height, above ground level (AGL), of all trees over twenty (20) feet in height within the area that extends for a distance of one-hundred and fifty (150) feet from the base of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. Trees that will be removed for construction shall NOT be used in this calculation.

**Broadcast** - To transmit information over the airwaves to two or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.

**Camouflaged** - A Wireless Communications Service Facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

**Carrier** - A company that provides Wireless Communications Services. Also sometimes referred to as a provider.

**Cell Site** - A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), and parking, and may include other uses associated with an ancillary to cellular communications transmission.

**Cellular Service** - A telecommunications service that permits customers to use wireless mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

**Cellular Telecommunications** - A commercial Low Power Mobile Radio Service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

**Cellular Telecommunications Facility** - A cellular telecommunications facility consists of the equipment and structures involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

**Co-location** - The use of a single mount on the ground by more than one carrier (vertical co-location), or the use of more than one mount on the same site by more than one carrier (horizontal co-location), or the use of several mounts on an existing building or structure by more than one carrier.

**Common Carrier** - An entity licensed by the FCC or a state agency to supply local and/or long-distance telecommunications services to the general public at established and stated prices.

**Communication Tower** - a guyed, monopole, or self-supporting tower, constructed as a free-standing structure or in association with a building, other permanent structure, or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

**Communications Transmission System or Communications System** - A wired communication transmission system, open video system, or wireless communications transmission system regulated by these regulations.

**C.O.W.'s** - "Cells on Wheels", see Temporary Wireless Communication Facility.

**Digital Technology** - technology that converts voice and data messages into digits that represent sound intensities at specific points of time and data content.

**Directional Antenna** - An antenna or array of antennas designed to concentrate a radio or an electromagnetic signal in a particular area.

**Dish Antenna** - A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

**Environmental Assessment (EA)** - An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a Wireless Communications Service Facility is placed in certain designated areas.

**Equipment Shelter** - An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

**ESMR** - Enhanced Specialized Mobile Radio.

**FAA** - The Federal Aviation Administration.

**FCC** - the Federal Communications Commission.

**Fall Zone** - The area on the ground from the base of a ground mounted Wireless Communications Service Facility that forms a circle with a diameter equal to twice the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**Frequency** - The number of cycles per second - hertz (Hz)

**Grade** - The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the structure and the property line or, when the property line is more than 5 feet from the structure, between the structure and a line 5 feet from the structure.

**Guyed Tower** - A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

**Height** -The height above ground level (AGL) from the natural grade of a site to the highest point of a tower or other structure, even if said highest point is an antenna.

**Lattice Tower** - A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

**License** - The rights and obligations extended by the municipality to an operator to own, construct, maintain, and operate its system within the boundaries of the municipality for the sole purpose of providing services to persons or areas outside the municipality.

**Mast** - A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

**MHZ** - Megahertz, or 1,000,000 Hz.

**Micro-cell** - A low power mobile radio service telecommunications facility used to provide increased capacity in high call-demand areas or to improve coverage in areas of weak coverage.

**Microwave** - Electromagnetic radiation with frequencies higher than 1,000 MHZ; highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.

**Microwave Antenna** - A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

**Monopole** - A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft, constructed without guy wires and ground anchors.

**Mount** - The structure or surface upon which antennas are mounted, including the following four types of mounts:

- (1) Roof-mounted - Mounted on the roof of a building.
- (2) Side-mounted - Mounted on the side of a building.
- (3) Ground-mounted - Mounted on the ground.
- (4) Structure-mounted - Mounted on a structure other than a building.

**Omni-directional Antenna** - An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.

**Owner** - The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the Selectmen. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the town a copy of a deed or contract of sale showing date, book, and page of recording.

**Personal Communications Services or PCS** - Digital wireless telephone technology such as portable phones, pagers, faxes, and computers. Such mobile technology promises to allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communications Network (PCN).

**Planning Board or Board** - Shall mean the Town of Mont Vernon Planning Board.

**Preexisting Towers and Antennas** - Any tower or antenna for which a non-residential site plan has been approved and signed and recorded at the Hillsborough County Registry of Deeds prior to the effective date of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.

**Public Property** - Any real property, easement, airspace, or other interest in real estate, including a street, owned by or controlled by this town or any other governmental unit.

**Radio Frequency (RF) Engineer** - A licensed engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

**Radio Frequency Radiation (RFR)** - The emissions from Wireless Communications Service facilities.

**Roof and/or Building Mount Facility** - A low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.

**Scenic View** - A scenic view is a view that may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A scenic view may be from a

stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a far away object, such as a mountain, or of a nearby object.

**Secondary Use** - A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.

**Security Barrier** - A decay-resistant wall, fence, or berm that restricts an area from unauthorized entry or trespass.

**Self-supported Tower** - A communication tower that is constructed without guy wires and ground anchors.

**Separation** - The distance between one carrier's array of antennas and another carrier's array.

**Spectrum** - Relating to any transmissions or reception of electromagnetic waves.

**Stealth Facility** - Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also Alternative Tower Structure)

**System** - The communications transmission system operated by a service provider in the Town.

**Telecommunications** - The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**Temporary Wireless Communication Facility** - Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference where a majority of people attending are wireless users.

**Tower** - Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, universal antenna towers, alternative tower structures, and the like.

**Whip Antenna** - An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than 6 inches in diameter and measure up to 18 inches in height. Also called omni-directional, stick or pipe antennas.

**Wireless Communication Facility** - An all-encompassing definition; any towers, poles antennas or other structures intended for use in connection with transmission and/or receipt of electromagnetic signals.

**Wireless Communications Service Facility** - Facility for the provision of Wireless Communications Services, as defined by the Telecommunications Act of 1996, as amended. Wireless Communications Service facilities include a mount, antenna, equipment shelter, and other related equipment.

**View Corridor** - A view corridor is a three-dimensional area extending out from a viewpoint. The width of the view corridor depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the view corridor extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.

**Section I-306.3                      General Provisions**

**Section I-306.3.1                      Applicability**

**1. Wireless Communications Service Facilities**

The terms of this Article and the Site Plan Review Regulations shall apply to Wireless Communications Service facilities proposed to be located on property owned by the Town, on privately owned property, and on property owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

**2. Amateur Radio; Receive-Only Antennas**

This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.

**3. Essential Services and Public Utilities**

Wireless Communications Service facilities shall not be considered infrastructure, essential services, or public utilities, as defined, or used elsewhere in the Town's ordinances or regulations. Siting for Wireless Communications Service facilities are a use of land and are subject to the Town's Zoning Ordinance and all other applicable ordinances and regulations.

**Section I-306.3.2    Location**

**Section I-306.3.2. A Districts Permitted** (moved from I-306.4.02 in 1998 ordinance)

New Wireless Communications Service Facility construction and co-location of Wireless Communications Service provider facilities shall be permitted in the following districts subject to all applicable local, state and federal regulations and Site Plan Review and approval by the Planning Board.

Table I-306.3.2 A.

	New Tower Construction	Co-location on Existing Tower	Co-location on Existing Structure
<u>Limited Commercial Residential</u>	<u>(Permitted)</u>	<u>(Permitted)</u>	<u>(Permitted)</u>
<u>Rural Residential</u>	<u>(Permitted)</u>	<u>(Permitted)</u>	<u>(Permitted)</u>
<u>Historic District Overlay</u>	<u>(see "Non-Residential Site Plan Review")</u>	<u>(see "Non-Residential Site Plan Review")</u>	<u>(see "Non-Residential Site Plan Review")</u>

**Section I-306.3.2. B Siting Standards**

1. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
2. For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.
3. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance on a non-conforming lot or in conjunction with a non-conforming use, shall not be deemed to constitute the expansion of a non-conforming use or structure.

**Section I-306.3.2.C Siting**

The siting of new or co-located Wireless Communications Service facilities shall be permitted in all Zoning Districts. Applicants seeking approval for Wireless Communications Service facilities shall first evaluate existing structures for the siting of Wireless Communications Service facilities. Only after finding that there are no suitable existing structures pursuant to Section I-306.3.2, C.2 herein, shall a provider propose a new ground-mounted facility.

***Existing Structures - Policy***

Wireless Communications Service facilities shall be located on existing structures, including, but not limited to, buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures by being camouflaged to the greatest extent possible.

***Existing Structures - Burden of Proof***

The applicant shall have the burden of proving that there are no existing suitable structures on which to locate its Wireless Communications Service Facility and/or transmit or receive radio

signals. To meet that burden, the applicant shall take all the following actions to the extent applicable:

**(a.)** The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a Wireless Communications Service Facility. If the Planning Board informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.

**(b.)** The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the U.S. Post office shall be provided for each owner of existing structures that was contacted.

If the applicant claims that a structure is not capable of physically supporting a Wireless Communications Service Facility, this claim must be certified by an independent, licensed engineer, whose fees shall be paid by the applicant. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the Wireless Communications Service Facility without unreasonable costs. The estimated cost shall be provided to the Planning Board and the Board of Selectmen.

### ***Ground Mounted Facilities - Policy***

If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted Wireless Communications Service Facilities shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to:

- use of compatible building materials and colors.
- screening, landscaping, and placement within trees.
- use of lower antenna mounts that do not protrude as far above the surrounding tree canopies.
- disguised Wireless Communications Service facilities such as flagpoles, artificial tree poles, light poles, and traffic lights, that blend in with their surroundings.
- custom designed Wireless Communications Service facilities that minimize the visual impact of a Wireless Communications Service Facility on its surroundings.
- other available technology.

### **Section I-306.3.3 Bonding Security and Insurance**

Recognizing the hazardous situation presented by abandoned and towers unmonitored Wireless Communications Service facilities, the Board of Selectmen shall set the form and amount of security that represents the cost for removal and disposal of abandoned Wireless Communications Service facilities in the event that a facility is abandoned, and the facility owner is unwilling or unable to remove the facility in accordance with Section I-306.3.4, C. The amount of the security shall be based upon the removal cost, plus fifteen percent (15%), provided by the applicant and certified by an independent engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board and the Board of Selectmen with a revised removal cost estimate and structural evaluation prepared by an independent engineer licensed in New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage. Should the



facility owner discontinue or abandon the facility in accordance with Section I-306.3.4 and the facility is physically removed in accordance with Section I-306.3.4, the security being held by the Town shall be released within thirty (30) days of confirmation of satisfactory removal by the Planning Board or its designated agent.

**Section I-306.3.4 Abandonment or Discontinuation of Use**

Beginning 12 months after Planning Board approval, and continuing on an annual basis thereafter, the owner of a Wireless Communications Service Facility shall provide the Planning Board with written, signed certification that the Wireless Communications Service Facility is being used to provide telecommunications services as defined. Failure to comply with this requirement shall constitute an admission that the Wireless Communications Service Facility is not in use and has been abandoned.

Section I-306.3.4. A.

**Abandonment** - Any Wireless Communications Service Facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said Wireless Communications Service Facility provides proof of quarterly inspections. The owner shall physically remove the abandoned Wireless Communications Service Facility within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed according to RSA 676:4, with notice to abutters and the last known owner/operator of the Wireless Communications Service Facility. If the abandoned Wireless Communications Service Facility is not removed within 90 days, the Town may execute the security and have the Wireless Communications Service Facility removed. If there are two or more users of a single Wireless Communications Service Facility, this provision shall not become effective until all users cease using the Wireless Communications Service Facility.

**Section I-306.3.4. B. Discontinuance**

At such time that a carrier plans to abandon or discontinue operation of a Wireless Communications Service Facility, such carrier shall notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuance of operations. In the event that a carrier fails to give such notice, the Wireless Communications Service Facility shall be considered abandoned upon such discontinuance of operation.

Unused portions of towers above a manufactured connection shall be removed within 90 days of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new Wireless Communications Facility permit.

**Section I-306.3.4C. Removal**

Upon abandonment or discontinuance of use, the owner of the Wireless Communications Service Facility shall physically remove the Wireless Communications Service Facility within

ninety (90) days from the date of abandonment or discontinuance of use. "Physically remove" shall include, but not be limited to:

- (i) Removal of antennas, mounts, equipment shelters and security barriers from the subject property.
- (ii) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- (iii) Restoring the location of the Wireless Communications Service Facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

**Section I-306.3.4D. Failure to Remove**

If the owner of the Wireless Communications Service Facility does not remove the Wireless Communications Service Facility upon notice from the Town, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned Wireless Communications Service Facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

**Section I-306.3.4E. Failure to Maintain**

If the owner of the Wireless Communications Service Facility fails to maintain the Wireless Communications Service Facility in accordance with the directions of the Planning Board pursuant to Section I-306.3.5. A, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the Wireless Communications Service Facility within ninety (90) days of receipt of the declaration of abandonment from the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

**Section I-306.3.5 Monitoring and Maintenance**

**Section I-306.3.5. A. Maintenance**

The owner of the Wireless Communications Service Facility shall maintain the Wireless Communications Service Facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas, landscaping, and camouflage materials. The Planning Board may direct the owner to perform maintenance that it determines is required.

**Section I-306.3.5. B. Monitoring**

As part of the issuance of the site plan approval or building permit, the property owner and the owner of the Wireless Communications Service Facility shall agree in writing that the Town of Mont Vernon and/or its appointed representative(s) may enter the subject property to obtain RFR measurements and noise measurements and to perform maintenance inspections at the expense of the carrier. In the case of taking RFR and/or noise measurements, the Town, or its appointed representative(s), may enter without any advance notice to either the property owner or the Wireless Communications Service Facility owner. In all other cases, the Town shall provide reasonable written notice to the carrier and landowner and provide them with the opportunity to accompany the Town representative(s) when the inspections are conducted.

### **Section I-306.3.6 Timing of Operation**

**Section I-306.3.6. A.** Operation of a Wireless Communications Service Facility shall commence no later than nine (9) months from the date the proposal was approved. If the Wireless Communications Service Facility is not operating and providing the citizens of the Town with Wireless Communications Services, as defined, within this time period, the Planning Board, at its discretion, may revoke its approval.

**Section I-306.3.6. B.** If Planning Board approval is revoked and construction has begun, the Wireless Communications Service Facility shall be considered to be abandoned.

### **Section I-306.3.7 Historic District Restrictions**

Wireless Communications Service Facilities within the Historic Districts shall be camouflaged.

### **Section I-306.3.8 Enactment**

In order that Wireless Communication Service Facilities may be constructed in accordance to these purposes and policies, these regulations are hereby adopted and made effective as of initial posting of hearing. All applications for Wireless Communication Service Facility sitings pending on the effective date of these regulations shall be reviewed under these regulations.

### **Section I-306.3.9**

**Section I-306.3.9.A.** Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

**Section I-306.3.9.B.** Conflict. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulations, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions

different from any other ordinance, rule or regulation, statute or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

Section I-306.3.9.C. Separability. If any part or provision of these regulations or the application of these regulations to any service provider or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other service providers or circumstances. The Planning Board hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

### **Section I-306.3.8 Amendments**

For the purpose of protecting the public health safety, and general welfare, the Planning Board may from time to time propose amendments to these regulations which shall be approved or disapproved by the Planning Board at a public meeting following public notice. Realizing that communication technologies are evolving and changing quickly, future innovations may reduce the impacts of individual facilities and render portions of these regulations obsolete. Therefore, periodic review and revision of these regulations will be necessary.

### **Section I-306.3.9 Enforcement**

The enforcement of these regulations shall be the responsibility of the Board of Selectmen or their designee.

## **I-307 IMPACT FEES FOR NEW RESIDENTIAL DEVELOPMENT**

### **I-307.1 Authority**

This ordinance is established pursuant to New Hampshire RSA 674:21 (V).

### **I-307.2 Intent and Purpose**

This ordinance is intended to:

- a. Implement and be consistent with the Town of Mont Vernon's Master Plan.
- b. Allocate a fair and equitable share of the cost of public facilities (including school construction) to new development; and
- c. Require new development to contribute its proportionate share of funds necessary to accommodate its impact on public facilities, which is reasonably related to the capital needs created by residential development and to the benefits accruing to the development.

**I-307.3 Findings**

- a. The Town of Mont Vernon is responsible for and committed to the provision of public facilities and services at levels necessary to support residential and non-residential growth and development.
- b. Such facilities and services have been and will be provided by the Town utilizing funds allocated via the Capital Improvements Program which is regularly updated pursuant to New Hampshire RSA 674:5.
- c. The rate of growth experienced by the Town in recent years, as well as projected growth rates, would necessitate an excessive expenditure of public funds in order to maintain adequate facility standards.
- d. Residential development enabled through this zoning ordinance will create a need for the construction, equipping or expanding of public capital facilities.
- e. The imposition of impact fees is one of the preferred methods of ensuring that public expenditures are not excessive, and that residential development bears a proportionate share of the cost of public capital facilities necessary to accommodate such development. This must be done in order to promote the public health, safety and welfare.
- f. The fees established by the Impact Fee Schedules for the categories identified in Section I-308.a are derived from, based upon, and do not exceed the costs of:
  - 1. Providing additional public capital facilities necessitated by the new residential development for which the fees are levied; or
  - 2. Compensating the Town of Mont Vernon for expenditures made for existing public facilities that were constructed in anticipation of new residential growth and development.

**I-307.4 Definitions** The following definitions shall apply to the Impact Fees for Residential Development section and shall not be affected by the provisions of any other ordinance of the Town of Mont Vernon.

**I-307.4.1 Applicant** A person applying for the issuance of a building permit, permit for manufactured home installation, subdivision, site plan or other local land use decision, permit or approval.

**I-307.4.2 Dwelling Unit** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**I-307.4.3 Gross Living Area** The effective area of a residential unit as indicated in the assessment files. It includes finished space that is heated but excludes heated garages and outbuildings which do not include living quarters.

**I-307.4.4 New Development** Any building activity which results in:

- a. The creation of a new dwelling unit or dwelling units.
- b. The conversion of a non-residential use to a dwelling unit or dwelling units.

New Development does not include:

- a. the reconstruction of a structure that has been destroyed by fire or natural disaster, provided that there is no change in the size and density of the structure.
- b. the replacement of a manufactured home.
- c. the construction of any accessory structure which would not increase the demand for facilities by the principal structure.

**I-307.4.5 Public Capital Facilities** Assets, facilities, and equipment which are owned and operated by the Town of Mont Vernon, the Mont Vernon School System, or cooperatively with other municipalities and which have a useful life of no less than five years. Public capital facilities do not include the costs associated with the operation, maintenance, repair of such facilities, or with facility replacements which do not increase the capacity or level or service, but does include reasonable costs for planning, engineering, design, land acquisition, and other reasonable costs associated with such facilities.

**I-307.4.6 Off Site Improvements/Exaction** An improvement that is required of the Planning Board for either a site plan or subdivision that is necessary for the project to operate properly on the day that it opens shall be considered to be an Off-Site Improvement or Exaction. Off-site improvements for site-specific applications shall be assessed on a case-by-case basis. The applicant shall be assessed their proportionate share for the need for the project. In cases where it is determined that an improvement is necessary for the proper functioning of a site plan or subdivision, but that the improvement will accommodate future development, the Town, at the request of the applicant, may establish an impact fee that assesses future site plans or subdivisions for their proportionate share of the improvement. Such impact fees shall be provided to the original applicant with any interest, upon application by the original applicant to the Planning Board, during such period as the original applicant continues to own the property benefited by the improvement, based upon the proportion of the property still owned by the original applicant.

**I-307.5 Imposition of Impact Fees for Residential Development**

- a. Any person, who after (October 22, 2002), seeks to undertake new residential development within the Town of Mont Vernon, New Hampshire, by applying for a building permit or permit for manufactured home installation and who is not vested under RSA 674:39, is hereby required to

pay an impact fee in the manner set forth in section I-309.2 of this Ordinance, in accordance with any Impact Fee Schedule adopted by the Board of Selectmen.

- b. No new building permit or new permit for manufactured home installation or activity requiring payment of an impact fee pursuant to Section I-309.2 of this Ordinance shall be issued unless and until the impact fees hereby required have been determined.

**I-307.6 Computation of Impact Fees for Residential Development**

- a. The amounts of the impact fees shall be determined using the values contained in the Impact Fee Schedules for the following types of facilities:

- 1) School Facilities
- 2) Municipal Facilities
- 3) Public Libraries

Impact Fees Schedules shall be established and reviewed as set forth in Section I-314.1 Establishment of Fees.

- b. In the case of change of use, redevelopment, or expansion or modification of an existing use which constitutes new development, the impact fees shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

**I-307.7 Payment of Fees**

Impact fees shall, in accordance with RSA 674:21, (V)(d), be assessed at the time a building permit is issued but the applicant shall pay the impact fees required of the Ordinance to the Town of Mont Vernon at the Town Hall when a certificate of occupancy is issued, unless as provided in the foregoing statute, the planning board has advanced the time of such payment or the planning board and the applicant have come to some other arrangement as provided in said statute RSA 674:21, (V)(d).

**I-307.8 Appeals**

- a. If an applicant elects to dispute the amount of the impact fee, the applicant may prepare and submit to the Selectmen an independent fee calculation study for the new development activity which is proposed. The Planning Board shall review such study and render a decision. All cost incurred by the Town for the review of such study shall be paid by the applicant.
- b. The decision of the Planning Board may be appealed to the Superior Court as provided by RSA 677:15.

**I-307.9 Administration and Custody of Funds Collected**

- a. All funds collected shall be properly identified by and promptly transferred for deposit in the appropriate Impact Fee accounts and used solely for the purposes for which it was collected. Impact fee accounts shall be special revenue fund accounts and under no circumstances will impact fee revenues accrue to the General Fund. Each fee collected under a specific Impact Fee Schedule shall not be commingled with other impact fee accounts or any other funds.
- b. The Town Treasurer shall have custody of all accounts and shall pay out the same only upon written orders of the Board of Selectmen.
- c. At the end of each fiscal year, the Town Treasurer shall make a report, giving a particular account of all impact fee transactions during the year.

**I-307.10 Refund of Fees Paid**

- a. The current owner of property on which impact fees have been paid may apply for a full or partial refund of such fees, together with any accrued interest.

The refund shall be owed when the Town has failed, within the period of six (6) years from either the payment of such fee or the last installment payment, to expend or encumber such fees on public capital facilities intended to benefit the development which paid the fees. In event that a refund is due, the Board of Selectmen shall notify the owner of record by certified mail return receipt requested.

- b. In the event that the owner elects to apply for a refund, such application shall be submitted in writing to the Board of Selectmen within one (1) year from the date of receiving notice from the Board of Selectmen.

**I-307.11 Credits in Exchange for Public Capital Facilities**

- a. Public capital facility improvements may be offered by the applicant as total or partial payment of a required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Planning Board. The Planning Board may authorize the applicant an impact fee credit in the amount of the value of the contribution.
- b. Any claim for credit must be made prior to the Planning Board vote on subdivision/site plan approval. The applicant shall indicate that such credit will be requested at the survey phase subdivision application stage of the development review process, and which impact fees will be affected by the credit.
- c. Credits shall not be transferable and run only with a specific subdivision or site plan approval.
- d. Credits shall not be transferable from one type of impact fee to any other impact fee.



- e. Determination by the Planning Board pursuant to the credit provision of this section may be appealed to the Superior Court in accordance with RSA 677:15.
- f. Under no circumstances shall this section imply that the Planning Board has an obligation to accept any credit offer that is proposed.

**I-307.12 Additional Assessments**

Payment of an impact fee does not restrict the Town or the Planning Board from requiring other payments from the applicant, including such payments relating to the cost of the extensions of water and sewer mains or the construction or improvement of roads or streets or other infrastructure and facilities specifically benefiting the development which are required by the subdivision or site plan review regulations or as otherwise permitted by law.

**I-307.13 Premature and Scattered Development**

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Mont Vernon Planning Board to provide against development, which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Mont Vernon's Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

**I-307.14 Establishment and Review of Fees**

**I-307.14.1 Establishment** In order to establish an impact fee, the Board of Selectmen may prepare an Impact Fee Schedule, in accordance with RSA 674:21, and Section I-314.2 of this Ordinance. The Board of Selectmen shall conduct a public hearing on the proposed schedule and shall consider all comments received prior to finalizing the Schedule. The Impact Fee Schedule shall be in effect when a majority of the Board of Selectmen approves the schedule. Should the Board of Selectmen fail to approve the schedule, it shall state its reason for doing so in writing.

**I-307.14.2 Impact Fee Schedule** The Impact Fee Schedule shall be prepared in accordance with RSA 674:21, and shall be calculated using the following factors, based upon the most recent data available or a conservative estimate:

- a. A determination of the size of the capital facility.
- b. An estimate of the proportion of users from future Mont Vernon households subject to the impact fee that will use the facility when it has reached its capacity.
- c. Projections of future users based upon residential building permit projections.
- d. Estimates of the cost of the facility to the Town of Mont Vernon, including financing and excluding non-municipal funding sources.
- e. Credits subtracted from a base fee accounting for property taxes paid by the proportion of the project to be financed by impact fees.

- f. A fee assessed per housing unit based upon the gross livable area of the dwelling unit.
- g. A determination of the number of building permits that will need to be issued in order to finance the impact fee.
- h. An accounting of the number of permits issued, with a maximum number of permits to be assessed an impact fee prior to the fee's termination.
- i. Exemptions, if any.

In developing the impact fee schedule, the Board of Selectmen shall use the most recent data available in order to calculate the fee.

