

# Town of Waterville Valley, NH

## Zoning Ordinance

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## Article I – Preamble

- A) Authority - In pursuance of authority conferred by Chapters 672-677, Revised Statutes Annotated, as amended (hereinafter referred to as RSA 672-677), the following ordinance is hereby enacted by the voters of the Town of Waterville Valley, New Hampshire.
- B) Title - This Ordinance shall be known and may be cited as the "The Town of Waterville Valley Zoning Ordinance of 1973," as amended, hereinafter referred to as "this Ordinance."
- C) Purposes - This Ordinance is enacted for the following purposes:
- 1) To promote the health, safety, and general welfare of the Town.
  - 2) To assist in preventing the depreciation of property values.
  - 3) To promote the orderly development of the Town.
  - 4) To protect the natural and scenic beauty of the Town.

## Article II - Establishment of Zoning Districts

- A) Districts - For the purpose of this Ordinance, the Town of Waterville Valley is divided into the following nine Zoning Districts, hereafter referred to as "Districts":
- 1) A Lower Density Residential (LDR) district.
  - 2) A Higher Density Residential (HDR) district.
  - 3) A Village Commercial (VC) district.
  - 4) A Special Civic (SC) district.
  - 5) A Recreational (REC) district.
  - 6) A Greenbelt (GB) district.
  - 7) A White Mountain National Forest (WMNF) District.
  - 8) A Commercial 1 (C1) District.
  - 9) Snow's Mountain Special Zoning Area.
- B) Zoning Maps - The zoning districts listed above shall be bounded as described herein, and as shown on two maps entitled Zoning Map A (Property Maps of Waterville Valley, NH, Map No. 1) and Zoning Map B (Village Composite Waterville Valley, NH) as annotated, which are attached hereto and made a part of this Ordinance, and are hereinafter referred to as the "Zoning Maps."
- 1) Boundaries – Where uncertainty exists as to the boundaries of districts as shown on the Zoning Maps, the following rules shall apply:
    - a) Boundaries indicated as approximately following the centerline of streets or roads shall be construed to follow such centerlines.
    - b) Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
    - c) Boundaries indicated as approximately following the Town limits shall be construed as following Town limits.

- d) Boundaries indicated as parallel or extensions of features indicated in subsections (a) through (c) above shall be so construed.
- 2) Distances – Distances not specifically indicated on the Zoning Maps shall be determined by the scale of the map.
- 3) Physical or Cultural Features – Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Maps or in circumstances not covered by subsections (1) and (2) above, the Selectmen, the Board of Adjustment, or the Planning Board, as may be appropriate in a given case, shall interpret the District boundaries.

### **Article III - Interpretation, Application, and Definitions**

- A) Interpretation - Any provision of this Ordinance shall be interpreted as being the minimum requirement for the promotion of the public health, safety, or the general welfare. Whenever any requirement of this Ordinance is at variance with the requirements of any lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the highest standards, shall govern.
- B) Application - The provisions of this Ordinance shall apply to all uses, structures, and lots within the Town of Waterville Valley, New Hampshire, except those publicly owned by a unit of government. Whenever any existing use or structure is not in conformity with the provisions of this Ordinance, it may continue to exist subject to the provisions of Article VI. Any use not listed as permitted use shall be construed to be prohibited. No conforming use or structure shall become non-conforming or any non-conforming use or structure become further non-conforming by any manner or action whatsoever, except in accordance with the provisions of this Ordinance or by other legal action of a jurisdiction setting aside a provision of this Ordinance.
- C) Definitions - For the purpose of this Ordinance certain terms, phrases, and words shall have the meaning given herein. Words used in the present tense include the future. The singular includes the plural, and the plural includes the singular. The word "used" shall be construed as though followed by the words "or intended or designed to be used." The words "structure," "building," "lot," or "premises" shall be construed as though followed by the words "or any portion thereof." The word "shall" is always mandatory and not merely directory. The word "may" is permissive.
  - 1) Abandonment - Condition resulting when the intent of the owner to discontinue the use is apparent or when the characteristic equipment and furnishings of a building have been removed from the premises and have not been replaced by similar equipment or furnishings.
  - 2) Accessory Building - A detached building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.
  - 3) Accommodation Unit - Any room without kitchen facilities in a hotel, motel, lodge, or other building, designed for or adapted to occupancy by transient guests.
  - 4) Alteration - As applied to a building or other structure, a structural rearrangement of the exterior or the interior, or an enlargement, or a moving from one location to another.
  - 5) Apartment - See "Dwelling, Multi-Family."

- 6) Appurtenant Structure - A structure attached to a building but not used for occupancy, such as a church spire, belfry, antenna, or chimney.
- 7) Basement - That portion of a building between floor and ceiling which is partly below and partly above grade but so located that the distance from grade to floor is more than the vertical distance from normal grade to ceiling.
- 8) Building - A structure, or part thereof, having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or property.
- 9) Business Complex – A building that contains more than one principal commercial use.
- 10) Business Office - An office open to the public for financial and/or administrative transactions, such as real estate or insurance agent.
- 11) Carport - A roofed, wall-less shed, usually projecting from the side of a building, used as a shelter for an automobile.
- 12) Church - Something that is built, installed or established to provide spaces for worship, spiritual care, individual meditation, religious education, and/or pastoral counseling. Includes chapels for ceremonies such as weddings and similar community gatherings.