**I-307.14.3 Review of Impact Fees**

The Board of Selectmen shall review an established Impact Fee Schedule on an annual basis. The Selectmen shall modify the Impact Fee Schedule if it finds that new data is available that will refine the schedule. This may include the replacement of figures used in the Impact Fee Schedule with more accurate or recent projections, data, and figures. The Board of Selectmen shall hold a public hearing on the proposed modifications and vote whether to affirm the modifications within sixty (60) days. If the Board of Selectmen fail to affirm the modifications, the impact fee schedule in effect shall remain in place.

**I-307.14.4 Termination of Impact Fees**

- a. Impact fees shall terminate in accordance with the Impact Fee Schedule, which shall set forth the number of building permits to be issued prior to its obsolescence.
- b. The Board of Selectmen may also by majority vote terminate an impact fee schedule in effect. This may be done only after soliciting recommendations from the Planning Board, and after conducting a public hearing. The Planning Board shall be given sixty (60) days to produce written recommendations to the Board of Selectmen.

**I-307.15 Severability**

If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**I-307.16 Effective Date**

This Ordinance shall become effective on October 22, 2002.

## **I-308 Accessory Dwelling Units**

### **Unit I-308.1 Purpose**

Pursuant to NH RSA 674:17, RSA 674:72 and RSA 674:73 the Town of Mont Vernon shall allow one Accessory Dwellings Unit to be permitted by the Building Inspector, in any district where residential dwelling uses are permitted, on any lot where only one existing, legally conforming single family dwelling already exists (or is being permitted and built concurrently with a single family dwelling on the same lot), subject to the following requirements and limitations.

### **I-308.2 Definition**

Accessory Dwelling Unit is an independent living area that is part of, attached to, or detached from a larger single family dwelling unit. An Accessory Dwelling Unit shall have a kitchen, a bathroom, and up to two bedrooms in addition to the living area.

### **I-308.3 Requirements and Limitations**

An Accessory Dwelling Unit is intended to be secondary and accessory to a principal single-family dwelling unit.

An attached Accessory Dwelling Unit requiring additions or modifications to the exterior of the principal unit must be compatible with the principal unit matching, the architectural style, detail and materials of the principal unit and developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single-family residence as is reasonably practical.

Attached Accessory Dwelling Units shall provide an interior door accessing the principal unit.

Detached Accessory Dwelling Units shall be contained in existing detached accessory buildings or designed as an accessory building commonly associated with single family residences such as a barn or garage with apartment above. The architectural style, details and materials of a new structure shall be compatible with that of the principal unit.

Conversion of an existing structure or portion thereof for use as an Accessory Dwelling Unit shall comply with all current applicable provisions of the building, fire, and safety codes.

An Accessory Dwelling Unit shall not be considered an additional dwelling unit for the purposes of determining minimum lot size. All applicable existing regulations applicable to single family dwellings shall also apply to the combination of the principal and accessory units unless otherwise stated in the Zoning Ordinance

An Accessory Dwelling Unit shall have an area not greater than 30% of the gross living area, excluding unfinished spaces such as attics and basements, of the principal unit. In no case shall an Accessory Dwelling Unit be limited to less than 800 square feet in area.

The existing or proposed water system must be adequate, and the septic system must be provided in accordance with RSA 485-A:38.

The property must have adequate on-site parking to accommodate the principal and accessory units.

One of the dwelling units, principle or accessory, must be the principal place of residence of the property owner. If the owner of the property is a trust, the owner shall be the creator or beneficiary of the trust. If the property is owned by a corporation, the owner shall mean the principal stockholder. "Principal place of residence" shall mean the location where the property owner is domiciled and has a place of abode. Proof of domicile shall include, but not be limited to, driver's license, motor vehicle registration, or enrollment of owner's children in local public school.

The property owner shall provide to the Town a signed and notarized "Notice," in a form provided by the Town, stating (1) the location of the Accessory Dwelling Unit by source deed;(2) that the principal or accessory unit must be owner occupied; (3) that the property is subject to this ordinance and all applicable state statutes and regulations; and, (4) that subsequent conveyance of the Accessory Dwelling Unit by subdivision of the property or as a separate condominium unit is prohibited. The Town shall record the Notice at the Hillsborough County Registry of Deeds and the cost of recording shall be paid by the property owner.

The Town's building inspector shall be responsible for reviewing and evaluating architectural design plans for compatibility and the application's compliance with this ordinance prior to issuance of a building permit.

#### **I-308.4 Existing In-Law Apartments**

Owners of in-law apartments constructed prior to March 2005 that do not have a building permit and/or certificate of occupancy may be grandfathered by applying to the Building Inspector on or before September 1, 2005, for a determination of compliance with the life safety codes. Applications received after September 1, 2005, shall be subject to all requirements of this section. The Building Inspector shall issue one of the following:

- a. A determination of compliance and a certificate of occupancy.
- b. A conditional determination of compliance and a description of the corrective changes needed to bring the in-law apartment into compliance. The required changes shall be completed within 120 days of the date of the determination of conditional compliance. Upon successful completion of the required changes, the Building Inspector shall issue a certificate of occupancy.
- c. A determination of non-compliance, listing requirements and conditions for which compliance cannot be achieved through corrective changes.

#### **I-308.5 Existing legally permitted In-Law Apartments**

Owners of legally permitted in-law apartments constructed after March 2005 but prior to the amendments to Article I-308 (2017) and that obtain a building permit and certificate of occupancy are grandfathered.

#### **I-308.6 Failure to Comply**

If an owner fails to comply with the requirements of this section, the use of the in-law apartment or other Accessory Dwelling Unit shall be terminated within 6 months of the date of notice from the Building Inspector. The owner shall be subject to penalty under RSA 676:17 for each day the Accessory Dwelling Unit fails to comply with the requirements of this section. (Amended: March 2023)

**I-309 PHASING**

**I-309.1 Purpose**

It is a demonstrated fact that rapid and uncontrolled proliferation of the subdivision process places a burden on the municipality to provide and pay for municipal services that are required when a subdivision is approved. The Planning Board is authorized in circumstances where the record demonstrates that such services will be impacted by a particular proposal, in lieu of denial, to require that the subdivision be phased so that the impact will be phased over a certain period of time. The Planning Board is directed to promulgate such regulations as are necessary to effectuate the purpose of this section as part of their subdivision regulations.

**I-310 Housing for Older Persons**

**I-310.1 DEFINITION.** Housing for Older Persons is that intended for, and solely occupied by, persons 62 years of age or older.

**I-310.2 PURPOSE.** It is in the public interest and the general welfare of the Town of Mont Vernon to encourage the development of Housing for Older Persons, as that term is defined in RSA 354-A:15. II. The purpose of this section is to establish the special conditions that such a case must satisfy. Where these regulations differ from other sections of the town zoning law, the provisions of this section shall take precedence. However, any housing must meet all other provisions of the Zoning Ordinance, Building Code and Subdivision Regulations.

- (a) Housing for Older Persons shall be permitted in any zone.
- (b) Housing for Older Persons shall be exempted from I-205 of this Zoning Ordinance, which requires a Special Exception for two-family and multi-family dwellings.
- (c) Density shall be as follows: 4 bedrooms shall be permitted for every 2 acres of District 1 soils. 4 bedrooms shall be permitted for every five acres of District 2 and 3 soils.  
Example 1: A lot containing 20 acres of District 1 soils may support 40 one-bedroom units, or 20 two-bedroom units, or a combination, provided that the total number of bedrooms on the lot does not exceed 40.  
Example 2: A lot containing 20 acres of District 3 soils may support a total of 16 bedrooms.
- (d) Each dwelling unit shall include one, but not more than two, bedrooms. The maximum square footage of living space in each dwelling unit shall be 1500 square feet.
- (e) Each dwelling unit shall include at least one covered parking spot and one additional spot for resident parking. There shall be a minimum of one visitor parking spot per unit.

- (f) At least 40% of the net tract area shall be open space, which shall include 100 feet of undisturbed continuous buffer zone around the perimeter of the parent lot. This buffer may include landscaped entrances.
- (g) Where there are multiple structures, there shall be 50 feet between structures that are not appurtenant.
- (h) The planning board may disallow Housing for Older Persons if, in the Board's opinion, there is inadequate accessibility to main roads and/or town services.
- (i) Supporting on-site facilities such as community rooms and shared dining rooms shall be permitted at the discretion of the Planning Board.
- (j) Building height shall be limited to 35 feet. No bedroom window shall be more than 26 feet from the ground.
- (k) Roads shall be public and built to town standards.
- (l) Lots of less than 10 total acres shall not be considered for Housing for Older Persons developments, but there is no minimum lot size for the subdivided lots.
- (m) Housing for Older Persons developments shall be exempt from the III-421 Phasing ordinance.
- (n) Proposed plan information must include exterior lighting plan and any proposed signs to be located on the site. Exterior lights shall be downward facing.
- (o) Housing for Older Persons developments shall be assessed any impact fees in place at the time of building permit application but shall be exempt from school impact fees. Assessment of impact fees for multiple housing units shall be based on total square footage. Certificates of occupancy shall be issued for each unit when the monies due for that unit, based on its square footage, are paid. *(Added March 13, 2007)*

### **I-311 Restaurants**

**I-311.1** The historic character of Mont Vernon is unique and is important to its people and their collective identity as a community. Mont Vernon, more than most communities, that have experienced the same level of growth, has managed to preserve its rural character and its small-town feel. In many ways Mont Vernon has achieved this in a manner that is unique to the region.

**I-311.2** Any restaurant approved under this ordinance must not significantly detract from Mont Vernon's historic rural character. Fast food and Formula restaurants are specifically prohibited in the Town of Mont Vernon.

**I-311.3** Restaurants are specifically allowed on any lot within the Limited Commercial District. Restaurants in the Residential and Rural/Residential Districts may be approved by special exception by the Zoning Board of Adjustment after public hearing. Such approval shall be subject to any conditions laid down by the Zoning Board of Adjustment and shall also be subject to a Non-Residential Site Plan review by the Planning Board.

**I-311.4** All signs and/or exterior advertising for a restaurant shall comply with the requirements and standards set forth in the Non-Residential Site Plan Review Regulations of the Town of Mont Vernon.

**I-311.5 Noise** – Restaurant noise shall not exceed 55db from 7AM – 9PM and 45db from 9PM – 7AM at the lot boundary.

**I-311.6 Buffer** – If required by the Zoning Board of Adjustments restaurants shall provide a buffer of undisturbed continuous perimeter, except for entrance and exit driveways.

**I-311.7 Height** – Building height shall be limited to the height of all Mont Vernon buildings, that is 35 feet. No window ledge shall be more than 26 feet from the ground.

**I-311.8 Parking** – Restaurants shall provide adequate off-street parking.

**I-311.9 Restaurants** approved by Special Exception may be subject to setbacks, lighting restrictions, and other conditions as required by the Zoning Board of Adjustments or Planning Board. (Added 3-11-08)

#### **ARTICLE 4 - DISTRICT REGULATIONS**

**I-401** Except as herein provided, no building or land shall hereafter be used, constructed, or altered unless in conformity with the regulations herein specified for the zoning district in which it is located. Any non-residential use in any of these districts shall comply with Mont Vernon's non-residential site plan review process. (*Amended March 11, 2003*)

#### **I-402 RESIDENTIAL DISTRICT**

**I-402.1** The Residential District shall be a district designated for single family residences and related uses only. Except that a building solely used as a U.S. Post Office will be a permitted use. (*Second sentence added 10-24-89*)

#### **I-403 RURAL-RESIDENTIAL DISTRICT**

**I-403.1** All uses permitted in the Residential District shall be permitted in the Rural-Residential District.

**I-403.2** General purpose farming and forestry activities shall be permitted, and farm and home produce may be exposed for sale and sold in the Rural-Residential District. The display of historical, farming or forestry collections of tools, equipment, machinery, and other related items in conjunction with farming or forestry activities shall be a permitted use in the Rural-Residential District. (*Second Sentence added in 1989*)

## **I-404 HISTORIC DISTRICT**

### **I-404.1 LEGISLATIVE INTENT**

**I-404.1(a)** The purpose of this ordinance is to promote the educational, cultural, economic, and general welfare of the public for the protection, enhancement, perpetuation, and the preservation of the historic district. It is hereby declared that it is a public purpose that the heritage of Mont Vernon will be safeguarded by:

- (i)** Preserving districts in Mont Vernon which reflect elements of a cultural, social, economic, political, and architectural history.
- (ii)** Conserving property value in such districts.
- (iii)** Fostering civic beauty.
- (iv)** Strengthening the local economy.
- (v)** Promoting the use of an historic district for the education, pleasure, and welfare of the citizens of Mont Vernon. (NH 674:45 and 674:50)

### **I-404.2 QUALIFICATIONS**

**I-404.2(a)** The historic district established hereunder and from time to time, amended as prescribed by NH state law shall have one or more of the following qualifications, without limitations as to cultural or chronological period.

- (i)** Structures or sites which are identified with the cultural, political, economic, military, or social history of Mont Vernon.

**I-404.3** The entire Historic District Regulations and the official map of the Historic District are available at the Town Office.

## **I-405 LIMITED COMMERCIAL DISTRICT**

### **I-405.1 PURPOSE AND INTENT**

#### **I-405.1(a) Goal**

To encourage small scale, clean non-residential development which needs neither a public water nor sanitary sewer service, and which will increase employment opportunities and broaden the Town's tax base and provide needed services for the Town's residents.

#### **I-405.1(b) Objective and Characteristics**



- (i) This district provides a location for the establishment of limited commercial facilities to improve and expand employment opportunities and broaden the tax base in the Town of Mont Vernon. The district offers good access to the Town's major highway (NH Route 13) and is easily accessible to other area towns. Limited commercial uses in the district will not conflict with uses in other adjacent areas. Soil types in the district are optimum for building. Additionally, the basic character of this area has already been established by the existing sawmill located southeast of the district.
- (ii) A major variety of types of retail, service, office and manufacturing facilities are permitted in the district provided they are in keeping with the goals set forth in the Master Plan for the harmonious development of the Town, provided the performance standards are met, and further provided that a site plan for any proposed use shall be approved by the Planning Board conforming to the non-residential site plan review regulations of the Town of Mont Vernon.
- (iii) Residential uses shall not be permitted within this district. The district shall provide the area for shopping facilities, offices, banking facilities and other limited commercial operations. Uses located in the district shall provide access, parking, adequate lighting and protection, quality design and construction, and similar related items for the convenience and safety of the general public and users of the area.
- (iv) All such uses are declared to possess characteristics of such unique and distinct forms that each specific proposed use must be considered as an individual case. Notwithstanding any other provisions of I-405, permitted uses shall not be required to conform to the minimum frontage, setback and lot sizes required elsewhere in the Zoning Ordinance for the Town of Mont Vernon, but shall be so designed as to achieve the general purpose, requirements, and standards of I-405. Any limited commercial use approved for location within the district pursuant to this ordinance shall comply with any and all conditions set forth by the Planning Board as necessary to protect the public health, safety, welfare and convenience of Mont Vernon's citizens.

#### **I-405.2 PERMITTED USES**

The following uses are permitted in the Limited Commercial District:

- I-405.2(a)** Retail, personal service, and business establishment of a type consistent with the purpose of this district to serve limited commercial needs of various nearby neighborhoods. The foregoing uses shall include, but shall not necessarily be limited to:
  - (i) Establishments for the retail sales of grocery, meat, produce, baked goods, drugs, stationery, or hardware products.

- (ii) Barber and beauty shops.
- (iii) Shops for the collection and distribution of clothing for dyeing and cleaning.
- (iv) Banks.
- (v) Restaurants, coffee, and sandwich shops (excluding drive-ins, or fast-food service types).

**I-405.2(b)** Business and/or professional offices for individual or group practice, including doctors and dentists, (including medical and/or dental clinics), lawyers, counseling services, engineers, architects, planners, insurance offices and accountants.

**I-405.2(c)** Veterinary clinics which may include facilities for overnight boarding or caring of animals provided that any such facility shall be designed, constructed, and operated in such a manner so as not to be a nuisance to adjacent uses by way of noise or odor.

**I-405.2(d)** Automotive service station for the retail sales of automotive fuel products and which may include a garage area for repairs to automobiles only. Such uses shall be permitted only when the following conditions are complied with:

- (i) All fuel pumps and pump islands and all tanks for the storage of motor vehicle fuel shall be set back at least fifty (50) feet from all property lines.
- (ii) All repair and service work, including car washing, but excluding emergency service and the sale of fuels, shall be conducted entirely within an enclosed building. Such repair services shall not include body or fender repair or paint spraying.
- (iii) The outside storage or sale of wrecked vehicles shall not be permitted except where such vehicles are impounded on the premises at the direction of a duly authorized law enforcement agency. All such wrecked vehicles shall be removed from the premises without undue delay and may be stored only in an outside area which is screened with fencing and/or evergreen landscaping of such type and height as will shield the vehicles from view from the public highway or adjacent properties.
- (iv) Any automotive service station shall be located at a minimum distance of two hundred (200) feet from any residential use, and further shall be located a minimum of one thousand five hundred (1500) feet from the nearest property line of any other automotive service station.

**I-405.2(e)** Wholesale and storage warehouses provided that all equipment, materials, and products shall be stored within fully enclosed buildings.

**I-405.2(f)** Establishments offering indoor recreational activities and facilities (excluding video game arcades).

**I-405.2(g)** Laboratory, office, and research facilities.

**I-405.2(h)** Component assembly or other handling of pre-manufactured products provided all such activities including the storage of materials and products is conducted within fully enclosed buildings.

**I-405.2(i)** General service or repair shops such as for jewelry, clocks, radios, televisions, small appliances, and bicycles.

**I-405.3 GENERAL REQUIREMENTS**

Any use permitted in the Limited Commercial District by this ordinance may be proposed for location in the district by an applicant provided said proposed use shall comply with the following minimum requirements:

**I-405.3(a) Lot and Yard Requirements:**

- (i)** The minimum lot size which may be proposed for development under this ordinance shall be two (2) acres.
- (ii)** Any lot proposed for development having principal access to the main highway (NH Route 13) shall have a minimum frontage of five hundred (500) feet along said highway.
- (iii)** Any lot proposed for development having principal access to an access or frontage road connecting to the main highway, which road meets or exceeds the requirements for roadway construction contained in the Subdivision Regulations for the Town of Mont Vernon, shall have a minimum frontage of two hundred (200) feet along said access or frontage road.
- (iv)** Principal and accessory buildings and structures located on any lot shall conform to the minimum yard requirement, shown on Table-405.3(a)(iv). Distances shall be measured along a line perpendicular to the lot line from that part of the building or structure nearest the lot line.

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**TABLE I-405.3(a)(iv) LIMITED COMMERCIAL DISTRICT**

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**Minimum Yard Regulations**

- A.** Sixty (60) feet from the nearest edge of the right-of-way along NH Route 13:

- B.** Thirty (30) feet from the nearest edge of the right-of-way along any access road or frontage road meeting the requirements specified in Table I-405.3(a)(iii) above.
- C.** One hundred (100) feet from the nearest lot line of any property currently used for or zoned for residential use.
- D.** Fifteen (15) feet from the nearest side lot line or rear lot line of the subject property.

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*[End of Table I-405.3(a)(iv)]*

**I-405.3(b) Building and Site Covering**

- (i)** The portion of the total area of the lot which may be covered by all buildings and structures located thereon, shall not exceed fifty per cent (50%).
- (ii)** No building shall be constructed to a height greater than two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is lesser, excepting that chimneys, ventilators, sky-lights and necessary mechanical apparatus usually located above roof level, may project not more than ten (10) feet above the roof upon which they are situated provided such apparatus is located so as to minimize visibility of same from the lot lines.
- (iii)** The portion of the total area of the lot which may be covered by buildings and structures, parking areas, and driveways and access ways located thereon shall not exceed seventy per cent (70%).
- (iv)** All portions of the lot which are not proposed as locations for buildings, structures, parking areas or access ways, or similar improvements shall be suitably landscaped and permanently maintained in such a manner as to minimize storm water runoff and to harmoniously blend such non-residential uses with their surrounding area and with the residential character of the Town as a whole.

**I-405.3(c) Exterior Storage and Display**

- (i)** All exterior storage areas and/or equipment parking areas shall be fenced, screened, landscaped, or otherwise protected from view.

**I-405.3(d) Access and Parking**

- (i)** There shall be no more than one access to any lot within the district, excepting that wherever desirable for traffic safety and beneficial to vehicular circulation, consideration shall be given to combining access points where two or more lots are being concurrently developed.

- (ii) Pursuant to (i) above, there shall be only one access road to the main highway (NH Route 13) per one thousand (1000) feet.
- (iii) Adequate parking and loading facilities shall be provided for a proposed use within the district. Said parking and loading facilities shall comply with the minimum setbacks shown in Table I-405.3(d)(iii) as well as conforming to the requirements and standards of Non-Residential Site Plan Review regulations of the Town of Mont Vernon.

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**TABLE I-405.3(d)(iii) LIMITED COMMERCIAL DISTRICT  
Minimum Setbacks for Parking & Loading Facilities**

- A. Forty (40) feet from the nearest edge of the right-of-way along NH Route 13.
- B. Twenty (20) feet from the nearest edge of the right-of-way along any access or frontage road other than the main highway.
- C. Fifty (50) feet from the nearest lot line of any property currently used for or zoned for residential use.
- D. Fifteen (15) feet from any lot line not otherwise specified in (A) through (C) above.

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**I-405.3(e)** All signs and/or exterior advertising shall comply with the requirements and standards set forth in the Non-Residential Site Plan Review Regulations of the Town of Mont Vernon.

**I-405.3(f) Other Requirements**

- (i) Any permitted limited commercial use of land within the district shall not generate nor create objectionable, noxious or offensive conditions on or around the lot on which it is situated-by way of odor, fumes, dust, smoke, noise, light, traffic congestion. In order to minimize the potentially objectionable external aspects of business and commercial uses, and to eliminate potentially hazardous and unsafe conditions, the Planning Board shall adopt such standards and regulations as it may deem necessary to make proper evaluation of any proposed use according to the above criteria.
- (ii) Any person or firm proposing to locate a use or construct a building or structure within the Limited Commercial District shall first submit a site plan of the proposed use and improvements to the Planning Board for consideration pursuant to the Non-Residential Site Plan Review Regulations of the Town of Mont Vernon. No building permit shall be issued to any applicant unless and until such time as a site plan for the proposed building and use has been approved by the

Planning Board pursuant to the provisions of this ordinance and the Non-Residential Site Plan Review Regulations of the Town. The Planning Board, after holding a public hearing upon an application for site plan review, shall approve, approve with modifications, or disapprove said site plan. The Planning Board may attach such reasonable conditions to said approval which may be necessary to ensure continued compliance with this ordinance and other applicable regulations. A record of the Planning Board's decision on said application, along with any conditions, modifications, or reasons for disapproval, shall be entered in the minutes at which such action was taken.

## **I-406 NON-RESIDENTIAL ZONING**

**I-406.1** Site plan review authority provides the basis for controlling non-residential development in the interest of the public health, safety and welfare. The capacity to authorize and enable the planning board to exercise site plan regulatory authority is authorized by the State of New Hampshire (NH) Revised Statutes Annotated (RSA) 674:43(I) and this ordinance was promulgated to constitute such authority as well as to identify the scope of the site plan review authority available to the board, the latter being authorized by RSA 674:43 (IV).

**I-406.2 Purpose.** The purpose of this ordinance is to provide, pursuant to NH RSA 674:43 (IV), the Planning Board the standards and thresholds for determining the eligibility of a non-residential site use for a non-residential site plan review.

A non-residential use may be for the development, redevelopment, change or expansion of uses on tracts of land for all uses other than single family residences. This ordinance applies whether or not such development includes a subdivision or re-subdivision of land. The regulations set forth herein are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that non-residential use is employed in a manner which assures that adequate provisions are made:

- for traffic safety and access
- pedestrian and bicycle safety and access
- emergency access
- water supply
- sewage disposal
- site aesthetics
- management of stormwater, erosion, and sedimentation
- protection of groundwater; protection of wildlife habitat, fisheries and unique natural areas
- protection of historic and archaeological resources
- reduction of adverse impacts on adjacent properties
- harmonious placement into the fabric of the community

**I-406.3 Authority** This ordinance is adopted pursuant to the authority given municipalities in NH RSA 674:43 as well as in NH RSA 674:21.

**I-406.4 Applicability**

**I-406.4.1 Uses Requiring Site Plan Review** All non-residential uses of land and multifamily structures (except the exempt uses listed in Section I-406.4.2 below) shall require a site plan review by the Mont Vernon Planning Board according to the Mont Vernon Non-Residential Site Plan Review regulations (which regulations shall be adopted by the planning board in accordance with NH RSA 674:44), whether or not such development includes a subdivision or re-subdivision of land, and whether or not structures are proposed. Where structures are proposed, no building permit shall be issued until the site plan is approved by the planning board. Specific developments that require site plan review shall include, but are not limited to, the following:

- a. The construction or placement of any new non-residential structure, including accessory structures, of a total floor area of one thousand (1,000) square feet or more.
- b. The expansion of an existing non-residential structure, including accessory structures that increase the total floor area.
- c. The conversion of an existing building, in whole or in part, from a residential use to a non-residential use or a mixed use.
- d. The establishment of a new non-residential use even if no structures are proposed, including uses such as gravel pits, cemeteries, golf courses and other nonstructural non-residential uses.
- e. The conversion of an existing non-residential use, in whole or in part, to another non-residential use if the new use changes the basic nature of the use such that it increases the intensity of on- or offsite impacts.
- f. The construction of a multifamily structure or the conversion of an existing residential structure to a multifamily structure. Planning board approval does not remove the requirement for a special exception from the Zoning Board of Adjustment for multifamily structures.
- g. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives and parking lots, involving more than 10% of the lot area. If such construction is planned as part of a subdivision then the subdivision review process will constitute site plan review provided that the board is made aware that planned impervious surfaces will cover more than 10% of the lot area.

**I-406.4.2 Exempted Uses** The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

- a. Agricultural activities, including agricultural structures. Large commercial "farm-stands" in which 35% or more of the items for sale are not produced within the municipality shall, however, require site plan review if they otherwise meet the criteria for site plan review.
- b. Timber harvesting and forest management activities.
- c. Activities involving non-residential buildings or activities that are specifically excluded from review by the provisions of this Section.
- d. home businesses as defined in this ordinance, unless in the process of granting a special exception the ZBA determines that site plan approval by the planning board is required.

**I-406.4.3 HOME BUSINESS**

**I-406.4.3.1 DEFINITION** A home business is a business operated by an individual within that individual's existing principal or existing accessory structure.

**I-406.4.3.2 PURPOSE** The intent of this Ordinance is to establish guidelines for the operation of home businesses.

- (a) The home business shall be carried on by members of the family. Any combination of numbers of employees who are not part of the family, may be employed if their combined work hours do not exceed forty (40) hours per week.
- (b) There shall be no exterior display, no exterior storage of materials, and no other exterior indications of the home occupation, other than permitted signs, or variation from the residential character of the principal or accessory building.
- (c) Business hours for each individual business may be limited.
- (d) The home business shall be compatible with character of the neighborhood.
- (e) Objectionable circumstances such as noise, vibration, smoke, dust, electrical disturbances, odors, heat, or glare shall not be produced.
- (f) No traffic shall be generated by such activity in substantially greater volume than would normally be expected in the neighborhood.
- (g) Parking shall be provided off-street and shall not be located in the front yard or within the required setback from side and rear lot lines. Existing driveways may be used for parking of clients, but where additional parking is desired, a maximum of three (3) additional spaces is permitted inside or rear yards.
- (h) The permit to engage in a home business shall be issued to the petitioner only. The permit shall not be transferable upon the sale of said structure or the transfer of deed of said structure.

**I-406.4.3.3 PERMITTED HOME BUSINESSES**

- (a) No building shall be expanded or remodeled to accommodate a home business without site plan review by the Planning Board and Certificate of Occupancy.
- (b) Home Business may only be permitted where a Special Exception is granted by the Zoning Board of Adjustment. The ZBA shall conduct a public hearing on any such request for a special exception and, in addition to any other criteria for the granting of such exception that may be provided for in this Ordinance they shall insure that the proposed home business complies with the specific terms identified in this section. The ZBA is empowered to impose such conditions and limitations on the operation of the home business as may be necessary to ensure that the purpose and intent of this regulation is met, including but not limited to conditions calculated to see to it that the home business remains a use which is 'accessory' to the underlying residential use of the premises. If the ZBA determines that site plan approval by the planning board is required, the planning board, in the exercise of site plan review may also impose conditions but shall not do so in a manner that conflicts with those imposed by the ZBA.

**I-406.4.3.4 SIGNS**

- (a) Each home business may erect one (1) exterior sign up to six (6) square feet in size. If the sign is mounted or hung from a pole, projects from the house, or is otherwise constructed so that it may be viewed from two (2) sides, it may use up to six (6) square feet of display on each side.



(b) If the home business is carried out in an accessory structure (i.e., garage, barn) which is set back more than one hundred (100) feet from the road (nearest adjacent right-of-way) one (1) additional sign of four (4) square feet may be attached to the accessory structure.

(c) No internally lit signs shall be permitted. The written message shall be limited to the name and function of service of the home occupation.

**I-406.4.4 Uncertain Applicability** In cases where there is uncertainty as to whether a development proposal is subject to site plan review, the Planning Board shall hold a pre-application discussion and make a determination, by majority vote to be recorded in the public record, as to whether site plan review is required, and what level of review is necessary.

### **I-407 NON-CONFORMING USE**

**I-407.1** A non-conforming structure or use may be continued as it exists at the time of the passage of this Ordinance, subject to the following provisions:

#### **I-407.1(a) Changes**

- (i) No non-conforming use shall be changed to another non-conforming use.
- (ii) Once changed to a conforming use, no building or land shall revert to a non-conforming use.

#### **I-407.1(b) Discontinuance**

- (i) Whenever a non-conforming use has been discontinued for a period of one (1) year such use shall not thereafter be reestablished, and any future use shall conform with provisions of this Ordinance.

## **ARTICLE 5 - ADMINISTRATION AND ENFORCEMENT**

### **I-501 ENFORCEMENT**

**I-501.1** It shall be the duty of the Board of Selectmen and the Board is hereby given powers and authority to enforce the provisions of this Ordinance.

**I-501.2** Upon any well-founded information that this Ordinance is being violated, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this Ordinance by seeking an injunction or other legal action. Any other person or persons aggrieved may take this action on their own initiative after failure of the Selectmen to act for thirty (30) days after having been notified.

**I-501.3** Any persons violating any of the provisions of this Ordinance shall be subject to a fine of not more than fifty (\$50.00) dollars for each day such violation exists.

## **I-502 BOARD OF ADJUSTMENT**

Within thirty (30) days after the adoption of this ordinance and thereafter as terms expire or vacancies occur, the Board of Selectmen shall appoint a Board of Adjustment of five (5) members, conforming in duties and terms to the provisions of RSA 673:3.

### **I-502.1 SPECIAL EXCEPTIONS**

The Board of Adjustment may, after public hearing with notice to abutters by mail, in appropriate cases and subject to appropriate conditions and safeguards, grant a permit for a special exception. The Board, acting on an application for a special exception, shall take into consideration the following conditions:

**I-502.1(a)** The specific site as an appropriate location for such use.

**I-502.1(b)** The use as developed will not adversely affect the neighborhood.

**I-502.1(c)** There will be no nuisance or serious hazard to vehicles or pedestrians.

**I-502.1(d)** Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

**I-502.1(e)** The use would not be seriously detrimental or offensive to owners of adjoining property or to the Town, nor would it tend to radically reduce property values of adjoining or other property in the immediate vicinity.

### **I-502.2 VARIANCE**

The Board of Adjustment may, after public hearing with notice to abutters by mail, authorize a variance from the terms of the Ordinance only where the Board finds that all the following conditions apply:

**I-502.2(a)** There are special circumstances or conditions applying to the land or building for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or the shape of property in question, or exceptional topographical conditions), which are peculiar to such land or building; and the application of the requirements of the Ordinance will deprive any owner of such property of a reasonable use of it and will impose upon such owner a hardship not shared by the owners of other property in the same district.

**I-502.2(b)** The specific variance as granted is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the land or building.

**I-502.2(c)** The granting of the variance will be in harmony with the general purposes and intent of this Ordinance, and with the convenience, welfare, and

character of the district within which it is proposed and will not be injurious or otherwise detrimental to the public welfare.

**I-502.3** All special exceptions issued pursuant to Article 5, and all variances issued pursuant to Article 5, shall contain either of the following provisions:

**I-502.3(a)** That if construction is necessary, said construction must be commenced within six (6) months of the date of issuance of the exception or variance, and completed within one (1) year of said issuance, or the exception or variance shall expire of its own accord without further action by the Board.

**I-502.3(b)** That if a change in the land use is permitted by said variance or special exception, said change must be implemented within six (6) months of the date of issuance, or the exception or variance shall expire of its own accord without further action by the Board. *(As amended March 7, 1972)*

**I-502.4** A five-dollar (\$5.00) filing fee payable to the Town of Mont Vernon shall accompany each application for a variance or a special exception. *(As amended March 7, 1971.)*

### **I-503 DEFINITIONS**

**I-503.1** The Glossary included with these regulations as **Appendix A**, incorporated here by reference.

### **I-504 SECTION NUMBERING OF ORDINANCE**

**I-504.1** The planning board shall have the authority to assign such section numbers to the Zoning Ordinance as it may deem appropriate provided that no substantive change to the ordinance shall occur as a result of any such renumbering.

### **I-505 AMENDMENTS**

**I-505.1** This Ordinance and the boundaries of the districts shown on the Zoning Map may be amended at any Town Meeting in accordance with the provisions of New Hampshire Revised Statutes Annotated, Sections 675:3 and 675:4, as amended in the laws of 1983.

### **I-506 SEPARABILITY CLAUSE**

**I-506.1** The invalidity of any provisions of the Ordinance shall not affect the validity of any other provision.

### **I-507 REPEALER**

**I-507.1** All ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

### **I-508 WHEN EFFECTIVE**

**I-508.1** The effective date of this Ordinance or any amendments thereof shall be the date of adoption by vote of Town Meeting of such Ordinance or amendment.

## ARTICLE VI - MANAGED COMMERCIAL AND CONSERVATION ZONE

### I-601.1 PURPOSE AND INTENT

The purpose of the Managed Commercial and Conservation Zone (MCCZ) is to enable compatible development within the portion of the New Boston Air Station (NBAS) located within the municipal boundaries of the Town of Mont Vernon. It is hereby declared that the MCCZ will have the public purposes of enabling development that will contribute to the non-residential tax base of the community while preserving the biodiversity of the overall site.

I-601.1(a) The NBAS site is a diverse natural environment consisting of an unfragmented wildlife habitat that hosts a number of rare, threatened and endangered species.

I-601.1(b) It is in the best interest of the Town and the natural environment to provide for development that will minimize disturbance of the overall site to the greatest practicable extent.

I-601.1(c) These goals are best achieved through zoning that will enable a reasonable use of the property within a smaller contiguous portion of the site, while retaining the overall portion of the site within the Town of Mont Vernon as a singular lot.

### I-601.2 PERMITTED USES

There are no permitted uses within the NBAS.

### I-601.3 SPECIAL EXCEPTION USES

The following uses are permitted by special exception in the NBAS:

**I-601.3(a) Office** parks oriented in a campus like design, intended for corporate offices.

**I-601.3(b) Business** and/or professional offices for individual or group practice, including doctors and dentists (including medical and/or dental clinics), lawyers, counseling services, engineers, architects, planners, insurance officers, and accountants.

**I-601.3(c) Veterinary** clinics which may include facilities for overnight boarding or caring of animals provided that such facility shall be designed, constructed, and operated in such a manner so as not to be a nuisance to adjacent uses by way of noise or odor.

**I-601.3(d) Laboratories**, office, and research facilities.

**I-601.3(e) Retreat** facilities for corporations or other business institutions that provide temporary lodging for visitors who intend to take advantage of the recreational opportunities available on the site.

**I-601.4 GENERAL REQUIREMENTS**

**I-601.4(a) LOT AND YARD REQUIREMENTS**

- (i) All development within the MCCZ shall occur only within the development envelope, defined as an area designated on the Official Zoning Map of the Town of Mont Vernon within the MCCZ where the construction of buildings, structures, parking areas or accessways, or similar improvements is permitted.
- (ii) New buildings, associated structures, and parking areas may be constructed only within the development envelope.
- (iii) The portions of the MCCZ located within the Town of Mont Vernon shall not be further subdivided into additional lots.
- (iv) Structures or units within the development envelope may be leased or sold to other parties provided that legally binding agreements are established that ensure the ongoing maintenance of all infrastructure, natural resources, and to ensure the ongoing compliance of any conditions of approval imposed upon the development. The leasing or sale of any structures or units within the development envelope shall require the approval of the Planning Board to ensure ongoing maintenance obligations.
- (v) The portion of the development envelope that may be covered by buildings, structures, parking areas, and driveways and accessways located thereon shall not exceed seventy percent (70%).
- (vi) All portions of the development envelope which are not proposed as locations for buildings, structures, parking areas or accessways, or similar improvements, shall be suitably landscaped and permanently maintained in such a manner as to minimize storm water runoff.
- (vii) There shall be no minimum road frontage, setback or height requirements for structures located within the development envelope. The Planning Board may limit the size and configuration of building, associated structures, and parking areas if it finds that the proposal shall not enable safe access to the site, shall be in contradiction with the management plan for the parcel, or will in any way jeopardize the integrity of natural resources found within the site. In making this finding, the Planning Board may hire consultants at the applicant's expense to review materials submitted in the application.

**I-601.4(b) ROADS**

- (i) Access to the development envelope shall be through the existing roadway identified on the zoning map. The roadway constructed to the minimum standards necessary to provide safe access and emergency services to the site for the use(s) proposed.
- (ii) The applicant shall provide a management plan for the maintenance of the roadway during the after-construction phases.

- (iii) Any other access to the site shall be for emergency purposes only. The proposed emergency access shall not be accessible to the general public and shall include mechanisms designed to prevent through traffic from the development envelope.

**I-601.4(c) OTHER REQUIREMENTS**

- (i) Any development within the MCCZ shall be subject to site plan review by the Planning Board in accordance with the requirement of this zoning ordinance.
- (ii) The applicant shall provide a management plan that will address the ongoing maintenance of portions of the site that are located within the MCCZ. The Planning Board, based upon a recommendation of the Conservation Commission, in approving the management plan, shall make an affirmative finding that the management plan shall provide for the ongoing maintenance and environmental integrity of the zone. The management plan shall be sufficient in detail as to define activities that can occur outside of the development envelope, and how such activities shall be carried out in a manner consistent with the conservation of the portions of the zone found outside of the development envelope.
- (iii) Any development to occur within the MCCZ shall be conducted in such a manner so as not to adversely affect the biodiversity of the portions of the site located outside of the development envelope. A study shall be conducted by a natural scientist, biologist, or other professional deemed acceptable by the Planning Board that details the affects to wildlife, rare, threatened, and endangered species shall be submitted, with proposed mitigation.
- (iv) All development on the site, including the development of the roadway, shall provide the Planning Board with a stormwater management plan that minimizes erosion and sedimentation and maximizes on-site infiltration of stormwater runoff. All stormwater management and erosion control measures shall be designed in accordance with the *Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire*: Rockingham County Conservation District, 1992, as amended.
- (v) Any development that occurs within the NBAS shall be treated as a project of regional impact in accordance with RSA 36:54-58.

[Adopted March 14, 2000]

## **ARTICLE 7 - Floodplain Management**

### **I-701 - PURPOSE**

Certain areas of the Town of Mont Vernon, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Mont Vernon, New Hampshire has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Management Ordinance.

This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Mont Vernon, New Hampshire.

### **I-702 - ESTABLISHMENT**

This ordinance adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Mont Vernon Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Mont Vernon Zoning Ordinance and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Hillsborough, N.H." dated September 25, 2009, or as amended, together with the associated Flood Insurance Rate Maps dated September 25, 2009, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference. *(Amended 8/24/10)*

### **I-703 - PERMITS**

All proposed development in any special flood hazard area shall require a permit. This ordinance shall be administered by the building inspector.

### **I-704 - CONSTRUCTION REQUIREMENTS**

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- a. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads,



- including the effects of buoyancy,
- b. be constructed with materials resistant to flood damage,
  - c. be constructed by methods and practices that minimize flood damages,
  - d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### **I-705 - WATER AND SEWER SYSTEMS**

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

### **I-706 - CERTIFICATION**

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Building Inspector:

- a. the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- b. if the structure has been flood proofed, the as-built elevation (in relation to mean sea level) to which the structure was flood proofed.
- c. any certification of flood proofing.

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

### **I-707 - OTHER PERMITS**

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

### **I-708 – WATERCOURSES (or WETLANDS)**

1. 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 the 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 and the Mont Vernon Planning Board.

2. The applicant shall submit to the Building Inspector certification provided by a registered professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The 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 requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

#### **I-709 - SPECIAL FLOOD HAZARD AREAS**

1. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state, or other source including data submitted for development proposals submitted to the community (i.e., subdivisions, site plan approvals). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.
2. The Building Inspector's base flood elevation determination will be used as criteria for requiring in Zone A that:
  - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation.
  - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood elevation; or together with attendant utility and sanitary facilities, shall:
    - i. be flood proofed so that below the base 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 that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.

- b. 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 elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- c. All 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 Article I-703 of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Article I-709 (2) (c) of this ordinance.
  - iv. 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.
- d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
  - i. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage.
  - ii. the area is not a basement; and
  - iii. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. 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 flood 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 they permit the automatic entry and exit of floodwater.

### **I-710 - VARIANCES AND APPEALS**

- 1. Any order, requirement, decision, or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA

676:5.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I, 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.
3. 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.
4. The community shall:
  - 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.

#### **I-711 - SEVERABILITY**

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

#### **I-712 - ENFORCEMENT**

It shall be the duty of the Board of Selectmen (or their designee) to enforce and administer the provisions of this Ordinance in accordance with RSA 676.

## **I-713 - DEFINITIONS**

The following definitions shall apply only to this Floodplain Management Ordinance and shall not be affected by the provisions of any other ordinance of the Town of Mont Vernon.

- i. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Mont Vernon subject to a one percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FIRM.
- ii. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
- iii. "Base Flood Elevation" (BFE) means the elevation of surface water resulting from the "base flood."
- iv. "Basement" means any area of a building having its floor subgrade on all sides.
- v. "Building" - see "structure".
- vi. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.
- vii. "FEMA " means the Federal Emergency Management Agency.
- viii. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland or tidal waters, or
  - b. the unusual and rapid accumulation or runoff of surface waters from any source.
- ix. "Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
- x. "Flood Insurance Study" (FIS) means 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.
- xi. Flood Opening means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA "Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures."

- xii. "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
- xiii. "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
- xiv. "Floodway" - see "Regulatory Floodway".
- xv. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- xvi. "Historic Structure" means any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered Historic District or a district preliminarily determined by the Secretary to qualify as a registered Historic District;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;  
or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - 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.
- xvii. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- xviii. "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation

when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

- xix. "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- xx. "Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.
- xxi. "New construction" means, for the purposes of determining insurance rates, 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.
- xxii. "Recreational Vehicle" is defined as:
  - 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.
- xxiii. "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- xxiv. "Special flood hazard area" - see "Area of Special Flood Hazard"
- xxv. "Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- xxvi. "Start of Construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start

means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of 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 part of the main structure.

xxvii. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

xxviii. "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

xxix. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under I-706 or I-709(2)(b) of this ordinance is presumed to be in violation until such time as that documentation is provided.

xxx. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains. (*Added 3/10/09*)



## ARTICLE 8 WETLANDS OVERLAY DISTRICT

**I-801 AUTHORITY** - Pursuant to the Authority granted by Town Meeting Vote, the following Wetlands Overlay District is adopted and shall replace the existing "Chapter 2 - Wetlands Zoning Regulations".

**I-802 PURPOSE AND INTENT:** The purpose and intent of this ordinance is to protect the public health, safety, and general welfare by controlling and guiding the use of wetlands in Mont Vernon. This ordinance intends to:

- 1) Prevent the development of structures and land uses on naturally occurring wetlands which could contribute to pollution of surface and ground water by sewage or toxic substances.
- 2) Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection.
- 3) Protect unique and unusual natural areas, wildlife habitats, travel ways, potential water supplies, existing aquifers, and aquifer recharge areas.
- 4) Prevent expenditure of town funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of damaged or contaminated wetlands.
- 5) Encourage low intensity uses that can be harmoniously, appropriately, and safely located close to wetlands.

### I-803 DEFINITIONS

- 1) **Adjacent** - Bordering, contiguous, or neighboring. The term includes wetlands that directly connect to other waters of the United States, or that are within reasonable proximity to these waters, but physically separated from them by man-made dikes or barriers, natural river berms, beach dunes, and similar obstructions.
- 2) **Bog** - A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, and/or highly acidic soil or water conditions.
- 3) **Licensed Wetland Scientist** - A person licensed by the State of New Hampshire Board of Natural Scientists, as defined by RSA 310-A:76, II-a, to delineate wetland boundaries and prepare wetland maps.
- 4) **Development** - The addition of buildings, structures, or other improvements to land that will permanently alter the character and nature of the land.
- 5) **Hydric Soils** - Soils that are saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers.
- 6) **Vernal Pool** - A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, Identification and

Documentation of Vernal Pools in New Hampshire, rev 2004.

- 7) **Surface Waters of the State** - Pursuant to RSA 485-A:2.XIV, perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.
- 8) **Wetland** - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and all Jurisdictional Wetlands as defined by the New Hampshire Wetlands Bureau under the authority granted to them by RSA 482-A, and as more particularly described in the New Hampshire Wetlands Bureau Code of Administrative Rules *Chapter WT 100 through WT 800*.
- 9) **Wetland Buffer** - The protected upland areas adjacent to wetlands and surface waters in the Wetlands Overlay District.
- 10) **Wetland Setback** - The upland areas adjacent to wetlands and surface waters in The Wetlands Overlay District within which no buildings are allowed.

**I-804 WETLAND BOUNDARIES:** Wetland Boundaries shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology, in accordance with the techniques outlined in the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, dated January 1987, otherwise referred to as the Federal Manual for Delineating Jurisdictional Wetlands.

**I-805 DISPUTED BOUNDARIES:** In cases where disputes arise regarding location of wetland boundaries, a licensed wetland scientist shall delineate wetland boundaries in the field at the applicant's expense. Such lines shall be accurately depicted on all plans submitted.

**I-806 WETLANDS INCORRECTLY DELINEATED:** Applications shall indicate those areas which meet the definition of the Wetland Overlay District. In the event that an area is incorrectly designated as being wetland, and evidence to that effect is satisfactorily presented to the Planning Board, the restrictions contained in this Section shall not apply. Conversely, in the event an area is incorrectly designated as not being a wetland, the restrictions contained in this section shall apply. Such evidence may be obtained by adequate on-site investigation and analysis conducted by a qualified professional, at applicant's expense.

**I-807 RELATION TO OTHER DISTRICTS:** Where the Wetlands Overlay District is superimposed over current town maps, or land planning maps of the future, the more restrictive regulations shall apply.

**I-808 PERMITTED USES:** Permitted uses in the Wetlands Overlay District are any uses compatible with the intent of this Ordinance that do not involve significant

alteration of the wetland. Such uses include:

- 1) Forestry-tree farming, using best management practices
- 2) Cultivation and harvesting of crops according to recognized soil conservation practices including the protection of wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation.
- 3) Wildlife refuges and wildlife travel corridors.
- 4) Parks and recreation uses consistent with the purpose and intent of this regulation.
- 5) Conservation areas and recreation trails.
- 6) Open spaces as permitted by subdivision regulations or zoning ordinances
- 7) Uses permitted in the Wetlands Overlay District may be subject to Federal and State wetlands permitting requirements.

**I-809 DREDGING AND FILLING:** Any dredge and fill activity requires all necessary federal, state and Town of Mont Vernon permits prior to commencement of any dredge/fill activities. Failure to obtain all necessary permits will result in a fine not to exceed two hundred and seventy-five dollars (\$275) per day for each day of violation.

**I-810 WETLAND BUFFER:** A buffer of native vegetation with minimal ground disturbance allowed, except for planting, shall be maintained within 25 feet of wetlands in the wetlands overlay district. In forested buffer areas no more than 50 percent of the basal area shall be removed in any 10-year period.

**I-811 WETLAND SETBACK:** Buildings shall be a minimum of 50 feet from wetland in the wetland overlay district. Existing lots of record on the date of adoption of this ordinance shall be exempt from this setback requirement.

**I-812 EXCEPTIONS:** Wetland Buffer (1-810) and Wetland Setback (1-811) requirements are not applicable in the instances listed below;

- 1) Within the right of way for any proposed Class V or higher road
- 2) Class V or higher road construction and/or maintenance activities.
- 3) Any forest management or agricultural activity.
- 4) Recreation trails compliant with best management practices as promulgated by the State of New Hampshire.
- 5) Isolated wetlands with a contiguous surface area less than three thousand (3,000) square feet. This exception shall not apply if the isolated Wetland is a Vernal Pool, Surface Water of the State, or a natural drainage as defined in Appendix A - Glossary.
- 6) Manmade or artificial Wetlands associated with currently functioning and maintained ditches, swales, sedimentation and/or detention basins and/or ponds, agricultural and/or irrigation ponds and/or swales, fire ponds, cisterns and related facilities.

**I-813 CONDITIONAL USE PERMIT(s):** Any use permitted in the underlying zoning district but not otherwise permitted in the Wetlands Overlay District may be allowed by conditional use permit if it can be shown that the proposed use is not substantially in conflict with the purposes and intents of this Article.

**I-813.1 Conditional use permit procedure:**

- a) Applicants are encouraged to schedule a preliminary, non-binding, consultation with the planning board prior to filing an application.
- b) Application for a conditional use permit is submitted to the Planning Board. Application shall be forwarded to Board of Selectmen, Conservation Commission, Fire Dept., and Public Works.
- c) Planning Board may require independent professional services (i.e. wetland scientist) at applicant's expense.
- d) Planning Board shall hold public hearing on application within 90 days of initial submission to the Planning Board and shall issue a letter of decision within 10 business days of public hearing.
- e) The time limits stated herein may be waived by the applicant
- f) Application process pursuant to this section may proceed prior to and/or concurrent with State and Federal permit processes. However, the conditional use permit shall not become effective until any applicable State and Federal permits have been received and reviewed by the Planning Board in accordance with NH Administrative Rules Env-Wt 100-800 and the Federal Clean Water Act Section 404.
- g) All requests for conditional use permits may be subject to site walks and site review by Planning Board and Conservation Commission
- h) Final Plans may require stamp(s) by a licensed surveyor and/or wetland scientist
- i) Conditional Use Permit decisions by the Planning Board may not be appealed to the Zoning Board of Adjustment. Appeals must go to the Superior Court the Housing Appeals Board.

**1-813.2 Conditional use permit criteria:**

Application approval requires a Planning Board vote affirming that the application is not contrary to the purposes of this ordinance and minimizes impacts to the wetland and buffers. The Planning Board may impose conditions, restrictions, and/or limits as a condition of approval. Criteria shall include the following:

- a) The proposed activity or use cannot practicably be located otherwise on the site to eliminate or reduce the impact to the wetland or its buffer.
- b) The proposed activity utilizes applicable best management practices.
- c) The proposed activity minimizes the degradation to, or loss of, wetlands and wetland buffers, and mitigates any adverse impact to the functions and values of wetlands and wetland buffers, including, but not limited to, the capacity of the wetland to:
- d) Support wetland vegetation, fish and wildlife
- e) Proposal's ability to prevent flooding

- f) Supply and protect surface and ground waters
- g) Control sediment and pollution
- h) Promote public health and safety
- i) Moderate fluctuations in surface water levels
- j) The proposed activity will minimize negative environmental impact(s) to abutting and/or downstream property and/or hydrologically connected water and/or wetland resources. Negative environmental impacts include, but are not limited to;

- i) Erosion, Siltation, Turbidity
- ii) Loss of unique habitat having natural, scientific, or educational value
- iii) Loss or decrease of beneficial aquatic organisms and/or wetland plants and animals.
- iv) Increased risk of flooding and/or pollution

**1-813.3 Conditional use permit application**

- a) Application shall include a site plan at a scale of 1 inch= 100 feet, or larger, and shall contain the following information:
  - i) North arrow and date, property lines,
  - ii) Locus map showing adjacent wetlands and other significant hydrological features
  - iii) Names and addresses of abutting property owners and holders of conservation restrictions and easements
  - iv) Wetland limit and wetland buffer, Soil types, Vegetation types
  - v) Topographic contours at no greater than 5-foot intervals
  - vi) Surface drainage patterns, intermittent and year-round
  - vii) Existing and proposed development, vegetation removal, and land surface alteration, computation of the area to be impacted, and cubic yards of cut and fill
  - viii) Storm water management proposed during and after construction

**CHAPTER III**  
**SUBDIVISION REGULATIONS**  
**FOR THE TOWN OF MONT VERNON, NEW HAMPSHIRE**  
(March 1980)

**ARTICLE 1 - AUTHORITY**

**III-101** Pursuant to the authority vested in the Mont Vernon Planning Board by the voters of the Town of Mont Vernon by vote of the Town Meeting, March 9, 1965, and in accordance with the provisions of Chapter 674:35-42 (formerly Chapter 36, Sections 19-29, New Hampshire RSA, 1955), the Mont Vernon Planning Board adopts the following regulations governing the subdivision of land in the Town of Mont Vernon, New Hampshire.

**ARTICLE 2 - DEFINITIONS**

**III-201** The Glossary included with these regulations as **Appendix A**, is incorporated here by reference.

**ARTICLE 3 – PROCEDURE**

**III-301 APPLICATION PROCEDURE**

**III-301.1 Preapplication Preliminary Conceptual Consultation (optional).** As allowed by RSA 676:4-II(a), prior to application, a prospective applicant may opt to schedule a Preliminary Conceptual Consultation (preapplication discussion) with the Board. The purpose of the Preliminary Conceptual Consultation is intended to provide an open forum for discussion of the proposal in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. Such discussion may occur without formal public notice but must occur only at a posted meeting of the Board.

**III-301.2 Preapplication Design Review (required).** As allowed by RSA 676:4-II(b), during Preapplication Review, the Board or its designee shall engage in nonbinding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details; provided, however, that the design review phase may proceed only after identification of and notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by RSA 676:4-I(d). The cost of such notice shall be borne by the applicant. Statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.

**III-301.3** Preapplication review shall be separate and apart from formal consideration under RSA 676:4-I, and the time limits for acting under RSA 676:4-I(c) shall not apply until formal application is submitted under RSA 676:4-I(b).

**III-301.4** Application. The applicant shall be required to present the formal application for a proposed subdivision in two phases: Review for Acceptance and Review for Approval. Prior to scheduling a public hearing, the applicant shall submit a complete Application Form, Administrative Requirements Checklist, Land Access Authorization Form, and Review for Acceptance Checklist to the Planning Board Administrative Assistant. Materials for consideration by the Board shall be submitted twenty (20) days prior to the scheduled hearing at which they will be discussed. Prior to commencement of Review for Approval, the applicant shall submit a Review for Approval Checklist. In cases where revised plans are submitted to the board, a list of revisions will accompany every revised plan.

**Review for Acceptance** is intended to address the suitability of the land being subdivided for septic systems and water supply and overall conceptual approach with respect to the Zoning Ordinances and the Master Plan. During Review for Acceptance, the Board shall determine whether the application is complete. Upon completion of the Review for Acceptance the Board shall vote on whether to accept the application. Acceptance of a proposed subdivision carries no assurance that approval will follow in the Review for Approval phase.

**Review for Approval** is intended to assure that all technical requirements, State approvals, and legal data are submitted as required. Upon completion of the Review for Approval the Board shall vote on whether to approve the application.

### **III-302 REVIEW FOR ACCEPTANCE**

**III-302.1** The Board shall, in the exercise of the authority granted pursuant to NH RSA 674:36, review all proposed subdivisions with a view toward determining the impact that the proposed subdivision will have on various Town services, and to that end, said Board shall also review all such subdivisions with a view toward determining whether such proposed subdivision, if permitted, would create one of the following conditions:

- (a) constitute a scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department, or other public services.
- (b) necessitate an excessive expenditure of public funds for the supply of such services.

**III-302.2** If after such review, the Board determines that the proposed subdivision would cause either of the aforementioned conditions, then the Board shall so inform the applicant and indicate that the applicant may modify the proposal to avoid the aforementioned conditions and in so doing, the said Board may, considering all

the circumstances, specify the extent to which the particular proposed subdivision may be developed in any given year, as well as establish the minimum duration of time for the total development of such particular subdivision in order to assure harmonious development of the Town. The Board shall state in its records any modifications which it will require in the Review for Acceptance phase, or any reasons for disapproval. A copy of this record shall be sent to the applicant.

**III-302.3** During the Review for Acceptance, the Board shall determine whether the plan has potential regional impact according to NH RSA 36:55, and if so, proceed according to NH RSA 36:57.

**III-302.4** During the Review for Acceptance, the Board shall determine whether and when to schedule a site walk.

**III-302.5** The applicant shall submit a Review for Acceptance Checklist for the Board's review.

### **III-303 REVIEW FOR APPROVAL**

**III-303.1** The Board shall review the plat(s) submitted in the Review for Approval from the point of view of a total project. The applicant shall submit a Review for Approval checklist for the Board's review. Approval by the Board of the submission shall constitute an agreement between the Town and the applicant that subdivision and development of the land in question shall be done as detailed on the final plat(s). Deviation from the approved final plat requires the consent of the Board and submission of 6 paper copies of the plat "as built".

### **III-304 ACTION OF THE BOARD**

**III-304.1** After due notice as required by NH RSA 676:4 I(d), the Board shall hold a public hearing within thirty (30) days of the receipt of the application by the Administrative Assistant of the Board to determine if a submitted application is complete according to the board's regulation and shall vote upon its acceptance. Upon determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination in accordance with RSA 676:3, which shall describe the information, procedure, or other requirement necessary or the application to be complete. The applicant and abutters shall be notified of said hearing in a fashion consistent with NH RSA 676:4 I(d). This hearing shall commence Review for Acceptance of the subdivision plan, not formal approval.

**III-304.2** Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin Review for Approval. The Board must act to approve, modify and approve, conditionally approve as provided in RSA 676:4-I(i) and III-304.3 below or disapprove the plat within 65 days of the receipt of the complete submission unless the time for action has been extended an additional ninety (90) days by the Selectmen or unless the applicant



has waived the requirement for action within the time periods specified herein and consents to such extension as agreeable to both parties. If the Board fails to act and has obtained no extension from the Selectmen or waiver from the applicant, then said applicant may obtain from the Selectmen, an order directing the Board to act within 30 days. Failure of the Board to act upon such order of the Selectmen, shall constitute grounds for the Superior Court, upon petition of the applicant, to issue an order approving the application, if the court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

**III-304.3** The approved final plat shall be recorded with the Registrar of Deeds by the Planning Board or its agent, Hillsborough County prior to any sale or transfer of land within the subdivision. The recording of such approved plats shall, without further action, modify the official map of the Town of Mont Vernon. Such recording shall not constitute acceptance by the Town of any street, easement, or open space shown thereon. The Board may grant conditional approval of an application, but the plat will not be signed or recorded until all the conditions have been met. If the applicant has not complied with the conditions of approval within one (1) year, the approval is considered null and void and the applicant must submit a new subdivision application.

**III-304.4** No street or open space will be accepted by the Town until such time as all improvements have been carried out as shown on the final plat, in accord with the requirements of these regulations, subject to any conditions established by the Planning Board at the time of final plat approval and compliance with all state and local regulations applicable thereto. Acceptance shall then take place only upon the acceptance by the Selectmen of the Town of a Warranty Deed to the premises so dedicated.

### **III-305 FOUR-YEAR EXEMPTION**

**III-305.1** Every plat approved by the Planning Board and properly recorded in the Registry of Deeds shall be exempt from all subsequent changes in subdivision regulations and zoning ordinance adopted by any city or town, except those regulations and ordinances which expressly protect public health standards such as water quality and sewage treatment requirements, for a period of 4 years after the date of recording; provided, however, that once substantial completion of the improvements as shown on the plat have occurred in compliance with the approved plat, or the terms of said approval, the rights of the owner or his successor in interest shall vest and no subsequent changes in subdivision regulations or zoning ordinances shall operate to affect such improvements; and further, provided, that:

**III-305.1(a)** Active and substantial development or building has begun on the site by the owner or his successor in interest, in accordance with the approved plat within 12 months after the date of approval, or in accordance with terms of said approval, and, if a bond or other security to cover the costs of roads,

drains or sewer is required in connection with such approval, such bond or other security is posted with the Town at the time of commencement of such development;

**III-305.1(b)** Development remains in full compliance with the public health regulations and ordinances specified in this section; and

**III-305.1(c)** At the time of approval and recording, the plat conforms to the subdivision regulations and zoning ordinances then in effect at the site of such plat. (RSA 674:39)

### **III-306 CERTIFICATE OF FAILURE TO TAKE ACTION**

**III-306.1** The Town Clerk is hereby specified as the Municipal Officer who will issue on behalf of the Board a certificate of failure on the part of the Board to act on approval or disapproval of the Plat submitted to it, as provided by RSA 676:4 (Supp.).

## **ARTICLE 4 - GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND**

The subdivider shall observe the following general requirements and principles of land subdivision.

**III-401** The plan shall conform with Zoning Regulations, the Comprehensive Town Plan, the Official Map, and Historic District Regulations, when such are adopted, and any other pertinent state or local laws or regulations.

**III-402** In examining and passing upon a proposed subdivision, the Board may make recommendations to the subdivider relating to earth movement and retention of natural cover to preserve the natural beauty of Mont Vernon and its environment.

**III-403** Land of such character that it cannot be safely used for building purposes because of exceptional danger to health, peril from fire, flood or other menace, shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard until appropriate measures have been taken by the subdivider to eliminate such hazards. No natural drainage way shall be obstructed unless adequate means is taken to provide for the runoff.

### **III-404 STREETS** *(Repealed 9/23/08)*

~~**III-404.1** Streets shall be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets; where practicable, lots shall be graded toward the ditch line of the streets, where not practicable, adequate provisions shall be made to control the drainage of each lot by an adequate storm water system, subject to the approval of the Selectmen. *(Repealed 9/23/08)*~~

- ~~III-404.2~~ The arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions, or for their proper projection when adjoining property is not subdivided and shall be of a width at least as great as that of such existing connecting streets, but in no case less than that required under ~~III-404.3~~ below. *(Repealed 9/23/08)*
- ~~III-404.3~~ No street or highway right-of-way shall be less than fifty (50) feet in width and may be required to be more or less if a greater or lesser street width is warranted in the opinion of the Board. Existing streets may be widened as if they were new streets, with one-half of the additional widening to be required on each side. *(Repealed 9/23/08)*
- ~~III-404.4~~ Except where near future connections may be possible, dead-end streets shall not, in general, exceed six hundred (600) feet in length and shall be provided with a turn-around roadway at the closed end with a minimum radius of seventy five (75) feet from the center to the inside edge of the right-of-way. *(Repealed 9/23/08)*
- ~~III-404.5~~ No horizontal curves shall have a center line radius of less than one hundred and fifty (150) feet, except turnarounds on a dead-end street. For changes in grade exceeding one percent (1%) a vertical curve shall be provided insuring a minimum sight distance of one hundred and fifty (150) feet. *(Repealed 9/23/08)*
- ~~III-404.6~~ Grades of all streets shall conform in general to the terrain and shall, so far as practicable, not exceed ten percent (10%). *(Repealed 9/23/08)*
- ~~III-404.7~~ Intersecting property lines at street intersections shall be joined by a curve of at least twenty five (25) foot radius. *(Repealed 9/23/08)*
- ~~III-404.8~~ Streets should be laid out to intersect as nearly as possible at right angles. No street shall intersect another with an angle of less than sixty (60) degrees. Streets entering opposite sides of another street shall be laid out either directly opposite one another, or with a minimum offset of one hundred twenty-five (125) feet between their centerlines. *(Repealed 9/23/08)*
- III-405** Reserve strips of land which, in the opinion of the Board, show intent on the part of the Subdivider to control access to land dedicated or to be dedicated to public use shall not be permitted.
- III-406** The preliminary plan shall show the boundaries of proposed permanent easements for utilities over or on the property wherever topography permits, and the total width of such easements shall not be less than twenty (20) feet centered on the rear lot line with ten (10) feet provided from each lot. Such easements shall have satisfactory access to existing or proposed public ways. Water courses proposed for public control shall have a permanent easement of not less than twenty (20) feet.
- III-407** Areas set aside for parks and playgrounds to be dedicated or to be reserved for the common use of all property owners shall be a covenant in the deed, whether or not as

required by the Board, shall be of reasonable size and character for neighborhood playgrounds or other recreational use and shall be not less in minimum size that one (1) acre for each ten (10) dwelling lots indicated. Indication will be made of the size, location, and landscaping and planting of such areas.

~~**III-408** Streets which join or are in alignment with streets abutting on neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Town of Mont Vernon and shall be subject to the final approval of the Board of Selectmen. *(Repealed 9/23/08)*~~

~~**III-409** Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across the street on the surface, but shall be directed into catch basins, if available, or otherwise into ditches, and shall be piped underground in a pipe of not less than eighteen (18) inches in diameter, or such size as may be deemed necessary by the Selectmen and in compliance with State highway specifications. *(Repealed 9/23/08)*~~

**III-410** It shall be the responsibility of the Subdivider to provide the Board with adequate information to prove that the area of each lot is adequate to permit the installation and operation of individual sewerage disposal system (septic tank and leach field or dry well, but not a cesspool), except where public sewer systems are available, and to prove that the area of each lot is adequate to permit the installation and operation of individual on-lot water systems, except where public or common water systems are available. Compliance will be made in all cases with the New Hampshire Department of Health Regulations titled "The Septic Tank System of Sewerage Disposal", copies of which are on file with the Secretary of the Board.

**III-410.1** Developers of Major and Minor Subdivisions, regardless of lot size, shall provide the Planning Board with copies of any and all information submitted to the NH WS&PCC for subdivision approval.

**III-410.2** High intensity soil surveys for plat layout (including septic system siting and wetland identification) are required. This regulation applies to subdivisions on which an on-site septic tank and leach field system are to be used for sewerage disposal, and/or where wetland identification is required.

**III-410.3** In addition to any other town and state sewage disposal requirements for local subdivision and site plan reviews, or wetland zoning compliance, the following regulations shall apply:

**III-410.3(a)** Definitions:

(i) The Glossary included with these regulations as **Appendix A**, is incorporated here by reference.

**III-410.3(b)** Ground control shall be marked, by the applicant, both on the site and on the plat map(s). The ground control shall consist of numbered flags,

stakes, wall, trees, or other easily identifiable points on the property. These points will be well distributed throughout the site at a density of not less than four (4) points per acre. The numbered points must be identified, by number, on the plat plan. The purpose of this requirement is to provide easy identification for all parties required or interested in examining the site.

**III-410.3(c)** The location of all existing and proposed buildings, accessory buildings driveways, sewer lines, water lines, and public and private roads and driveways on the site, and the general location of such features within 100 feet of its boundaries, shall be indicated on the plat plan.

**III-410.3(d)** High intensity soils (HIS) maps are to be provided for all site plans and for subdivisions, except those defined as "minor subdivisions" per RSA 676:4, III. Additionally, applicants may request the Planning Board to waive this requirement upon recommendation of the Hillsborough County Conservation District (HCCD) (Applicants request waiver of Planning Board, Planning Board requests recommendation of HCCD, Planning Board acts upon HCCD recommendation.)

(i) The HIS maps shall be prepared by a qualified soils scientist.

(ii) A paper copy of the HIS survey shall be provided to the Planning Board. In addition to the soil's information provided by the survey, the map shall have on it

(a) the signature of the qualified soils scientist.

(b) any qualifying notes made by a soils scientist.

(iii) If a soils classification provided on the HIS map is in dispute, the Planning Board may request an evaluation of the soils designations by the Hillsborough County Conservation District.

**III-410.3(e)** A 4,000 square foot leach field area or an area two (2) times the required leach field area (whichever is greater) shall be designated, reserved, and mapped on each lot.

(i) The designated leach field area must be left open and is not to be used for the siting of any incompatible purpose, including but not limited to a driveway, or structures of any type. Parking areas may be located over the designated leach field area when chambered systems are to be used.

(ii) The designated leach field area shall be set back as required in **III-410.3(e)(iv)** from:

(1) poorly and very poorly drained soils.

(2) naturally deposited soils which have a seasonal high-water table less than six (6) inches from the surface.

- (3)** naturally deposited soils which have an impermeable layer closer than two (2) feet to the surface.
- (4)** naturally deposited soils which have bedrock less than three (3) feet below the surface.
- (5)** drainageways, natural or manmade, perennial, or intermittent; **(6)** open drainage structures intended to convey water, intermittently or perennially, including but not limited to roadside ditches, culvert openings, diversions and swales.

**(iii)** The designated leach field area is required to be set back from all the areas specified in **III-410.3(e)(ii)** as follows:

- (1)** seventy-five (75) feet if the designated leach field area is entirely located in well drained soils, without a restrictive layer, or well-drained soil with a restrictive layer and slopes of less than eight percent (8%).
- (2)** one hundred (100) feet if the designated leach field area is entirely or partially located in somewhat poorly drained soils, moderately well-drained soil, excessively drained soils, or soils with a restrictive layer and slope of eight (>8%) per cent or greater.

**(iv)** In addition, the designated leach field area shall be setback one hundred (100) feet from open water bodies and perennial streams.

**(v)** In areas where the HIS survey indicates bedrock at less than three feet from the surface, sufficient test pits shall be made to ensure that the setback requirements established in **III-410.3(e)(ii)** and **-(iii)** can be met.

**(vi)** The designated leach field area may not be placed on areas with finished slopes of over twenty-five percent (25%).

**(vii)** All septic systems within the Town of Mont Vernon must be designed by a registered professional engineer or a septic designer licensed by the NH WS&PCC.

~~**III-411** Street Construction, including pavement and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the standard specifications of the Town of Mont Vernon and in all cases must be constructed under the supervision of the Selectmen and in compliance with State highway specifications. (Repealed 9/23/08)~~

~~**III-411.1**~~

~~Utility lines within all major subdivisions (Three or more lots) shall be by underground service and the cost of such installation shall be bonded in the same manner as roads. (Adopted 9-24-96) (Repealed 9/23/08)~~

**III-412** Before such approval of a subdivision by the Board, the necessary improvements such as streets, storm drainage, and the extension of public water and sewer lines, etc., shall be guaranteed by the Subdivider by:

**III-412.1** Posting a bond of an amount sufficient to cover the cost of necessary construction.

**III-412.1(a)** If a bond is provided it shall be approved as to form and sureties by the legal counsel of the Town.

**III-412.2** Completing construction of all the agreed upon improvements prior to final approval of the plat by the Planning Board. No lot shall be sold prior to this final approval.

**III-412.3** Constructing all the agreed-upon improvements up to final grade by the Subdivider and posting of a personal bank book of sufficient amount to cover the cost of completing the improvements.

**III-413** Building on any **Class VI Road** shall conform to NH RSA 674:4I.  
(Added March 1984)

**III-414** Where strict conformity to the subdivision regulations would cause undue hardship or injustice to the owner of the land, a subdivision plan substantially in conformity with regulations may be approved by the Board, provided the spirit of the regulations, public convenience and welfare may not adversely be affected.

**III-420 STREETS (Public and Private) Approval** of the general development street plan is required before construction of any phase of the plan. The street plan will be designed by a professional engineer in plan, profile, and cross section views every fifty feet (50'). Except as described below, the street plan shall conform to the most current AASHTO's (American Association of State Highway and Transportation Officials) Guidelines for "A Policy on Geometric Design of Highways and Streets", AASHTO's "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT<400)", and NHDOT's "Standard Plans for Road and Bridge Construction". Any other variation shall be justified by engineering judgment and approved by the Board. (Adopted 9/23/08)

**III-420.1** General Considerations: All subdivisions shall have adequate provision for a safe and suitable access to a Class V or better road or shall make the provisions for the construction and dedication of a Class V or better road, to obtain safe and suitable access to the subdivision. All streets in a subdivision shall conform to the Master Plan, and all other Town regulations, and shall compose a safe and convenient system in relation to other existing and planned streets, to the topographic conditions, and to the proposed uses of landed to be served by the

street. Existing stonewalls shall be retained where possible or relocated and restored as required by the Board. *(Adopted 9/23/08)*

**III-420.2** Layout: Streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions, or for their proper projection when adjoining property is not subdivided and shall be of a width at least as great as that of such existing connecting streets, but in no case less than that required under **III-420.4** below. Streets should be laid out to intersect as nearly as possible at right angles. No street shall intersect another with an angle of less than seventy-five degrees (75°). Streets entering opposite sides of another street shall be laid out either directly opposite one another, or with a minimum offset of one hundred twenty-five feet (125') between their centerlines. Where extension of existing roadways is proposed, the existing turnaround shall be removed in its entirety. *(Adopted 9/23/08)*

**III-420.3** Dead-End Streets: Except where near future connections may be possible, streets designed to be dead-end streets shall not exceed one thousand feet (1,000') in length and shall be provided with a turn-around roadway at the closed end with a minimum radius of one hundred feet (100') to the centerline of the road. This shall not preclude the use of hammerheads or other means of providing an adequate turn-around roadway. *(Adopted 9/23/08)*

**III-420.4** Right-of-Way: The minimum width of street right-of-way shall be fifty feet (50') in width and may be required to be more if a greater street width is warranted in the opinion of the Board. Existing street right-of-way may be widened as if they were new streets, with one-half of the additional widening to be required on each side. Intersecting right-of-way lines at street intersections shall be joined by a curve of at least twenty-five-foot (25') radius. *(Adopted 9/23/08)*

**III-420.5** Right-of-Way Bounds: Granite bounds shall be installed at each point of curvature (PC), point of tangent (PT) and changes in property at all intersections of street, at all points of change in direction and at any other points the Board deem necessary to designate. External boundaries, right-of-way lines, block corners etc., of a subdivision shall set in the field by bounds. These bounds shall be placed not more than one thousand four hundred feet (1,400') apart in any straight line and at all corners, at each end of all curves, at the point a curve changes its radius, and at all angle points in any line. The bounds shall be of granite, not less than thirty-six inches (36") in length, not less than four inches (4") square, and marked on top with a cross, brass plug, iron rod, or other durable material securely imbedded. Bounds shall be set flush with finished grade. No permanent bounds shall be set until all construction which would disturb or destroy the monuments is completed. There shall be two (2) bounds set at opposite ends of the subdivisions whose tops are at an even foot in reference to the U.S.G.S. Datum Plan where practical, or to an assumed Datum where the preceding is not feasible. All monuments must reference the State Plane coordinate system. *(Adopted 9/23/08)*



- III-420.6** Horizontal Alignment: No horizontal curves shall have a centerline radius of less than one two hundred feet (200'), except turnarounds on a dead-end street. A minimum tangent of fifty feet (50') is required between reverse curves. AASHTO design guidelines are to be used for determining tangent lengths for superelevated curves. *(Adopted 9/23/08)*
- III-420.7** Vertical Alignment: Grades of all streets shall conform in general to the terrain and shall, so far as practicable, not be less than one percent (1.00%) or to exceed ten percent (10.00%). For changes in grade exceeding one percent (1.00%) a vertical curve shall be provided insuring a minimum sight distance of one hundred and fifty feet (150'). The maximum grade within one hundred feet (100') on an intersection is not to exceed two percent (2.00%). *(Adopted 9/23/08)*
- III-420.8** Streets Names: All streets shall be named to comply with the provisions of the "Enhanced 911 System" (RSA 106-H:2 and RSA 106-H:10). Streets which join or are in alignment with streets abutting on neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Town of Mont Vernon and shall be subject to the final approval of the Board of Selectmen. *(Adopted 9/23/08)*
- III-420.9** Street Signs, Markers, and Markings: The location, type of sign/marker, and street markings shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). All private roads, including driveways serving more than one house lot, shall be signed as 'Private Way – Not Maintained by Town', or alternate verbiage as designated by the Planning Board or Board of Selectmen. Required signage shall be in place and clearly visible before any building permits are issued for lots served by the road or driveway. *(Amended 4/13/10)*
- III-420.10** Street Light: Street lights shall be provided if required by the Board. *(Adopted 9/23/08)*
- III-420.11** Guardrail: Guardrail shall be used in locations where the New Hampshire Department of Transportation's typical warrant for guardrail is met and/or as required by the Board. Guardrail shall be metal beam on wood posts, meeting State Specification 606 and, as applicable, State Plans GR-1 through GR-8. All guardrail installation must end safely using a Modified Eccentric Loader Terminal "MELT"-type unit. Flared Energy Absorbing Terminal "FLEAT" or Eccentric Loader Terminal "ELT"-type units may be permitted by the Road Department. *(Adopted 9/23/08)*
- III-420.12** Application for Technical Review: At a regularly scheduled meeting the Planning Board will review the application for completeness and determine its acceptability for further processing. The Board will determine the need for review and special investigative studies and advise the applicant of the time and the need for financial support from the applicant. The Applicant shall pay those fees and charges, plus the costs of any required publications, costs of posting notices, and the cost of mailing notices of hearings. Failure to pay these costs, as specified, will

be valid grounds for termination of consideration of the application. (*Adopted 9/23/08*)

**III-421 PHASING**

All subdivisions accepted by the Mont Vernon Planning Board after (August 9, 2005) shall be limited as to the availability of building permits, in accordance with the schedule in III-421.1. A first phase will constitute one (1) year from the date of final approval and each subsequent year will constitute a subsequent phase. Applicants may request a waiver of the phasing schedule in writing. The Subdivision Phasing Schedule shall appear on the first page of the Mylar plan, to be recorded at the Registry of Deeds. The building inspector will retain a copy of the Subdivision Phasing Schedule, and grant building permits accordingly.

**III-421.1 SCHEDULE**

‘If, in the judgment of the Board, the proposal is likely to have a significant impact on some aspect of the town’s ability to provide municipal services, so as to require an excessive expenditure of funds to provide the same, now or in the future, the Board may require the applicant to provide fiscal, environmental or other studies of such impact as may be necessary to enlighten the board as to the consequences of the development. Such studies may be conducted by experts of the board’s choosing and the costs for such studies shall be charged against the applicant as an additional fee. If, following the receipt, consideration and review of the required studies, the board concludes that the proposal is going to have an impact on the town’s ability to provide municipal services to such a degree as to require excessive expenditure of public funds to provide the same, then the board may either deny such applicant, if they deem the impact too great for the town to endure at this time, or they may impose such reasonable conditions on the approval as are necessary to mitigate or lessen the annual impact of the development on the proposal. To that end, and by the way of example and not by the way of limitation, the planning board may impose a ‘phasing’ requirement on the application in accordance with the schedule set forth herein, or such other schedule as the facts of the particular application may warrant.’

# Lots in Subdivision	Cumulative Permits				
	Year 1	Year 2	Year 3	Year 4	Year 5
2-3 .....	N/A				
4 .....	3.....	4			
5 .....	3.....	5			
6 .....	3.....	6			
7 .....	4.....	7			
8 .....	4.....	8			
9 .....	4.....	8	9		
10 .....	4.....	8	10		
11 .....	4.....	8	11		
12 .....	4.....	8	12		
13 .....	4.....	8	12	13	

14 .....	4.....	8.....	12.....	14
15 .....	5.....	9.....	13.....	15
16 .....	5.....	9.....	13.....	16
17 .....	5.....	9.....	13.....	17
18 .....	5.....	10.....	14.....	18
19 .....	5.....	10.....	15.....	19
20 .....	5.....	10.....	15.....	20
21 .....	5.....	10.....	15.....	20..... 21
22 .....	5.....	10.....	15.....	20..... 22
23 .....	5.....	10.....	15.....	20..... 23
24 .....	5.....	10.....	15.....	20..... 24
25 .....	5.....	10.....	15.....	20..... 25
26+ =20% of total, i.e.20%.....	40%.....	60%.....	80%.....	100%

**III-421.2 ACCRUAL**

If a developer chooses to postpone development for any number of years, permits will accrue, provided that in any year no more than two years of accrued phased development occurs. In cases where development has been postponed more than two years, the building inspector shall grant building permits for no more than two accrued phases in one year. For example, a 25-lot subdivision with no permits requested in the first three years shall be limited to 10 per year in years 4 and 5, and 5 in year six. In accordance with NH RSA 674:39, if the first phase of development is not complete after four years from the date of approval, the building inspector will ensure the lots conform to current town regulations.

**III-421.3 CIRCUMVENTION**

In order to ensure the intent of this ordinance, no individual, partnership, corporation, or other entity or its related or affiliated entities or in the case of individuals their relatives or persons associated in business, shall circumvent the purposes of phasing by dividing a parcel of land into separate subdivisions or separate forms or names of ownership.

**ARTICLE 5 - PROVISIONS FOR ADEQUATE CONTROL OF SOIL EROSION AND SEDIMENTATION IN THE DEVELOPMENT OF LAND**

**III-501 DEFINITIONS**

**III-501.I** The Glossary included with these regulations as Appendix A is incorporated here by reference.

**III-502 ACTIVITIES REQUIRING A CERTIFIED EROSION AND SEDIMENT CONTROL PLAN**

**III-502.I** A soil erosion and sediment control plan shall be provided for all site plans and for subdivisions, except those defined as "minor subdivisions" per RSA 676:4, III. Additionally, applicants may request the Planning Board to waive this requirement upon recommendation of the HCCD. (Applicants request waiver of Planning

Board, Planning Board requests recommendation of HCCD, Planning Board acts upon HCCD recommendation.)

### **III-503 EXEMPTIONS**

**III-503.I** A single family dwelling that is not a part of a subdivision of land shall be exempt from these soil erosion and sediment control regulations.

### **III-504 EROSION AND SEDIMENT CONTROL PLAN**

**III-504.I** To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the likelihood of excessive storm water runoff from the proposed site, based on the best available technology. Such principles, methods and practices necessary for certification are found in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981) as amended. Alternative principles, methods and practices may be used with prior approval of the Planning Board.

**III-504.2** Said plan shall contain, but not be limited to:

**III-504.2(a)** A narrative describing:

- (i) the development.
- (ii) the schedule for grading and construction activities including:
  - (1) start and completion date.
  - (2) sequence of grading and construction activities.
  - (3) sequence for installation and/or application of soil erosion and sediment control measures.
  - (4) sequence for final stabilization of the project site.
- (iii) the design criteria for proposed soil erosion and sediment control measures and storm water management facilities.
- (iv) the construction details for proposed soil erosion and sediment control measures and storm water management facilities.
- (v) the installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.
- (vi) the operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.

**III-504.2(b)** A site plan map at a sufficient scale to clearly show:

- (i) the location of the proposed development and adjacent properties:

- (ii) the existing and proposed final topography including soil types, wetlands, watercourses, and water bodies.
- (iii) the existing structures on the project site, if any.
- (iv) the proposed area alterations including cleared, excavated, filled, or graded areas and proposed utilities, roads and, if applicable, new property lines, and the general location of proposed structures and driveways.
- (v) the location of and design details for all proposed soil erosion and sediment control measures and storm water management facilities.
- (vi) the sequence of grading and construction activities.
- (vii) the sequence for installation and/or application of soil erosion and sediment control measures.
- (viii) the sequence for final stabilization of the development site.

**III-504.2(c)** Any other information deemed necessary and appropriate by the applicant or requested by the Planning Board or its designated agent.

### **III-505 MINIMUM ACCEPTABLE STANDARDS**

**III-505.1** Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the planning considerations specified on pages 3-1 to 3-3 of the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended. Soil erosion and sediment control plans shall result in a development that: minimizes erosion and sedimentation during construction; is stabilized and protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.

**III-505.2** The minimum standards for individual measures are those in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended. The Planning Board may grant exceptions when requested by the applicant if technically sound reasons are presented.

**III-505.3** The Soil Conservation Service method as outlined from Appendix 1 of the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Planning Board.

### **III-506 ISSUANCE OF DENIAL OF CERTIFICATION**

**III-506.1** The Planning Board shall either certify that the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of this regulation, or deny certification when the development proposal does not comply with these regulations.

**III-506.2** Prior to certification, any plan submitted to the municipality may be reviewed by Hillsborough County Conservation District which may make recommendations concerning such plan, provided such review shall be completed within thirty days of the receipt of such plan.

**III-506.3** The Planning Board may forward a copy of the development proposal to the Conservation Commission, other review agency or consultant for review and comment.

### **III-507 CONDITIONS RELATING TO SOIL EROSION AND SEDIMENT CONTROL**

**III-507.1** The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, may be covered in a performance bond or other assurance acceptable to the Planning Board.

**III-507.2** Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.

**III-507.3** Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.

**III-507.4** All control measures and facilities shall be maintained in effective condition to ensure the compliance of the certified plan.

### **III-508 INSPECTION**

**III-508.1 Inspections** shall be made by the Planning Board or its designated agent during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Planning Board may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.

## **ARTICLE 6 - PLAT REQUIREMENTS**

### **III-601 COMPLIANCE WITH REGULATIONS**

**III-601.1** No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final plat, prepared in accordance with the requirements of the regulations, has been approved by the Board, and other required permits have been issued.

**III-601.2** The applicant shall familiarize himself with all State and Town regulations relative to the health, buildings, roads and other pertinent data, so that he is aware of the obligations and standards expected.

### **III-602 CHARACTER OF LAND FOR SUBDIVISION**

**III-602.1** All land to be subdivided shall be, in the judgment of the Board, of such character that it can be used for building purposes without danger to public health or safety, or to the environment. Land subject to periodic flooding, poor drainage, or other hazardous conditions, shall not ordinarily be subdivided. Land with inadequate capacity for sanitary sewage disposal shall not be subdivided. Plats for the subdivision of land shall conform to all regulations of the Board, the Zoning Ordinance and the Water Pollution Control Regulations and other applicable bylaws, ordinances and regulations at both State and Local levels.

### **III-603 LOT LAYOUT**

**III-603.1** The layout of lots shall conform to the requirements of the Zoning Ordinance when in force and shall be appropriate for the intended construction.

### **III-604 PRESERVATION OF EXISTING FEATURES**

**III-604.1** Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, historic landmarks, stone walls and other significant features.

### **III-605 SUBMISSION DOCUMENT REQUIREMENTS**

**III-605.1** In all cases, any application submitted shall include the names and addresses of the applicant, all abutters as indicated in the Town records not more than twenty (20) days before the filing, and all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, and shall include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board.

#### **III-605.1(a) Survey Phase**

- (i) Survey Phase plats may be drawn in pencil. Data may be tentative but shall be sufficiently clear to show all site conditions. Maps should be at a scale appropriate to the amount of detail required, but not more than one hundred (100) feet to the inch. Five (5) paper print copies shall be submitted with the application.
- (ii) Survey Phase plat(s) and documents shall include at least the following information:
  - (1) Site survey map showing boundary of subdivision area, topography, streams, existing features and foliage lines, existing roads, structures, adjacent development, and soil type by U.S.S.C.S.
  - (2) Site location map (at scale of municipal base map or official map) showing proposed subdivision in relation to major streets, community facilities, and utilities of the Town.

- (3)** Soils data showing results and locations of percolation tests and test pits undertaken in accordance with the procedures set forth in the following paragraph unless public sewers are to be used.

The Board may require further detailing of information and additional meetings before advising the applicant to proceed with Preliminary Phase design. All material submitted in the Survey Phase will be included with subsequent Preliminary and Final Phases.

- (iii)** Where private individual sewage disposal systems are proposed, the applicant shall perform soils tests with the results to be submitted as part of the Survey Phase and to be included with subsequent submissions of the Preliminary and Final Phases. The applicant shall arrange to perform such tests under the supervision of the New Hampshire Water Supply and Pollution Control Commission and at locations recommended by its agent, providing percolation tests for each proposed lot. Such tests shall meet all requirements established by both State and local authorities. Additional soils tests, after Final Phase approval when lot boundaries are clearly established, may be required.

**III-605.1(b) Preliminary Phase**

- (i)** The Preliminary plat may be drawn in pencil and shall be submitted in five (5) paper print copies. Dimensions may be approximate, the data may be tentative, but shall be sufficiently clear to illustrate all conditions and clarify the design requirements for the subdivision plat. Maps shall be at a scale of not more than 100 feet to the inch. The Preliminary plat(s) shall contain at least the following information:
- d. Name of municipality and subdivision, name and address of the subdivision, name and address of the applicant and designer.
  - e. Names and addresses of abutting property owners, buildings within 100 feet of the parcel to be subdivided, and intersecting streets and driveways within 200 feet of the subdivision, frontage on existing streets.
  - f. Location of all existing and proposed buildings.
  - g. Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lots lines.
  - h. Location of existing and proposed easements, deed restrictions, building setback lines, parks, recreation facilities, conservation trails, and other open space, water courses, large trees, foliage lines and significant natural and man-made features, water mains, sanitary sewers, storm water drainage lines, drainage structures and drainage ways.
  - i. Existing and proposed plans for telephone, electricity, and gas utilities.
  - j. Boundaries of Zoning Districts lying within the subdivision, municipal boundary if any, land use designation per zoning, and soil type certification by Hillsborough County Soil Conservation District.
  - k. A general site location map at the scale of the Official Map or municipal base map, locating exactly the subdivision boundary and proposed streets in relation to at least two existing intersecting streets or other features shown on the Official Map.
  - l. A statement of conditions of land as to suitability for residential developments.



- m. A statement of the work required on existing streets to meet the minimum standards.
- n. A statement and contours in sufficient detail to clearly indicate the method of storm water drainage on and off the subdivision.
- o. Methods of sanitary sewage disposal and water supply.
- p. Soils data shall be required and certified by Hillsborough County Soil Conservation District.
- q. Watershed areas and drainage computations.
- r. Preliminary street profiles, including cross sections.
- s. Approval, as prescribed by law, from any other municipal, State, or Federal agency which may have jurisdiction.
- t. Location of fire ponds, if any.
- u. Access for fire fighting apparatus.

**III-605.1(c) Final Phase**

**(i)** The Final plat shall be in permanent black ink, on a permanent reproducible linen or polyester film (mylar). It shall be filed together with five (5) blue (black) line prints on paper. Sheet sizes shall be in accordance with requirements of the Registrar of Deeds, Hillsborough County. Space shall be reserved on the plat for endorsement by all appropriate agencies. The subdivision plat shall be consistent with the approved Preliminary Phase.

**(ii)** The plat shall contain the following statement:

"The Subdivision Regulations of the Town of Mont Vernon are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board and attached hereto," in addition to at least the following information:

- 1 All data required for Preliminary Phase submission.
- 2 Name and seal of the engineer or land surveyor registered with the State of New Hampshire.
- 3 Final disposition of land into lots, streets, open spaces, drainage courses and any easements running with the land.
- 4 The subdivision plat shall be based on a boundary survey with a maximum error of closure of 1 in 10,000 certified by an engineer or surveyor registered with the State of New Hampshire, distances shall be to the nearest 100th of a foot and bearings to the nearest 10 seconds.
- 5 Stations, radii, curve data and paving widths for proposed streets.
- 6 Lot dimensions, areas in square feet and acres, consecutive numbering of lots.
- 7 Accurate locations of all easements, either on or off the site.
- 8 A written acknowledgment of the applicant's responsibility for maintenance, and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town.
- 9 Names of proposed streets as approved by the Selectmen.

- 10 Accurate locations of all monuments to be set at street intersections, points of curvature and tangency of curved streets and at angles of lots.
- 11 Existing and proposed contours at five (5) foot intervals.
- 12 Existing and proposed plans for telephone, electricity, and gas utilities.
- 13 Proposed methods of sanitary sewerage and computations therefor.
- 14 Proposed storm drainage accompanied by a drainage analysis map and computations for the entire watershed area.
- 15 Methods of supplying water.
- 16 Final street profiles.

**(iii)** If the subdivision abuts a state highway, or if a proposed street intersects a State highway, a written statement from the New Hampshire Department of Transportation and approving any proposed driveway or street access with such State highway. If a subdivision is to be served by public water supply or by public sewers, a statement from the municipal department or company involved, attesting to the availability of such service.

**(iv)** The Final plat shall contain a volume and page reference sufficient to indicate the subdivider's derivation of title in the event only one parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots is situated with reference to the assembled tracts. All lots shall be numbered so as to coincide with the Town of Mont Vernon Tax Map numbers by parent tract numbers.

**(v)** No approved lot shall be conveyed, nor shall a building permit be issued until all angles of the boundaries of such lots are marked by boundary markers of granite. Offset markers may be used where natural or historical obstructions require.

**(vi)** The markers must be certified as set as specified on the Final plat by registered land surveyor.

**(vii)** The Final plat shall be submitted to the Planning Board in a **.dxf** and **.DWG** format. *(Adopted 5-12-1998)*

**(viii)** All subdivisions that have four or more lots shall be recorded and tied into **NAD 83** State Plane Coordinates, using two valid points on the property lines. *(Adopted 5-12-1998)*

### **III-605.2 Legal Data Required**

**III-605.2(a)** When applicable to a specific subdivision, the following are required, in form and substance as approved by the Town Counsel prior to approval of a subdivision plat:

- (iv) Agreement to convey to the Town land to be used for streets and other public purposes, with transfer of title to such interests to be effective on such date as the Town accepts such land.
- (v) Covenants which shall include a definitive statement of the method of ownership of the common land be equitably apportioned to individual owners for his/her lot/unit and common land.
- (vi) Covenants permanently restricting the common land or open space from any future subdivision.
- (vii) Easements and rights-of-way over property to remain in private ownership.
- (viii) Rights to drain onto or across other property, whether public or private, including a street.

**III-605.2(b)** Deeds covering any land to be used for public purposes, easements, rights-of-way over property to remain in private ownership, right to drain onto or across private property shall be submitted to and approved by the Board of Selectmen with the approval of Town Counsel, the Road Commission, and/or any other appropriate agency.

**III-605.2(c)** All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to Town Counsel as part of the Final Phase.

## **ARTICLE 7 -IMPROVEMENT CONSTRUCTION REQUIREMENTS**

**III-701** The following improvements shall be installed and constructed by the Applicant to the satisfaction of the Selectmen and under their supervision, before submission of the final plat, or the Subdivider shall file a bond to make other suitable arrangements as contained in III-605, prior to approval of the final plat.

**III-702** Temporary stakes along the centerlines of streets shall be driven in the ground to facilitate inspection.

~~**III-703** Monuments of concrete or stone at least four (4) inches on the top and at least thirty-six (36) inches long shall be set at all block corners and at all lot corners. Top of monument must be at least six (6) inches above ground level, but not more than twelve (12) inches above ground level. Monuments of the same description shall be placed on all street right-of-way corners, and at least every five hundred (500) feet along the right-of-way on both sides of the right-of-way. Two (2) opposite ends of the subdivisions whose tops are at an even foot in reference to the U.S.G.S. Datum Plan where practical, or to an assumed Datum where the preceding is not feasible. (Repealed 9/23/08)~~

~~**III-704** The street shall be constructed in accordance with the following specifications. Right-of-way and pavement widths requirements may be reduced or enlarged by the Planning Board. (Repealed 9/23/08)~~

~~III-704.1 (a) Streets over 600 feet shall be paved to a width of at least 22 feet wide with a four-(4) foot shoulder on each side of the paved section before tapering off at a 4:1 slope to width line. (Repealed 9/23/08)~~

~~III-704.1 (b) Streets 600 feet and under shall be paved to a width of at least 20 feet wide with a four-(4) foot shoulder on each side of the paved section before tapering off at a 4:1 slope to width line. (Repealed 9/23/08)~~

~~III-704.1 (c) All connector roads regardless of their length shall be paved to a width of at least 24 feet wide with a four-(4) foot shoulder on each side of the paved section before tapering off at a 4:1 slope to width line. (Repealed 9/23/08)~~

~~III-704.2 The street shall be constructed in accordance with the "Typical Cross Section", on file at the Selectmen's Office, and the following specifications: (Repealed 9/23/08)~~

~~III-704.2(a) Removal of all loam, mulch, stumps and other improper street foundation material within the limits of the right-of-way. In embankment areas suitable foundation material shall be placed on one (1) foot layers and compacted to form a stable subgrade. (Repealed 9/23/08)~~

~~III-704.2(b) Ledge and boulders shall be removed to at least eight (8) inches below subgrade and replaced with sand or bank run gravel. (Repealed 9/23/08)~~

~~III-704.2(c) Proper drainage shall be installed subject to the approval of the Selectmen and the Road Agent. Natural watercourses shall be cleaned and increased in size where necessary to take care of storm run-off. Drainage ditches at least eighteen (18) inches in depth at its midpoint below center line grade shall be constructed at the street right-of-way on both sides of the roadway and so designed as to provide for the proper flow of storm run-off. Culvert pipes consisting of either reinforced concrete or metal, having a minimum size of eighteen (18) inches in diameter, shall be placed with a minimum of eighteen (18) inches of cover to final grade. Culverts in embankments over fifteen (15) feet high shall be of reinforced concrete pipe of the proper class. (Repealed 9/23/08)~~

~~III-704.2(d) Base course gravel shall consist of a minimum of twelve (12) inches of compacted bank run gravel, free from loam or organic matter. Twenty-five per cent (25%) to seventy per cent (70%) shall pass a No. 4 sieve and not more than twelve per cent (12%) of the material passing the No. 4 sieve shall pass the No.200 sieve. No stones or rock fragments will be permitted which cannot be incorporated in a six-(6) inch layer. The base course shall be compacted and graded to proper shape before crushed gravel is placed. (Repealed 9/23/08)~~

~~III-704.2(e) Finish course gravel shall consist of four (4) inches of crushed gravel complying with **Table III-704.2(e)**. (Repealed 9/23/08)~~

**TABLE III-704.2(e)-CRUSHED GRAVEL GRADING REQUIREMENTS**

<b>SIEVE SIZE</b>	<b>% BY WEIGHT PASSING</b>
3"	100
2"	95-100
1"	55-85
No. 4	27-52
No. 200	0-12% passing No. 4

~~**III-704.2(f)** Pavements shall consist of three (3) inches of hot bituminous pavement, applied in two (2) courses, a two (2) inch base course and a one (1) inch wearing course. The pavement shall be applied by an approved paving contractor in accordance with the State of New Hampshire Standard Specifications for Road and Bridge Construction most recent edition. *(Repealed 9/23/08)*~~

~~**III-704.3** The street shall be graded to the final grade in accordance with the profile and cross section submitted. *(Repealed 9/23/08)*~~

~~**III-704.4** Before final inspection, the developer shall remove all trash from the right-of-way and the center of the turn around and shall repair any damage done to the street, shoulders, etc. Inspections, samples and core test may be taken by the Town of Mont Vernon before final acceptance. *(Repealed 9/23/08)*~~

**III-705 STREET CONSTRUCTION (Public and Private)** Applicants shall ensure that the roadway, drainage facilities, and all other elements of the roadway are constructed under the supervision and the approval of the Board of Selectmen, or designated representatives and in compliance with the NHDOT *Standard Specifications for Road and Bridge Construction*. Before final inspection, the developer shall remove all trash from the right-of-way and shall repair any damage done to the street, shoulders, etc. Inspections, samples and core test may be taken by the Town before final acceptance. *(Adopted 9/23/08)*

**III-705.1** Street Width: Street shall be paved to a minimum width of at least 20' and will have 4' gravel shoulders on both sides. *(Adopted 9/23/08)*

**III-705.2** Clearing and Grubbing: The entire area of each roadway shall be cleared and grubbed of all stumps, brush, roots, boulders, like materials and all trees not intended for preservation, and shall not be used for fill or buried on site. Clearing and grubbing shall conform to Section 201 of the State Specifications. *(Adopted 9/23/08)*

**III-705.3** Subgrade Preparation: All loam, humas, soft clay, and other yielding material shall be removed from within the limits of the roadway area to a depth of no less than twenty-four inches (24") below the subgrade grade and/or to a depth that may be required by the Town Engineer. Ledge occurring anywhere in the full cross-section of the roadway must be cleared to a minimum depth of twenty-four inches (24") below the finished surface. Ledge occurring in pipe trenches must be cleared so as to have

a gravel cushion at least twelve inches (12") below and on both sides of the pipe. *(Adopted 9/23/08)*

**III-705.4 Base Course:** The road base course shall be of materials, and at least the widths and thickness, indicated in Figure 1. Crushed gravel shall conform to Pay Item 302.3 in State Specification Section 304. Gravel shall conform to Pay Item 304.2 in State Specification Section 304, except that the maximum size stone shall be three inches (3"). All other provisions of State Specification Section 204 are part of these standards. *(Adopted 9/23/08)*

**III-705.5 Storm Drainage:** The proposed development shall provide for proper surface drainage so that removal of surface waters will not adversely affect any neighboring properties or the public storm water system and will help reduce flooding, erosion, and sedimentation. The drainage system shall be designed so that the post-development runoff rate does not exceed the pre-development runoff rate. No surface water runoff shall be permitted to run across the roadway but shall be controlled and directed in a system of catch basins, pipes, swales, drainage ways, culverts, or channels to a natural watercourse or existing drainage structures. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided an easement conforming to the lines of such watercourse. When a proposed drainage system will result in water encroaching on land outside a subdivision, appropriate drainage rights must be secured and indicated on the plan. Where the Board of Selectman determines that the existing downstream, offsite drainage system is substandard, the Planning Board may require the Applicant to improve the drainage system. Construction shall be in accordance with State Specification 603, 604, and 605, and State Plans Standard DR-1, DR-2, DR-3, DR-4, and DR-5. *(Adopted 9/23/08)*

**III-705.5(a) Drainage Swale:** Drainage swales shall be a minimum of eighteen inches (18") in depth at its midpoint below center line grade shall be constructed in the street right-of-way on both sides of the roadway and so designed as to provide for the proper flow of storm run-off. *(Adopted 9/23/08)*

**III-705.5(b) Bridge:** Bridges as defined by the State Law (RSA 234:2), are structures of ten feet (10') or greater in clear span and shall be designed to MS-18 (HS-20) loading (AASHTO Specifications). The minimum roadway width shall be twenty-four feet (24'). Bridges shall be designed by a professional engineer and constructed in accordance with that design. *(Adopted 9/23/08)*

**III-705.5(c) Roadway Culverts:** Roadway culverts will be a minimum of eighteen inches (18") in diameter and so designed as to provide for the proper flow of storm run-off. Material may be new smooth bore corrugated polyethylene pipe (preferred) or new reinforced concrete pipe meeting NHDOT specifications. The minimum depth of cover for a culver shall be thirty-six inches (36") of cover from top of pipe to finished grade. Bedding shall be three-quarter inch (3/4") crushed stone. Bedding shall be a minimum six inches (6") depth in earth and twelve inches (12") in bedrock. Culverts shall be installed with a compatible flared end

section firmly attached to the pipe barrel, constructed in accordance with NHDOT specifications. *(Adopted 9/23/08)*

**III-705.5(d) Driveway Culverts:** The location, length, size, bedding, and backfill of all driveway culverts shall be approved by the Road Department prior to construction. Driveway culverts shall be located a minimum of eight feet (8') off the edge of the roadway pavement. In general, driveway culverts placed in the right-of-way's drainage swale shall be a minimum of eighteen inches (18") in diameter and so designed as to provide for the proper flow of storm run-off. Material may be new smooth bore corrugated polyethylene pipe (preferred) or new reinforced concrete pipe meeting NHDOT specifications. Culverts shall be installed with a compatible flared end section firmly attached to the pipe barrel, constructed in accordance with NHDOT specifications. *(Adopted 9/23/08)*

**III-705.6 Utilities:** Utility lines within all major subdivisions (three or more lots) shall be underground service and the cost of such installations shall be bonded in the same manner as roads. Utility poles, lines, and appurtenances shall be kept close to the right-of-way line and in no case closer than the road drainage swales. *(Adopted 9/23/08)*

**III-705.7 Asphalt Surface:** Where designated in Figure 1, "Asphalt Surface Treated" surfaces shall be a two-layer Bituminous Surface Treatment in accordance with State Specification Section 410. "Hot Mix" surfaces shall be Hot Bituminous Pavement in accordance with State Specifications Section 403. Widths and thicknesses shall be at least as indicated in Figure 1. *(Adopted 9/23/08)*

**III-705.7 Gravel Shoulders:** Gravel shoulders, and their base course, shall be at least the depths, widths, and thickness indicated in Figure 1. Gravel shall conform to State Specification Section 304.33. All other provisions of State Specification Section 304 are part of these standards. *(Adopted 9/23/08)*

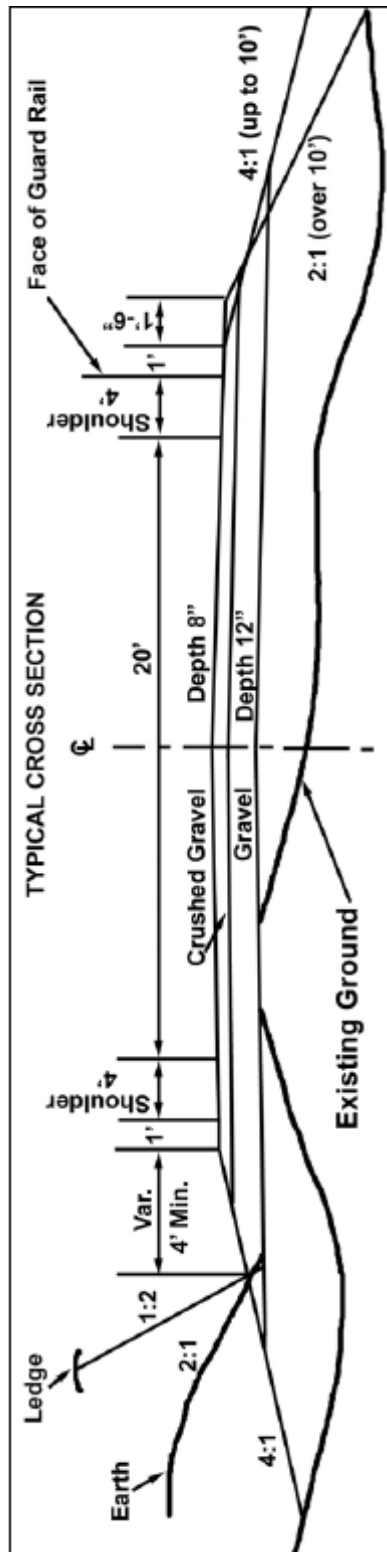
Table 1

<b>Street Geometric Design Standards</b>	
Right –of-Way Width	50 feet
Minimum Grade	1 %
Maximum Grade	10 %
Maximum Grade within 100 feet of an Intersection	2 %
Minimum Angle of Intersection	75°
Minimum Centerline Radii	200 feet
Minimum Angle of Intersection	75°
Rate of Super Elevation (AASHTO Chart)	0.04 feet
Rate of Super Elevation through an Intersection	0.04 feet
Pavement Width	20 feet
Cross Slope of Pavement (Minimum)	2 %
Shoulder Width	4 feet
Cross Slope of Shoulder (Minimum)	5 %
Centerline of Roadway to Drainage Swale	18 feet
Wearing Surface Type (see note 2)	Hot Mix Asphalt
Wearing Surface Thickness	1-1/2"
Wearing Surface Specification	Type C
Pavement Base Thickness	3"
Pavement Base Specification	Type F
Crushed Gravel Thickness	8"
Crushed Gravel Specification (see note 4)	NHDOT 304.3
Gravel Thickness	12"
Gravel Specification (see note 4)	NHDOT 304.3

- Notes:
1. For average daily traffic over 1,000 vehicles/day, paved shoulders should be considered.
  2. Gravel surfaces should be paved where steep grades occur.
  3. "Type" is defined in Section 401 of NHDOT *Standard Specifications for Road and Bridge Construction*.
  4. "NHDOT 304.3" is defined in Section 304 of NHDOT *Standard Specifications for Road and Bridge Construction*.
  5. Gravel base course thickness should be increased in areas of poor soil.



Figure 1  
Typical Street Cross Section



**ARTICLE 8 -ADMINISTRATION AND ENFORCEMENT**

**III-801** Where the approval of the Planning Board is a necessary pre-requisite for recording of any plat, not covered under these regulations, the Planning Board Chairman and Secretary jointly are hereby empowered to certify that the plat complies with the requirements of these regulations.

**III-802 VARIANCES**

**III-802.1** Where strict conformity to the Subdivision Regulations would cause undue hardship or injustice to the owner of the land, a subdivision substantially in conformity with the Subdivision Regulations may be approved by the Board, provided that the spirit of the Subdivision Regulations and public convenience and welfare will not be adversely affected.

**III-803 AMENDMENTS**

**III-803.1** These regulations may be amended or rescinded by the Board, but only following a public hearing on the proposed change. The Chairman or Secretary of the Board shall transmit a record of any changes so authorized to the Registry of Deeds of Hillsborough County.

**III-804 PENALTY**

**III-804.1** Whoever, being the owner, or agent of the owner of any land located within a subdivision, transfer or sells any land by reference to, or exhibition of, or by other use of, a plat of a subdivision, before such plat has been approved by the Planning Board and recorded or filed in the office of the appropriate Register of Deeds shall forfeit and pay a penalty of one hundred dollars (\$100.00) for each lot or parcel which is transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring Town, through its solicitor or other official designated by its Selectmen, may enjoin such transfer or sale or agreement and may recover the said penalty by civil action.

**III-805 SEPARABILITY**

**III-805.1** If any section, provision, portion, clause, or phrase of these regulations shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair, or invalidate any other section, clause, provision, portion, or phrase of this Ordinance.

**ARTICLE 9 – SPECIAL FLOOD HAZARD AREAS**

**III-901** For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

**III-901.1.** The Planning Board shall review the proposed development 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.

**III-901.2.** The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e., floodplain boundary and 100-year flood elevation).

**III-901.3** The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading, and land treatment plans) so as to allow a determination that:  
all such proposals are consistent with the need to minimize flood damage.  
all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,  
adequate drainage is provided so as to reduce exposure to flood hazards.

**CHAPTER IV**

**NON-RESIDENTIAL SITE PLAN REVIEW REGULATIONS  
TOWN OF MONT VERNON, NEW HAMPSHIRE**

**ARTICLE 1-AUTHORITY**

**IV-101** Pursuant to the authority vested in the Mont Vernon Planning Board by the voters of the Town of Mont Vernon in accordance with the provisions of 674:43, 44, I, II; and 675:8 New Hampshire Revised Statutes Annotated, as amended in the laws of 1983, the Mont Vernon Planning Board adopts the following rules governing the review of non-residential site plans in the Town of Mont Vernon, New Hampshire. These rules shall be entitled "Non-Residential Site Plan Review Regulations, Town of Mont Vernon, New Hampshire".

**ARTICLE 2-SUBMISSION ITEMS; SITE DEVELOPMENT PLAN AND SUPPORTING DATA**

**IV-201** Prior to the submission of the site development plan the applicant will submit a preliminary sketch showing any preliminary information he desires to the Planning Board for discussion purposes only. On formal submission of the site development plan, the applicant shall submit three (3) sets of site plan maps and supporting data to the Planning Board which shall include the following information:

#### **IV-201.1 Existing Data and Information**

**IV-201.1(a)** Location of site, names and addresses of owners of record and abutting landowners.

**IV-201.1(b)** Name and address of persons or firms preparing the map, the scale of the map (1"= 40' suggested), north arrow and date. Such map shall be prepared by a registered land surveyor or registered professional engineer. Name and address of persons or firms preparing other data and information, if different from the preparer of the map.

**IV-201.1(c)** The boundary lines of the area included in the site, including angles or bearings of the lines, dimensions, and the lot area.

**IV-201.1(d)** The existing grades, drainage systems, structures and topographic contours at intervals not exceeding 2-feet with spot elevations where grade is less than 5%, otherwise not exceeding 5-foot contour intervals.

**IV-201.1(e)** The shape, size, height, and location of existing structures located on the site and within 200-feet of the site.

**IV-201.1(f)** Natural features such as streams, marshes, lakes or ponds. Manmade features such as, but not limited to, existing roads and structures. Such map shall indicate which of such features are to be retained and which are to be removed or altered.

**IV-201.1(g)** Use of abutting properties shall be identified with approximate location of the structures thereon including access roads.

**IV-201.1(h)** The size and location of all existing public and private utilities and all existing landscaping. This shall include the location and size of existing public utilities that are located off-site with which connection is planned or located within 100-feet of the site.

**IV-201.1(i)** A vicinity sketch (suggested scale 1"=500') showing the location of the site in relation to the surrounding public street system. The zoning districts and boundaries for the site and within 1,000-feet of the site shall be shown.

**IV-201.1(j)** The Final plat shall be submitted to the Planning Board in a **.dxf** and **.DWG** format. *[Adopted 5-12-98]*

**IV-201.1(k)** All non-residential site plans shall be recorded and tied into NAD 83 State Plane Coordinates, using two valid points on the property lines. *[Adopted 5-12-98]*

**IV-201.2 Proposed Plan and Information**

**IV-201.2(a)** The proposed grades, drainage systems, structures and topographic contours at intervals not exceeding 2-feet with spot elevations where grade is less than 5%, otherwise not exceeding a 5-foot contour interval. One-hundred-year flood elevation line(s), where applicable, shall be included.

**IV-201.2(b)** The shape, size, height, and location of the proposed structures including expansion of existing buildings.

**IV-201.2(c)** Proposed streets, driveways, parking spaces, sidewalks, with indication of direction of travel for one-way streets and drives and inside radii of all curves. The width of streets, driveways and sidewalks and the total number of parking spaces shall be shown. In addition, loading spaces and facilities associated with the structures on the site shall be shown.

**IV-201.2(d)** The size and location of all proposed public and private utilities.

**IV-201.2(e)** the location, types and size of all proposed landscaping and screening.

**IV-201.2(f)** Exterior lighting plan and proposed signs to be located on the site.

**IV-201.2(g)** A storm drainage plan including plans for retention and slow release of storm water where necessary and plans for snow removal and storage.

**IV-201.2(h)** A circulation plan of the interior of the lot showing provisions for both auto and pedestrian circulation. An access plan showing means of access to the site and proposed changes to existing public streets including any traffic control devices necessary in conjunction with the site development plan.

**IV-201.2(i)** Construction drawings including but not limited to pavements, walks, steps, curbing, and drainage structures.

**IV-201.3 Additional Information**

**IV-201.3(a)** The Planning Board may require such additional other information as it deems necessary in order to apply the regulations contained herein.

**ARTICLE 3-DESIGN AND CONSTRUCTION REQUIREMENTS**

**IV-301** All design and construction standards shall refer to the items shown and presented on the Proposed Plan and Information.

**IV-301.1** Traffic access to the site from the town streets shall ensure the safety of vehicles and pedestrians.

**IV-301.2** Improvement to existing streets shall include signal devices, if necessary, because of increased traffic generated by the development.

**IV-301.3** Circulation (vehicle and pedestrian) and parking including loading facilities shall be designed to ensure the safety of vehicles and pedestrians on the site.

**IV-301.4** Landscaping and screening shall be provided with regard to adjacent properties, the public highway and within the site including interior landscaping of large parking areas (over 3 double rows). Seventy-five (75%) percent of all stumpages in "buffer zones", excepting access roads, shall remain intact.

**IV-301.5** Storm drainage of the site shall be designed for a 25-year flood and if the existing drainage system to which the site drainage system will be connected, is inadequate, provisions shall be made for retention and gradual release of storm water in order to meet the 25-year flood demand.

**IV-301.6** Provision shall be made for snow storage during winter months.

**IV-301.7** Provision shall be made for the site to be serviced by necessary utilities which may include water for fire and domestic use, sanitary sewer, electrical and gas.

**IV-301.8** Provision shall be made for adequate and consistent in appearance outdoor lighting.

**IV-301.9** Provision shall be made for protection of natural features.

**IV-301.10** All developments shall meet the standards and requirements included in the town zoning ordinance and subdivision regulations including, but not limited to, parking, off-street loading, landscaping, signs, location of driveways, erosion, screened service area and exterior lighting.

## **IV-302 SIGNS**

The purpose of this section is to provide for a reasonable uniformity in the site and treatment of signs used to call attention to the existence of a business. The Town does not want such signs to detract from the overall rural character which the Town, through its Master Plan, wants to maintain. This determination will be made by the Planning Board.

**IV-302.1** In the LC Zone a permit is required for signs. On any one lot there may be no more than one (1) common sign identifying a business, a shopping center, or similar group of businesses. Also permitted on the same lot is one (1) sign on the building for each business. The total square footage of sign for each business shall not exceed thirty (30) square feet. No single sign shall exceed thirty (30) square feet.

**IV-302.2** No sign in the LC Zone shall have a height exceeding fifteen (15) feet from ground level to the top of the sign.

- IV-302.3** Only "directory" signs shall be permitted on Route 13, and these must be located at the entrance of the access road. No other signs will be permitted on Route 13. The width of the directory sign shall not be greater than eight (8) feet. Lettering must be uniform in appearance on all directory signs - a single line of block letters, six (6) inches high.
- IV-302.4** Signs shall be constructed and/or maintained in such a way that they do not endanger traffic by obstructing the view of the highway, street, or intersections.
- IV-302.5** Each sign shall be constructed of durable material and shall be maintained in a high state of repair at all times.
- IV-302.6** Only signs advertising an establishment in the Town of Mont Vernon and the general nature of the business or services rendered, shall be permitted.
- IV-302.7** Only permanent signs to advertise a place of business are permitted. The use of movable signs is prohibited. No "Bulletin Board" signs shall be permitted.
- IV-302.8** No neon or tubular signs, flashing, internally lighted, or revolving signs shall be permitted in any district. Signs may be lighted externally. Such lighting shall be shielded so as not to present a hazard to automotive traffic. Individual business signs shall be lighted only during the hours when the establishment is open for business. Directory signs may be lighted 24-hours a day.
- IV-302.9** No sign shall project over any street or sidewalk line.
- IV-302.10** Signs offering property for sale or rent are permitted. No sign advertising property "sold" shall be permitted.
- IV-302.11** Signs shall only be placed on the lot on which the use or establishment being advertised by the sign is being conducted. No sign shall be placed on the highway right-of-way.
- IV-302.12** All signs to be installed in the Town of Mont Vernon shall be reviewed by the Board and approved before a sign permit may be issued. Review shall be done to ensure that the signs preserve and enhance the character of the Town and still serve the needs of the merchants to identify their businesses.
- IV-302.13** The applicant shall adhere to the Town's sign regulations as part of the contractual agreement with his/her tenants. The responsibility for policing the tenants then becomes the responsibility of the applicant.
- IV-302.14** The applicant shall agree in writing that no special attention-getting devices such as pennant strings of flags other than the U.S. or State flags, will appear on any land or building.

**IV-303** Construction requirements shall be in accordance with Standard Specifications for Road and Bridge Construction as published by the State of New Hampshire Department of Transportation provided that alternative provisions may be considered by the Planning Board if submitted by the developer.

**IV-304** Provision shall be made to assure that the proposal is consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical, and water systems are constructed, and that adequate drainage is provided so as to reduce exposure to flood hazards. Design provisions shall also be made to minimize or eliminate infiltration of floodwaters in to new or replacement water supply systems and/or sanitary sewage systems and discharges from these systems into flood waters. On site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding.

#### **ARTICLE 4-OCCUPANCY AND BONDING**

**IV-401** The Planning Board may require a performance bond before any work commences on a development for that portion of the development that, if not properly completed, will have an adverse effect on adjoining property or has a potential for erosion. The steps for issuing and releasing a performance bond shall be the same as required in the subdivision regulations including but not limited to, determining the amount, sufficiency, term and form of the bond. No development may be occupied or used unless a certificate of occupancy has been issued by the Building Inspector. The Building Inspector shall not issue such certificate of occupancy until these regulations have been complied with and the improvements made, or a performance bond provided to the town for unfinished improvements.

#### **ARTICLE 5-DEFINITIONS**

**IV-501** The Glossary included with these regulations as **Appendix A**, is incorporated here by reference.

#### **ARTICLE 6-PROCEDURE FOR PLANNING BOARD REVIEW**

##### **IV-601 Preliminary Consultation and Review**

**IV-601.I** All prospective applicants for Non-Residential Site Review shall request a preliminary consultation and review with the Board for the purpose of discussing the basic concept of the proposal and to assist in the resolving of problems which may arise with the applicant's meeting the requirements for final consideration. Any such consultation and review shall be understood to be preliminary in nature and shall not bind either the applicant or the Board. It is to the advantage of the applicant and the Town to jointly consider the proposed use so as to achieve the objectives of the Town's Master Plan as well as to satisfy the requirements of these Regulations and the Zoning Ordinance of the Town of Mont Vernon.



**IV-601.2** Such consultation and review shall occur only at a duly noticed public meeting of the Board.

**IV-601.3** A written request for such consultation and review shall be submitted by the applicant no less than fifteen (15) days prior to the date of the meeting at which the proposal is to be discussed.

**IV-601.4** The applicant shall provide along with such written request, the following, so as to allow the Board to become familiar with the applicant's proposal:

**IV-601.4(a)** a written description of the proposed permitted use.

**IV-601.4(b)** a conceptual plan or sketch map of the proposed use. Said plan or map need not conform to any of the requirements for final plan, however, it should include sufficient detail so as to be useful for discussion purposes.

**IV-601.4(c)** such other information as the applicant deems necessary to convey the intent and purpose of said (proposed) permitted use.

**IV-601.5** The Board in conducting such preliminary consultation and review shall act in an advisory capacity and discussion shall be limited to the appropriateness of the use as proposed. The Board may request such additional information as may be necessary to allow further consideration of the proposal in the form of a completed final application.

**IV-601.6** The Board shall record in the minutes of the meeting of the preliminary consultation any modifications which it will require in the applicant's proposal, a listing of such additional information that it shall require for further consideration of the proposal, or any reason for disapproving the plan as proposed. A copy of this record will be available.

#### **IV-602 Final Application**

**IV-602.1** A final written application for approval of a use requiring Non-residential Site Review shall be filed with the Planning Board by the owner of the property upon which the use is proposed, or his authorized agent.

**IV-602.2** Such application shall be filed not less than fifteen (15) days prior to the date of duly noticed public meeting of the Board at which the application is to be formally submitted.

**IV-602.3** The application shall be accompanied by all required submission materials as herein defined in these Regulations.

**IV-602.4** The application shall include those items specified in **IV-603.1** of these Regulations as being necessary to allow the Board to fulfill the notification requirements of these Regulations.

### **IV-603 Notification Requirements**

**IV-603.1** The applicant shall provide the following:

**IV-603.1(a)** a list of the names and addresses of all abutters as indicated in the Town records not more than five (5) days prior to the date of filing and all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, including the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board.

**IV-603.1(b)** fee in proper form, as payment in advance for the costs of notifying abutters, all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board, and the public pursuant to these Regulations.

**IV-603.2** The Board shall, upon receipt of a request for final approval, notify the applicant and all abutters, holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 47:45, every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board by certified or registered mail, return receipt requested, as to the time, date, place and purpose of the meeting at which said request or application shall be submitted and discussed by the Board. Such notification shall be mailed no less than ten (10) days prior to the date of the public meeting and shall identify the applicant as well as describe the location and general nature of the proposal.

### **IV-604 Public Hearing**

**IV-604.1** Within thirty (30) days of the date of the meeting at which a completed final application for approval of a use requiring Non-Residential Site Review is formally submitted to and accepted by the Board, the Board shall hold a public hearing on said application.

**IV-604.2** Notice of such public hearing shall be given in accordance with the provisions of Section IV-603.2 of these Regulations.

**IV-604.3** Notice of such public hearing shall also be published in a newspaper having generally circulation within the Town no less than five (5) days prior to the date of the hearing. Notice shall also be posted in at least two (2) public places within the Town.

**IV-604.4** If notice of the public hearing has been included in any prior notice, additional notice by mail shall not be required; however, notice shall be published as specified in **IV-604.3** and shall be posted in at least two (2) public places.

#### **IV-605 Review Procedures**

**IV-605.1** Within ninety (90) days of the date of the public meeting at which the Board accepts the application, the Board shall make a decision approving or disapproving the application. The review period may be extended by mutual consent.

**IV-605.2** The Board may approve the application and grant the use provided that all of the requirements set forth in these Regulations and the Zoning Ordinance shall be satisfied. Any other information requested and deemed necessary by the Board shall also be reviewed.

**IV-605.3** In those cases where it is proposed to convert a building or structure originally built or designed for other purposes, the Board in conjunction with the Building Inspector shall determine whether such building is adaptable to the proposed use from the point of view of the public health and safety as well as conformance with the requirements of these Regulations and the Zoning Ordinance of the Town of Mont Vernon.

**IV-605.4(a)** The Board shall attach such conditions to the approval of an application as are, in its opinion, necessary to assure initial and continued compliance with all applicable standards and requirements of these Regulations and to ensure that the purpose and intent of these Regulations and the Zoning Ordinance are fulfilled.

#### **IV-605.5 Notice of Decision**

**IV-605.5(a)** Notice of the Planning Board's decision shall be recorded in the minutes of the meeting at which such was taken, and shall be forwarded to the applicant and shall include:

(i) a statement of the decision approving or disapproving the application, giving reasons for disapproval.

(ii) a statement of any conditions or limitations which shall be attached to the approval of the application.

#### **ARTICLE 7-CONCURRENT AND JOINT HEARINGS**

**IV-701** The Planning Board may hold a hearing on site plan review in conjunction with a subdivision hearing if both are required for a project. A hearing for site plan review by the Planning Board may be held at the same time and place that a hearing for a special exception is held for the project by the Board of Adjustment.

**ARTICLE 8 WAIVER PROCEDURE**

**IV-801** When a proposed site plan is submitted for approval with regard to an expansion of an existing use, to a new use on a lot containing less than 40,000 square feet in area, the applicant may submit a proposed site plan and request the Planning Board to waive specific requirements for the plan and supporting data. The Planning Board may agree to such requests provided that the Board has determined that such waiver of any requirement will not affect the purpose and intent of these Regulations. This shall not apply to design and construction standards.

**ARTICLE 9 ADMINISTRATION AND ENFORCEMENT**

**IV-901** The Building Inspector shall make periodic inspections of all permitted uses to determine if said uses are in conformance with these Regulations and the approved plan, including such standards and conditions as may apply. In the event of any non-conformance, the Building Inspector shall certify, in writing, to the Board of Selectmen and the permit holder, the specific non-conforming condition(s) that exist. Such notice shall be mailed to the permit holder by certified or registered mail, return receipt requested. If, within thirty (30) days of the receipt of such notice by the permit holder, said non-conforming condition(s) are not corrected to the terms of the approved plan, the Selectmen shall notify the landowner by mail, return receipt requested, that the approved application is revoked and the permitted use shall cease and desist until such time as the owner of record shall obtain valid approval for said use, pursuant to these Regulations.

**IV-902** The penalty of violations within the Limited Commercial District shall be One Hundred Dollars (\$100) per day, beginning upon receipt of notification of said violation and ending when the violation has been inspected and noted as corrected by the Building Inspector.

**ARTICLE 10 TELECOMMUNICATIONS FACILITY SITE REQUIREMENTS**

*(Telecommunications Facility Site ordinance adopted March 10, 1998)*

**IV-1001 GENERAL**

**IV-1001.1** In reviewing and approving the site plan, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse impact of the proposed tower or antenna on adjoining properties and preserve the intent of this ordinance. The following factors are to be considered when reviewing the application:

**IV-1001.1(a)** Height of proposed tower or other structure

**IV-1001.1(b)** Proximity of tower to residential development or zones and schools

**IV-1001.1(c)** Nature of uses on adjacent and nearby properties

**IV-1001.1(d)** Impact on identified historic resources

**IV-1001.1(e)** Surrounding topography

**IV-1001.1(f)** Surrounding tree cover and foliage

**IV-1001.1(g)** Design of the tower, with reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness

**IV-1001.1(h)** Proposed ingress and egress to the site

**IV-1001.1(i)** Availability of suitable existing towers and other structures as discussed in Section **I-306** of the Zoning Ordinance

**IV-1001.1(j)** Visual impacts on viewsheds, ridgelines, open fields and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures

**IV-1001.1(k)** Availability of alternative tower structures and alternative siting locations

**IV-1001.1(l)** New towers shall reserve space for municipal emergency communications equipment as necessary.

#### **IV-1002 Submission Requirements for Telecommunication Facilities**

**IV-1002.1** Each applicant requesting Site Plan review and approval for a telecommunication facility shall submit a plan in accordance with the requirements of the Zoning Ordinance and the Non-Residential Site Plan Review Regulations, **Chapter IV, Article 6 and I-306**. In addition, the applicant shall submit the following prior to any approval by the Board:

**IV-1002.1(a)** Additional plat information: a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, access drives, parking, fencing, landscaping, and adjacent uses (up to 200 feet away)

**IV-1002.1(b)** Written proof that the proposed use/facility complies with Federal Communications Commission regulations on radio frequency (RF) exposure guidelines

**IV-1002.1(c)** Written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable Federal Communications Commission (FCC) rules

**IV-1002.1(d)** An inventory of existing towers that are within the jurisdiction of the Town and those within two (2) miles of the border of the Town, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Town.

**IV-1002.1(e)** Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location,

height, strength, potential interference, and co-location costs which would make co-location impractical.

**IV-1002.1(f)** A written agreement with the Town specifying that the applicant agrees to provide for maximum shared use of the facility with other telecommunication providers and with governmental agencies at industry standard lease rates. The applicant shall also provide notice to all commercial carriers in the region that a new facility is to be erected and that an opportunity for co-location exists

**IV-1002.1(g)** A viewshed analysis to include, at minimum, a test balloon moored at the site for the purpose of indicating the visibility of the proposed structure from all abutting streets and other key locations

**IV-1002.1(h)** Engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be paid by the applicant in accordance with RSA 676.4(g).

**IV-1002.1(i)** Any other information deemed necessary by the Planning Board to assess compliance with **Chapter IV Article 2 and I-306** of the Zoning Ordinance.

**IV-1003 Construction Performance Requirements**

**IV-1003.1** The guidelines in this section shall govern the location of all towers, and the installation of all antennas. The Planning Board may waive these requirements in accordance with **IV-1005** only if it determines that the goals of this ordinance are served thereby. These requirements shall supersede any and all other applicable standards found elsewhere in Town ordinances or regulations that are less strict.

**Table IV-1003.2 Height Requirements**

<b>Table IV – 1003.2(a)</b>			
	<b>New Tower Construction</b>	<b>Co-location on Existing Tower</b>	<b>Co-location on Existing Structure</b>
<b>Limited Commercial</b>	150 feet	150 feet	Current structure height + ?? feet, not to exceed 150 feet
<b>Residential</b>	150 feet	150 feet	Current structure height + ?? feet, not to exceed 150 feet
<b>Rural Residential</b>	150 feet	150 feet	Current structure height + ?? feet, not to exceed 150 feet
<b>Historic District Overlay</b>	See Section IV-1004 & I-306.5(b)	See Section IV-1004 & I-306.5(b),	See Section IV-1004 & I-306.5(b),

	& I-404.3	& I-404.3	& I-404.3
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**IV-1003.2(b)** These requirements and limitations shall preempt all other height limitations as determined by the Zoning Ordinance and shall apply only to telecommunications facilities.

**IV-1003.3 Setbacks and Separation**

**IV-1003.3(a)** Free-standing towers must be set back a distance equal to 125% of the height of the tower from any off-site residential structure and property line.

**IV-1003.3(b)** Towers and accessory facilities must satisfy the minimum zoning district setback requirements.

**IV-1003.3(c)** Towers over ninety (90) feet in height shall not be located within one mile of any existing tower that is over ninety (90) feet in height.

**IV-1003.3(d)** Tower shall be set back at least 200% of the tower height from the nearest road.

**IV-1003.4 Aesthetics and Lighting**

**IV-1003.4(a)** Towers shall maintain a neutral, non-reflective color so as to reduce visual obtrusiveness.

**IV-1003.4(b)** The design of the buildings and related structures at a tower site and antennas and supporting equipment on structures other than a tower shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment.

**IV-1003.4(c)** Towers shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

**IV-1003.4(d)** Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.

**IV-1003.5 Security Fencing**

**IV-1003.5(a)** Towers shall enclosed by decay-resistant security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device or other similar device to prevent tower access.

#### **IV-1003.6 Landscaping**

**IV-1003.5(a)** Towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip of at least ten (10) feet wide outside the perimeter of the compound.

**IV-1003.5(b)** Natural vegetation is preferred, and existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

**IV-1003.5(c)** In locations where the visual impact of the tower would be minimal or where natural growth provides a sufficient buffer, the landscaping requirement may be reduced or waived entirely.

#### **IV-1003.7 Building Codes and Safety Standards**

**IV-1003.6(a)** To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the Mont Vernon Building Code and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. Failure to bring a tower into compliance within thirty (30) days of notice being provided to the owner by the Town shall constitute abandonment and grounds for the removal of the tower or antenna in accordance with **Chapter IV Article 9 and I-306.7**.

#### **IV-1003.8 Federal Requirements**

**IV-1003.8(a)** All towers must meet or exceed current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government with the authority to regulate towers and antennas. Failure to bring towers and antennas into compliance with revised standards and regulations within six (6) months of their effective date shall constitute grounds for the removal of the tower or antenna in accordance with **Chapter IV Article 9 and I-306.7**.

#### **IV-1004 Historic District Restrictions**

Telecommunications facilities within the Historic District shall be located within existing structures and shall have no visual impact.

#### **IV-1005 Waivers**

**IV-1005.1** The Planning Board may waive the requirements of this section where it finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing terms, or the purposes of these regulations may be served to a greater extent by an alternative proposal. The purpose of granting waivers under the provisions of this



regulation shall be to ensure that an applicant is not unduly burdened, as opposed to merely inconvenienced, by the terms of the ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

**IV-1005.1(a)** The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to other property and will promote the public interest

**IV-1005.1(b)** The waiver will not, in any manner, vary the provisions of the Town's Zoning Ordinance or Master Plan

**IV-1005.1(c)** The waiver will substantially secure the objectives, standards, and requirements of this ordinance

**IV-1005.1(d)** A particular and identifiable hardship exists or as specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

- (i) Topography and other site features
- (ii) Availability of alternative site locations
- (iii) Geographic location of the property

**IV-1005.1(e)** Size/magnitude of the project being evaluated and availability of co-location

**IV-1101** For non-residential site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP) developers must follow the Subdivision Regulations in III-801.

**CHAPTER V**  
**EXCAVATION REGULATIONS**  
**FOR THE TOWN OF MONT VERNON NEW HAMPSHIRE**

**ARTICLE 1 AUTHORITY**

**V-101** These regulations have been adopted by the Mont Vernon Planning Board (regulator) on March 25, 1980, after a duly noticed public hearing held on March 25, 1980.

**V-102** These regulations supplement the provisions of RSA 155-E and provide further clarification of the statutory requirements and their application in the municipality of Mont Vernon, New Hampshire. They are adopted as provided in RSA 155-E:11 and 674:36 RSA. Applicants should familiarize themselves with both RSA 155-E and these regulations to be fully informed as to permit requirements.

**ARTICLE 2 DEFINITIONS**

**Abutter.** Any person who owns land within 200 feet of the boundaries of the land under consideration. A way, as defined in RSA 259:1, XXXV, shall not be considered to be a barrier, but shall be included in the distance requirement for purposes of determining whether a person is an abutter. (RSA 672:3, 4, 9-14).

**Applicant.** Owner of the excavation site or the owner's designee.

**Application.** A complete submission of information and plans as required by the statute RSA 155-E, local regulations, and in the excavation permit application.

**Aquifer.** Those areas designated by blue shading or hatching which appear on statewide mapping prepared by the United States Geological Survey entitled: "Available of Ground Water"

**Excavation Fee** (RSA 155-E:8). A fee of \$50.00 submitted by the applicant to the regulator, following the public hearing and prior to the issuance of an excavation permit, to defray the cost of processing the application.

**Excavation Permit** (RSA 155-E:8). A permit issued by the regulator allowing the excavation of material at a specific site, in a manner consistent with RSA 155-E and local regulations for the period designated on the permit itself.

**Excavation Permit Application.** A form and associated documents which contain excavation project information. The application must be submitted in duplicate to the regulator and the conservation commission.

**Owner.** An individual or corporation who claims ownership of the land, containing the excavation site, by virtue of a properly executed deed filed at the County Registry of Deeds.

**Permit Fee** (RSA 155-E:11). A fee submitted by the applicant to the regulator, as one of the prerequisites to issuance of an excavation permit, for the purpose of defraying costs associated with permit compliance inspections. The fee is established by the regulator based on the area (acreage) and duration of the excavation permit.

**Pit Agreement.** An agreement between the excavation site owner and the contractor describing the procedure for material excavation (see Section 106.02 of "Standard Specifications for Roads and Bridges" published by the New Hampshire Department of Public Works and Highways).

**Stationary Manufacturing and Processing Plants.** Structural improvements that are permanently placed and that are integral to the grading, crushing, and stockpiling of excavated material.

### **ARTICLE 3 EXCAVATION PERMIT APPLICATION**

**V-301** The applicant shall submit to the regulator and the Conservation Commission the information and documents specified in RSA 155-E:3 and in the Excavation Permit Application.

**V-302** The Application submission shall include:

**V-302.1** The **APPLICATION FORM** containing the owner's name, location of project, abutters' names and addresses, access routes, etc.,

**V-302.2** An **EXCAVATION PLAN** showing the excavation site and the scheme for removal of excavated material,

**V-302.3** A **RESTORATION PLAN** describing the process of site grading and revegetation following completion of the excavation project, and,

**V-302.4** Related permit approvals or **OTHER DOCUMENTS** pertinent to the excavation proposal.

### **ARTICLE 4 SUBMISSION DOCUMENTS**

**V-401 Excavation Plan.** The Owner/Applicant shall submit a plan describing the specific location and extent of the proposed excavation project. The excavation plan shall include existing topographic and site boundary information compiled and prepared by a Registered Land Surveyor. Other information which must be contained in the plan is:

**V-401.1** proposed topography at the completion of excavation (prior to restoration).

**V-401.2** distances between disturbed areas and closest property lines.

**V-401.3** zoning district(s).

**V-401.4** existing visual barriers to be retained.

**V-401.5** aquifer limits/location as identified by the U.S. Geological Survey.

**V-401.6** lakes, streams, significant natural and man-made features.

**V-401.7** a description of project duration and phasing.

**V-401.8** the names of abutting landowners.

**V-401.9** a photograph(s) of the existing site.

**V-401.10** notations as to excavation site acreage and volumes of material to be removed.

**V-401.11** the location and design of site access roads leading to and from public highways.

**V-401.12** the elevation of the highest annual average groundwater table within or next to the proposed excavation.

**V-401.13** topsoil storage sites during the excavation phase.

**V-401.14** the plan shall be drawn at a scale and contour interval which allows a thorough understanding of project scope. Sectional drawings may be required by the regulator.

**V-402 Restoration Plan.**

**V-402.1** Excavation site restoration plans shall be prepared and submitted by all new and existing excavation site owners except as noted in RSA 155-E:2. As required by Chapter 481:3, New Hampshire laws of 1979, the owners of existing excavation operations must perform restoration in compliance with RSA 155-E:5. The regulator shall notify all existing excavation operations owners of their site restoration responsibility. Owners of existing excavation operations shall submit a restoration plan and appropriate bonding to the regulator within six (6) months of their notification. The Excavation Permit Application Form shall be used for this submission.

**V-402.2** The restoration plan shall meet, at a minimum, the requirements set forth in RSA 155-E:5. The character of the restored landscape shall blend with the surrounding natural features. The restored site shall be rendered in a condition that will not preclude its future use in a manner consistent with the zoning ordinance and map.

**V-402.3** The restoration plan shall contain the following information:

**V-402.3(a)** restored topography and drainage at the completion of the restoration phase.

**V-402.3(b)** the phasing of site restoration showing designated areas and completion dates.

**V-402.3(c)** soil conditioning specifications.

**V-402.3(d)** seeding and mulching specifications.

**V-402.3(e)** the plant materials to be used in restoration, their quantities, and sizes and.

**V-402.3(f)** sections showing existing, excavated, and restored topography configuration.

**V-403** The Planning Board shall ascertain those adequate provisions for public health, safety, and welfare shall be followed.

## **ARTICLE 5 PROJECT SITE REQUIREMENTS**

**V-501** The following site development standards should be incorporated into the site excavation plan and/or conditions for permit approval.

**V-501.1 Excavation Site Access Roads.** Access roads leading to and from the excavation site shall intersect existing streets and roads at locations that have been duly approved by state or local officials and in a manner that will not endanger the safety of highway users and residents. The provisions of RSA 249:17 and 18 ("Highway Access") shall be adhered to by applicant and shall be shown on the excavation plan.

**V-501.2 Traffic Circulation and Truck Routes** (RSA 155-E:3 III) Permit approval shall be conditioned on compliance by the Applicant with street and highway regulations promulgated by Federal, State and local units.

### **V-501.3 Excavation Within Aquifer Areas (RSA 155-E:4 VI)**

**V-501.3(a)** No excavation project shall substantially damage any aquifer identified on mapping prepared by U.S. Geological Survey. The regulator shall determine whether or not substantial damage to the aquifer will be incurred by considering the following criteria:

(i) the excavation shall not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants.

(ii) the excavation shall not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer.

**V-501.3(b)** The regulator may require that the Applicant provide data or reports prepared by a Professional Engineer or groundwater consultant which assess the potential aquifer damage caused by the proposed excavation project.

**V-501.4** Topsoil Cover: Prior to the withdrawal of material at a new excavation site, topsoil material shall be stripped and stored for site restoration use when the excavation project is completed. This should be undertaken in a phased manner to minimize erosion potential. Topsoil shall be revegetated during the period of storage.

**V-501.5** Timber Removal: The applicable New Hampshire statutes and regulations pertaining to forest practice and timber harvesting shall apply to the removal of vegetative cover at excavation site.

**V-501.6** Visual Barriers: A vegetative or topographical buffer shall be maintained between surrounding streets, highways, commercial and residential land uses and the excavation site. The regulator shall direct the applicant as to specific requirements for the proposed excavation site. To the extent possible, existing barriers should be retained as the excavation project is conducted.

## **ARTICLE 6 APPLICATION PROCEDURE**

**V-601 Preparation and Submission.** The applicant shall adhere to RSA 155-E:3 and these regulations during the process of application preparation and submittal. The completed application shall be submitted in duplicate form (one copy to each) to the regulator as well as to the Mont Vernon Conservation Commission. All costs of the Public Hearing shall be borne by the petitioner.

**V-602 Excavation Fee.** An excavation fee of \$50.00 shall be paid to the regulator by the applicant prior to issuance of an excavation permit.

**V-603 Bonding.** The regulator shall establish the amount of the performance bond prior to issuance of the excavation permit. The bond amount shall be adequate to restore the excavation site in accordance with RSA 155-E:5. The bond will be returned to the applicant when restoration work has been completed and a final satisfactory site inspection has been conducted by the regulator.

**V-604 Action on Permit.** Within 20 days of the hearing required in RSA 155-E:7, the regulator shall make a decision to grant or deny the requested permit. Excavation permit approval by the regulator shall be in the form of a memorandum citing all permit issuance conditions, accompanied by a weatherable permit sign depicting the location of the excavation site, the signature(s) of the regulator and the permit expiration date. The permit sign shall be posted in a secured manner at a prominent location near the excavation site. If the application is denied, the owner shall be notified, in writing, by the regulator stating the reasons for the denial.

**V-605 Pit Agreement.** A pit agreement between the owner, the contractor and the governmental unit shall be executed whenever the excavated material is to be used in the construction or modification of Class I, II, III, IV, V highways. A copy of the agreement shall

be submitted for acceptance to the regulator. Excavation shall not proceed until the regulator has accepted the pit agreement and has been placed in an assured position that the excavation site will be restored in conformance with RSA 155-E:5. The pit agreement for Class IV and V highway construction projects shall be essentially the same as the pit agreement set forth in Section 106 of "Standard Specifications for Highways and Bridges" prepared by the New Hampshire Department of Transportation.

**V-606 Permit Validity:** The excavation permit shall be valid for a period of 1 year.

#### **ARTICLE 7-RENEWAL AND AMENDMENT OF EXCAVATION PERMIT**

**V-701 Permit Renewal:** The applicant may renew the excavation permit and continue excavation operations by making application to the regulator in the manner set forth in Section II of these regulations. The excavation permit application need only describe those information items which have changed in content from the previous application submission. Fees and bonding will be established by the regulator for the renewal period. No application fee shall be charged for renewal of said permit providing the original plan is not altered.

**V-702 Permit Amendment:** If adherence to the permit conditions (including the excavation/restoration plans) cannot be maintained, the owner shall apply to the regulator for a permit amendment. An application shall be completed and submitted to the regulator in a manner similar to that provided in **Section IV** of these regulations.

#### **ARTICLE 8-ADMINISTRATION AND ENFORCEMENT**

**V-801 Permit Fee Schedule:** A fee not to exceed \$25.00 for each site visit shall be levied by the regulator. Only these site visits made by the regulator (or its designee) to affirm compliance with the excavation permit conditions and restoration plan shall be counted for this purpose. Said fee shall be set at a Public Hearing and shall be for a period of one (1) year.

**V-802 Enforcement** (also refer to RSA 155-E: 10) The penalty for violations shall be the maximum as set by state statutes per day for each violation.

**CHAPTER VI  
DRIVEWAY REGULATIONS  
FOR THE TOWN OF MONT VERNON NEW HAMPSHIRE**

**ARTICLE 1 – AUTHORITY AND PURPOSE**

**VI-101 AUTHORITY**

**VI-101.1 AUTHORITY** Pursuant to the authority vested to the Mont Vernon Planning Board by the legislative body of Mont Vernon, New Hampshire and in accordance with the provisions of Chapters 236:13 and 674:35 of the New Hampshire Revised Statutes Annotated as amended, the Mont Vernon Planning Board adopts the following regulations governing all driveway construction in the Town of Mont Vernon, New Hampshire.

**VI-102 PURPOSE AND AMENDMENTS**

**VI-102.1 PURPOSE** The purposes of the town of Mont Vernon Driveway Regulations are to guard the public welfare and safety of all citizens to:

- (a) ensure that emergency services can be reasonably and safely provided to all dwelling units in the Town, including those constructed on or accessed by steep slopes;
- (b) ensure that driveways entering onto roads do not represent a safety hazard;
- (c) minimize the amount of terrain alteration and vegetative removal on hillside areas required for driveway construction;
- (d) ensure that driveways do not disrupt drainage systems or culverts, damage the surface of right-of-ways, or cause erosion or siltation of traveled ways or surface waters; and
- (e) avoid unreasonable public expenditures.

**VI-102.2 AMENDMENTS** These regulations may be amended by the Mont Vernon Planning Board following a public hearing on the proposed change.

**ARTICLE 2 – DEFINITIONS**

**VI-201 DEFINITIONS**

**VI-201.1 DEFINITIONS** The definitions contained in the Mont Vernon Subdivision Regulations shall apply, in addition to the following:

**ACCESS** - A way or means of approach to provide physical entrance to a property.



**AUTHORITY HAVING JURISDICTION (AHJ)** -The municipal department or department administrator such as but not limited to the Public Works Director, Fire Chief, Police Chief, Planning Board, etc. that have the authority to enforce regulations or requirements of this ordinance.

**COMMON DRIVEWAY** – A driveway that provides access to more than one dwelling or multiple lots.

**CONSTRUCTION** - For the purposes of this regulation, means not only the construction of a new driveway, but also any alterations to include paving of existing unpaved surfaces or widening to an existing driveway. This does not include regrading for maintenance, repaving, repairs or improvements of a similar nature.

**DRIVEWAY** - A public or private roadway providing primary access from either a public or private road for vehicles to a dwelling, business, parking area, or other structure or facility that is currently used on a regular basis.

**RIGHT-OF-WAY** – All town, state, and federal highways and the land on either side of the same as covered by statutes regarding the width of the right-of-way, and private roads as approved by the Planning Board pursuant to the Town Subdivision Regulations.

**TRAVELLED WAY** – That part of the driveway within a right-of-way, if one exists, that is designated for vehicular travel.

**TURNOUT** - An area perpendicular to the driveway that allows a vehicle to back in and drive out.

**TURNAROUND** – An area large enough to allow a emergency vehicles to turn fully around on the property without having to back up.

## **ARTICLE 3 - GENERAL PROVISIONS**

### **VI-301 PROVISIONS**

**VI-301.1 PERMITS** Prior to the construction, alterations, to include paving of existing unpaved surfaces, or change in use and/or intensity of any driveway entrance, exit, or approach to any private, town or state road, and prior to obtaining any applicable building permits for the property, the landowner or authorized agent shall apply for a driveway permit and secure approval of such proposal in accordance with these regulations.

**VI-301.2 APPROVAL** An approval by the Town of Mont Vernon to construct a driveway does not eliminate the need for the property owner to secure any necessary permits from state agencies, such as the NH Department of Transportation or Department of Environmental Services.

**VI-302.3 NON-CONFORMING** Driveways providing access to dwellings, businesses or other structures or access to agricultural or undeveloped land in existence prior to the adoption of this

ordinance shall maintain legal or legal non-conforming status provided there is no change in use and/or intensity of any driveway, driveway entrance, exit, or approach to any private, town or state road.

## **ARTICLE 4 - OWNER RESPONSIBILITY**

### **VI-401 RESPONSIBILITY**

**VI-401.1 RESPONSIBILITY** The owner of the property accessed by a driveway shall have continued responsibility for the adequacy and maintenance of the driveway and any grades, culverts, retention basins and bridges pertaining to such access, whether or not the driveway is located within the public right-of-way.

**VI-401.2 HAZARDOUS CONDITIONS** If any driveway becomes a potential threat to the integrity of the highway or its surface, ditches, embankments, bridges, or other structures, or a hazard to the safety of the traveling public by reason of siltation, flooding, erosion, frost action, vegetative growth, improper grade, or the failure of any culvert, traffic control device, drainage structure, or other features; the Town of Mont Vernon may issue an order to the responsible party to repair or remove such hazardous conditions or take other actions as specified in RSA 236:13. If no response occurs within a reasonable time, the Town may take appropriate action to remedy; the costs of such action will be charged to the property owner.

## **ARTICLE 5 - DRIVEWAY CONSTRUCTION STANDARDS**

### **VI-501 STANDARDS:**

The following construction standards shall apply to all driveways.

#### **VI-501.1 DRIVE ACCESS**

- (a) All drive accesses shall be located as shown on approved plans or as directed by Mont Vernon Public Works Director.
- (b) Drive accesses for either residential or non-residential use shall be a minimum of sixteen (16) feet and a maximum of thirty (30) feet wide at the curb line or edge of traveled way. The drive access shall taper back 20 feet from the curb line or edge of traveled way to the minimum required width. If the driveway is within a vertical curbed section, the curbing on each side of the drive opening shall be tipped down with a six (6) foot descending tip down on each side of driveway.
- (c) Drive accesses shall slope downward away from the traveled way for minimum of ten (ten) feet to allow for proper roadway drainage and prevent drive drainage or erosion onto the traveled way.

**VI-501.2 PAVING** In order to protect the physical integrity of paved roadways, the street-side edge of all driveways that intersect with a paved roadway must also be paved according to the requirements below:

- (a) All driveways for non-residential use shall have a paved apron thirty (30) feet wide for at least the first twenty-five (25) feet, commencing at the edge of pavement of the intersecting road.
- (b) All driveways for residential use shall have a paved apron sixteen (16) feet wide, or two (2) feet less than the width of the apron for at least the first twenty (20) feet, commencing at the edge of pavement of the intersecting road.
- (c) The pavement shall consist of three (3) inches of hot bituminous pavement, with a two (2) inch base course and a one (1) inch wearing course. The requirement for 1 inch wearing course may be waived by Director Public Works on a case by case basis provided the pavement thickness is not less than 3”.

**VI-501.3 TRAVEL WIDTH** Driveways must be designed, constructed, and maintained so as to have a minimum twelve (12) foot travel width. Outside of the traveled way there must be enough width to accommodate snow storage areas, drainage, parking areas, clearance for emergency vehicles, etc.

**VI-501.4 VERTICLE CLEARANCE** Driveways must be designed, constructed, and maintained so as to have at least thirteen and one-half (13 ½) feet of vertical clearance.

**VI-501.5 GATES** If gated, the following standards apply:

- (a) Gate openings must be at least fourteen (14) feet wide, except where there are existing stone walls between which the gate will be placed.
- (b) Gates must not open into the public right-of-way.
- (c) All gates must be provided with an access system approved by the fire chief for emergency responders such as a pass code or key access (KnoxBox), etc.

**VI-501.6 PASSING LANES, VEHICLE TURNOUTS AND TURN AROUNDS** Extended length driveway shall provide the following as deemed necessary by the Authority Having Jurisdiction:

- (a) Driveways longer than 300 feet must include a turnout no farther than fifty (50) feet from the primary residence or building. The turnout must be perpendicular to the driveway and be at least twelve (12) feet in width and twenty (20) feet in length as measured from the edge of the driveway. The area of the turnout may not be steeper than five (5) percent and have an inside radius of fifteen (15) feet. Other dimensions

may be approved, provided the applicant can demonstrate that emergency vehicles can safely back in and drive out.

- (b) Driveways longer than one thousand (1,000) feet must include a passing area at least every eight hundred (800) feet, exclusive of the required turnout in (1) above or turnaround in (3) below. This passing area shall be at least twenty-four (24) feet wide for a length of at least fifty (50) feet, tapered back to the twelve (12) foot width on both ends. The grade along the entire length of the passing area must not exceed five (5) percent.
- (c) Driveways longer than two thousand (2,000) feet must have a turnaround with at least a ninety (90) foot diameter, no closer than fifty (50) feet and no further than three hundred (300) feet from the primary residence or building.

**VI-501.7 CONSTRUCTION REQUIREMENTS** All driveways shall be constructed of a minimum of twelve (12) inches of suitable material (e.g., gravel, crushed gravel but may also include fabric beneath).

**VI-501.8 CURVES** Horizontal curves with a direction change of more than thirty (30) degrees shall not contain slopes of more than ten (10) percent.

**VI-501.9 BRIDGES**

- (a) All bridges must be designed, installed, and maintained in accordance with the designs of a New Hampshire-licensed engineer and must be able to support the heaviest vehicle likely to operate on the driveway. For purposes of these regulations, the load capacity shall be at least sixty thousand (60,000) pounds, GVW (Gross Vehicle Weight).
- (b) All bridges must be designed, installed, and maintained so as to convey at least a one hundred (100) year storm event and must be reviewed by the Mont Vernon Public works Director.

**VI-501.10 CULVERTS**

- (a) All culverts shall be a minimum of twelve (12) inches in diameter or designed to an acceptable storm runoff flow rate and must be designed, installed, and maintained so as to support a load capacity of at least 60,000 pounds, GVW.
- (b) All culverts must be designed so as to convey the full flow of water of existing drainage swales as well as any additional water that may be transmitted by the driveway.

- (c) Culverts shall be placed at the edge of the property line outside of the road right-of-way.
- (d) Culverts shall have either an approved concrete or stone headwall or flared ends with sloped, vegetated banking at each end of culvert pipe.

**VI-501.11 NUMBERING**

All driveways providing access to a primary residence or building shall be numbered from both directions, with a letter, number, and symbol height of at least four (4) inches, contrasting with the background of the sign and installed and maintained so as to be easily readable from public ways at night. When a house is within thirty (30) feet of the right-of-way, the number may be placed only on the house, with approval of the Planning Board.

**VI-501.12 NAMING**

Common driveways serving more than two (2) addressable structures will be named using road naming rules outlined by the National Emergency Number Association and recommendations of New Hampshire E-911. Said name will require written approval of the Selectmen. Name will be posted on a sign or signs as approved by the Planning Board.

Naming rules:

- (a) Avoid sound-alike names (Bay View Dr or Bayview Dr.)
- (b) Do not use names with a different suffix (Smith Rd, Smith La)
- (c) Do not use special characters such as hyphens, apostrophes or dashes.

**VI-501.13 GRADES AND SLOPES**

- (a) Driveways with a grade of greater than fifteen (15) percent will not be permitted.
  - I. Driveways with grades greater than ten (10) percent up to fifteen (15) percent require design by a New Hampshire licensed civil engineer.
  - II. Driveways required to obtain an engineered design must submit to the Building Inspector, prior to certificate of occupancy an affidavit of compliance with approved plan by the civil engineer of design
- (b) To ensure that vehicles will have adequate distance to stop during icy conditions where driveways intersect with a road or other driveway, whether public or not, the grade shall not exceed five (5) percent within thirty (30) feet of the intersection. Grades greater than five (5) percent, up to ten (10) percent maximum may be permitted provided the first twenty-five (25) feet from the intersection are paved.

- (c) At the house-side terminus of a driveway, the grade shall not exceed ten (10) percent for the last thirty (30) feet.
- (d) No more than twenty-five (25) percent of the total length of a driveway may contain grades of fifteen (15) percent.
- (e) Grades of fifteen (15) percent or more may not exist within one hundred (100) feet of an intersection or within one hundred (100) feet of the house-side terminus.
- (f) Grades of fifteen (15) percent or more may not extend in any section of driveway for a distance of more than one hundred fifty (150) feet, and there must be at least one hundred (100) feet of separation between segments containing grades of fifteen (15) percent or more.
- (g) For purposes of these regulations, the degree of grade increase or decrease shall be measured over a distance of twenty (20) feet. These regulations apply to both downward and upward grades.

**VI-501.14 DRAINAGE AND EROSION CONTROL**

- (a) Driveways that slope down from a road must be designed so as to avoid the conveyance of stormwater runoff from the road in a way that can cause flooding, erosion, or provide other hazard to the driveway itself or any structures on the property.
- (b) No drainage can be discharged onto a public road and must be tied into any roadside drainage in a manner satisfactory to the Mont Vernon Public Works Director or NH DOT.
- (c) During and after construction, including temporary driveways, the driveway must not cause erosion or sedimentation of drainage systems or surface waters.
- (d) For driveways one thousand (1,000) feet or more in length, or containing grades of fifteen (15) percent, the issuance of a driveway permit may require a drainage plan by a New Hampshire licensed engineer to ensure that stormwater and spring meltwater will not result in erosion, endanger the integrity of the driveway surface, or cause siltation of drainage systems or surface waters.

**VI-501.15 DRIVEWAY LOCATION**

- (a) No driveway entrance may be constructed within fifty (50) feet of an intersecting road, unless the applicant can demonstrate that there would be no safety hazards created.
- (b) Driveways shall be located a minimum of ten (10) feet from side or rear property lines.
- (c) When two (2) driveway entrances on the same side of the road are within fifty (50) feet of each other, a common access may be required, for reasons of safety and topographical considerations.
- (d) All-season safe sight distance in each direction is required, in accordance with standards recommended by NH DOT and/or American Association of State Highway and Transportation Officials (AASHTO).
- (e) Any driveway crossing a body of water, wetlands, or wetland buffer shall have all permits required by the NH Wetlands Board and/or a special exception from the Mont Vernon Zoning Board of Adjustment prior to the driveway approval.
- (f) There shall be no more than one primary access to a single parcel of land unless a need for multiple accesses can be demonstrated to the Director of Public Works.
- (g) Driveways shall intersect roadways at an angle of ninety (90) degrees.
- (h) No structures (including buildings), permanent or portable signs, lights, displays, fences, walls, etc. shall be permitted on, over, or under the town road right-of-way.
- (i) Driveways providing access to multi-unit residential, commercial, or industrial uses shall be designed to conform to good engineering practice using the most recent version of the NHDOT manual, *Administrative Rules for the Permitting of Driveways and Other Accesses to the State Highway System* as a guide.

**VI-501.16 COMMON DRIVEWAYS**

- (a) If approved by the Planning Board one driveway may serve more than one lot. In such a case, the Planning Board may require that the driveway common area maintain a 50-foot right-of-way.
- (b) An independent inspection of the driveway may be required, by an engineer approved by Planning Board and paid for by the applicant. The inspector will certify that these regulations are complied with.

- (c) Before any application for a common driveway is approved, the landowner(s) must submit a maintenance agreement and provide a deeded easement that clearly defines each property owner's rights and responsibilities.
- (d) The house numbers for all residences are to be placed at the entrance to the common driveway from the traveled way, and the individual house numbers are to be placed at the entrance to each individual private driveway according to Section VI 501.11.

**VI-501.17 TERRAIN**

- (a) Driveways should follow the natural terrain, and cuts or fills should be minimized.
- (b) All driveways must be designed, constructed, and maintained so as to ensure that emergency vehicles, including ambulances and fire trucks, can ingress and egress easily during emergency events.
- (c) Driveways that propose to be constructed with grades and elevations greater than ten (10) percent must submit a driveway design plan in accordance with VI-501.13 (1).

**ARTICLE 6 - TEMPORARY DRIVEWAY PERMITS**

**VI-601 TEMPORARY DRIVEWAY PERMITS**

**VI-601.1 TEMPORARY DRIVEWAY**

Permission for temporary driveways and construction entrances for such activities as logging, utility maintenance and construction is required. Temporary permits shall have a stipulated time limit not to exceed six months. Upon written application to the Public Works Director, a six-month extension may be granted. Temporary driveways must comply with acceptable New Hampshire Best Management standards for erosion control.

**ARTICLE 7 - MODIFICATIONS AND WAIVERS**

**VI-701 MODIFICATIONS AND WAIVERS**

**VI-701.1 MODIFICATION AND WAIVERS**

The standards of these regulations may be modified or waived by the Mont Vernon Planning Board when specific circumstances surrounding a proposal, or a condition of the land, indicate that strict adherence to the standards would create a hardship for the landowner, and such



modification will not be in conflict with the purpose and intent of these regulations. Modifications or waivers can only be granted by approval of both the Planning Board and the DPW Director.

## **ARTICLE 8 - APPLICATION PROCEDURE**

### **VI-801 APPLICATION PROCEDURE**

#### **VI-801.1 APPLICATIONS**

- (a) Prior to commencing work, the applicant will file an application with attached driveway plan with the Mont Vernon Public Works Director or its designated agent, on a form provided by that office. A copy of the application will be forwarded to the Mont Vernon Code Enforcement Officer/Building Inspector.
- (b) Before the Mont Vernon Public Works Director acts on the application, there will be an inspection of the site. For any paved driveways or entrances, there shall be an inspection following the laying of the gravel base and prior to the final paving.
- (c) There shall be 24-hour notice to the Mont Vernon Public Works Director and Code Enforcement Officer before starting construction of the driveway.
- (d) A final inspection by the Mont Vernon Public Works Director will be made to determine that all work has been satisfactorily completed in conformance with these regulations prior to the issuance of a Certificate of Occupancy.

## **ARTICLE 9 - ADMINISTRATION AND ENFORCEMENT**

### **VI-901 ADMINISTRATION AND ENFORCEMENT**

#### **VI-901.1 ADMINISTRATION**

- (a) These regulations shall be administered by the Mont Vernon Planning Board. The Planning Board, through the authority granted to it under RSA 236:13 (V) hereby delegates administrative duties and enforcement regarding this regulation to the Mont Vernon Public Works Director, who may, in the administration of his/her duties, consult with the Building Inspector / Code Enforcement Officer.
- (b) In reviewing an application to construct a driveway, the Public Works Director shall apply accepted principles of traffic safety engineering. In addition, the Board may, in the exercise of sound discretion, consider the factors including but not limited to the existence of a sprinkler system, the quantity and quality of traffic, the existence of on-street parking, sight distance, adjacent land use, development of access away from

arterial streets and onto side streets, anticipated development in the area, and speed limits. After such review and approval by the Public Works Director, the Building Inspector may issue a building permit.

**VI-901.2 ENFORCEMENT**

- (a) New driveways constructed and any alterations or widening to an existing driveway, to include paving of existing unpaved surfaces, in violation of these regulations shall be corrected immediately upon notification by the Town of Mont Vernon, or the costs of removing or construction shall be fully borne by the property owner.
  
- (b) Any person who violates any provision of this regulation shall be subject to fines and penalties as authorized in RSA 676: 15 & 17.

**APPENDIX A****GLOSSARY**

**ABUTTER** "Abutter" means any person whose property adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purpose of receipt of notification by a municipality of the local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the abutter means the officers of the collective or association, as defined in RSA 356-b:3, XXXIII.

**AGRICULTURAL, FARM AND FARMING** See Farm

**ALTERNATIVE TOWER STRUCTURE** Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

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

**APPLICANT/DEVELOPER** The owner of land to be subdivided or developed or his agent or representative as he may authorize by a NOTARIZED STATEMENT SIGNED by the owner of record.

**APPLICATION** Forms as specified by the Mont Vernon Planning Board to be used for application for subdivision and/or site review.

**BOARD** The Planning Board of the Town of Mont Vernon.

**BOUNDARIES** Outside perimeter of lot lines as shown on subdivision and/or existing lots of record.

**BUFFER ZONE A** strip of land along a property line or zone district boundary line which shall be free of any building or use other than natural woody growth, landscaping, or screening.

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

**BUILDING AREA** The percentage of lot area or square footage, as applicable, covered by a building exclusive of cornices, eaves, gutters, chimneys, porches without roofs and bay windows. In determining building area, principal and accessory buildings shall be included.

(BUILDING OR STRUCTURE HEIGHT removed by vote of Town Meeting 3-14-2000)

**BUILDING** A structure having a roof, fixed to the land and constructed for the shelter of persons, animals or property.

**BUILDINGS, ACCESSORY A** detached or attached building, the use of which is customarily incidental and subordinate to that of the principal building, such as a utility shed, porch, barn, or garage, and which is located on the same lot as that occupied by the principal building. The term "accessory building", when used in connection with a farm, shall include all buildings customarily used for farm purposes.

**CELLAR** A portion of a building, partly or entirely below the finished grade of the ground adjoining the building. A cellar is not deemed a story unless its ceiling is six or more feet above the finished grade at the front of the building.

**CERTIFICATE OF OCCUPANCY** The certificate issued by the Building Inspector which permits the use of a building in accordance with the approved plans and specifications, and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations and conditions of the building permit.

**CERTIFICATION** A signed, written approval by the Planning Board for the specific purpose it was requested.

**CLASS VI ROAD** All existing public ways and shall include all highways discontinued as open highway and made subject to gates and bars, and all highways which have not been maintained and repaired by the town in suitable condition for travel thereon for five (5) successive years or more. (RSA 229:5, VII)

**CO-LOCATION** The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.

**COMMON AREA** Area set aside to be dedicated or to be reserved for common use of all property owners. This may include parks, playgrounds, and undeveloped land.

**CONCEPTUAL PLAN** Rough sketches and/or general overview of a proposed subdivision of a parcel of land. A conceptual plan may contain a base map, unscaled sketches and/or United States Geological Survey map of a proposed subdivision.

**CONFORMING USE** A use that is allowed by law or ordinance as subsequently amended which is in accordance with all Zoning Regulations of the Town of Mont Vernon. This shall include uses allowed by law or ordinance that were in existence and legal prior to any change in law or ordinance that would make such uses non-conforming.

**CONSERVATION AREA** An area of land or body of water that has been set aside for the planting of grass or trees, the protection of natural existing flora and fauna with the intent of protecting such from loss or destruction by unnatural forces.

**CONSTRUCTION DRAWINGS Engineered** drawings that have been signed, approved and stamped by a properly certified engineer for the purposes said plans are being used. Construction drawings will be construed as those drawings to be utilized in the final layout of a subdivision or site plan review.

**COUNTY CONSERVATION DISTRICT Hillsborough** County Conservation District ("HCCD")

**DEVELOPMENT** The addition of buildings, structures, or other improvements to land that will permanently alter the character and nature of the land.

**DISCUSSION PHASE** (Survey Phase) First stage, informal non-binding presentation and exchange of information concerning any possible subdivision of land. Abutters not notified.

**DISTURBED AREA** An area where the ground cover is moved, destroyed, altered, or removed leaving the land subject to accelerated erosion.

**EARTH MOVEMENT** The movement of 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.

**ENGINEER** See Registered Professional Engineer

**EROSION** The detachment and movement of 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 by water, wind, ice or gravity.

**EXCAVATION REGULATIONS** Regulations as set forth in the Zoning Ordinances of the Town of Mont Vernon in accordance with RSA 155-E.

**EXCAVATION** The removal of sand, gravel, rock, soil or construction aggregate produced by quarrying, crushing and/or other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock and the land area which is used, or has been used, for such commercial taking of earth, including all slopes.

**FARM & HOME PRODUCE Vegetable**, fruits, dairy products, and other products that are grown on the land occupied and located in the Town of Mont Vernon.

**FARM** Any land or buildings or structures on or in which agriculture and farming operations are carried on and shall include the residence or residences of owners, occupants, or employees located on such lands. (Also see farming)

**FARMING** All operations of a farm such as the cultivation, conserving and tillage of soil, dairying, greenhouse operations, the productions, cultivation, growing and harvesting, of any agricultural, floriculture, sod or horticultural commodities, the raising of livestock, bees, fur-bearing animals, fresh water fish or poultry, or any practices on the farm as and incident to or in conjunction with such farming operations including, but not necessarily restricted to the following: preparation for market, delivery to storage or to market, or to carriers for

transportation to market, of any products or materials from the farm; the transportation to the farm of supplies and materials, the transportation of farm workers; forestry or lumbering operations; the marketing or selling at wholesale or retail or in other manner any products from the farm and of other supplies that do not exceed in average yearly dollar volume the value of products from such farm.

**FAST FOOD RESTAURANT** A restaurant with drive-up window service, or that otherwise receives payment and/or dispenses products to patrons while in their vehicles (such as a drive-in restaurant).

**FINAL PLAT** A plat plan prepared and certified by a registered surveyor and so stamped that meets all the requirements of the Subdivision and Zoning Regulations of the Town and is in conformance with all standards set by the State of New Hampshire Registry of Deeds. This plan shall be signed by the Board and recorded at the Hillsborough County Registry of Deeds upon final approval of the Board.

**FINAL PHASE** (3rd phase) The point in the subdivision process where all requirements of the Subdivision and Zoning Regulations of the Town have been met and the subdivider is requesting final approval of a Subdivision. Formal application must be approved before this phase.

**FORESTRY** The science of growing trees for the purpose of selling such in the future.

**FORMULA RESTAURANT** Formula Restaurant shall mean a restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement to offer any of the following: standardized menu, interior and/or exterior color scheme(s), architectural design, signage or similar standardized features, or which adopts a name or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.

**FRONTAGE** The length of the lot bordering on and measured parallel to the centerline of a town or State maintained highway, or a subdivision road approved by the Planning Board.

**GENERAL PURPOSE FARMING** See Farming

**GRADING** The alteration of the lands surface by the movement and/or leveling or alteration of such surface which includes excavating, grubbing, filling, or stockpiling of earth materials or any combination thereof.

**GROUND CONTROL** The marking of the land that delineates the character of the land so that the land features and characteristics can be readily identified during various inspection.

**GUY WIRES** A cable used to secure and steady a tower

**HEIGHT** The vertical distance measured from average elevation of the proposed finished ground level to the highest point on the building, tower, or other structure, including antennas. *(Amended 3-14-2000)*

**HIGH INTENSITY SOILS MAP A** soils map of a parcel of land being considered for development on a perimeter survey, with a scale of one inch (1") not to exceed one hundred feet (100') where soils are identified and mapped in accordance with the High Intensity Soil Maps for the New Hampshire Standards.

**HIGH INTENSITY SOIL SURVEY** A survey of the soil conditions of a specific parcel of land done in accordance with standards adopted by the Hillsborough County Conservation District or the Rockingham County Conservation District.

**INSPECTION** The periodic review of a subdivision/site that is in process to ensure that it is in conformance with certified plans.

**LIMITED COMMERCIAL** See Zoning

**LOCAL LEGISLATIVE BODY** The Town Meeting form of Government.

**LOT OF RECORD** A lot which is part of a subdivision of record in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT** A parcel of land at least sufficient in size to meet the minimum requirements for use, coverage, and area and to provide required yards and other open spaces. An undersize lot is permissible if it passes state standards for soil conditions and substantially meets the requirements here and if in existence on the date of adoption of this ordinance.

**MAJOR SUBDIVISION A** subdivision which creates four (4) or more lots for building development purposes.

**MANUFACTURED HOUSING** Any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include pre-site-built housing as defined in RSA 674:31-a.

**MASTER PLAN** The Master Plan of the Town of Mont Vernon.

**MANUFACTURED HOUSING PARKS** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate two (2) or more manufactured houses. Nothing herein shall be construed to apply to premises used solely for storage or display of manufactured housing.

**MINOR SUBDIVISION** A subdivision which creates not more than three (3) lots for building development purposes or for proposals which do not involve creation of lots for building development purposes.

**MONOPOLE** Any tower consisting of a single pole, constructed without guy wires or ground anchors.

**MULTI FAMILY** Any structure containing more than one (1) dwelling unit.

**NATURAL DRAINAGE** Seasonal or intermittent run off so diverted by existing natural physical features of the land.

**NATURAL COVER** All-natural flora and fauna as it exists prior to any intervention of man.

**NON-RESIDENTIAL SITE/PLAN** See Site Plan

**NON-CONFORMING USE** The use of land, building or premise which is not a use permitted by the provisions of this ordinance for the district in which such land, building or premise is situated.

**OPEN SPACE** Land unencumbered by any parking space, service area, buildings or other substantial structures and designed as open space on a site plan.

**OPEN SPACE (CLUSTER) DEVELOPMENT** A development of single-family dwellings that is designed to promote the conservation of the natural and scenic environment of the Town by leaving areas of land open and clustering housing so as to efficiently use the land and minimize the impact on the overall environment and natural setting of the area.

**OUTBUILDING** See Buildings, Accessory

**PERFORMANCE BOND** A bond issued by a Certified Bonding Company so as to ensure a specific phase of a subdivision is completed.

**PLAN** Rendering of a proposed development/improvement drawn to scale.

**PLANNING BOARD** Board as appointed by the BOARD OF SELECTMEN of the Town of Mont Vernon, New Hampshire, pursuant to RSA 673:2.

**PLAT** A map, plan, drawing or chart on which a subdivision of land is shown.

**PREEXISTING TOWERS AND ANTENNAS** Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance (*March 10, 1998*). Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Town.

**PRELIMINARY PHASE** (Design review-2nd phase) Abutters notified, non-binding discussion. Application submitted.



**PRESITE BUILT HOUSING** Any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. Pre-site built housing shall not include manufactured housing, as defined in RSA 674:3I.

**PRIVATE ROAD** A road with the same plan and construction specifications as a public street but not maintained by the town and the ownership is retained by the people who live on the street. (*Added June 22, 2010*)

**QUALIFIED SOIL SCIENTIST** A person licensed by the State of New Hampshire to perform soil evaluations and mapping.

**REGISTERED LAND SURVEYOR** A person licensed by the State of New Hampshire to perform land surveys.

**REGISTERED PROFESSIONAL ENGINEER** A person licensed by the State of New Hampshire as a professional engineer.

**RELATED USE** A land use located on the same lot which is incidental and subordinate to the main building or use of the land.

**RESTAURANT** An establishment where meals and/or beverages are served to customers.

**ROADWAY** The travel portion of any street, whether paved or unpaved, not including unpaved shoulders but including paved breakdown lanes.

**SECONDARY USE** A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.

**SEDIMENT** Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

**SELECTMEN** The Board of Selectmen of the Town of Mont Vernon.

**SET BACK** The distance between the nearest portion of a building and a lot or right-of-way line whichever is closer.

**SINGLE FAMILY RESIDENCE** A residence which stands apart from other buildings, except accessory buildings, and which is used for a residence by a single housekeeping unit, with permanent provision for living, sleeping, eating, cooking and sanitation.

**SITE PLAN** A plan showing the location of all buildings, parking areas, abutters, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that the Board deems necessary in exercising its review of nonresidential, open space (clustered)

residential development and multi-unit dwelling site plans in accordance with Chapter 674 of NH Revised Statutes Annotated.

**SOIL EROSION AND SEDIMENT CONTROL** The prevention and control of the erosion of soil and the development of sediment.

**SOIL SCIENTIST** See Qualified Soil Scientist

**SOIL** Any unconsolidated mineral or organic material of any origin.

**STREET** Street, avenue, boulevard, road, highway, freeway and other public ways.

**STRUCTURE** That which is built or constructed for occupancy or use. Structures shall not include stone walls and fences less than six feet in height.

**SUBDIVISION** The division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other division of land for the purpose for immediate or future sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

**SURVEY PHASE** See Discussion Phase

**TELECOMMUNICATIONS FACILITIES** Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.

**TOWER** A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

**VARIANCE** (674:33) Legal authorization to deviate from a term of the ordinance.

**WAIVER** Release

**ZONING BOARD OF ADJUSTMENT** Board as appointed by the Board of Selectmen pursuant to RSA 673:3.

**ZONING ADMINISTRATOR** Board of Selectmen of the Town of Mont Vernon.

**ZONING ORDINANCE** The Zoning Ordinances of the Town of Mont Vernon.

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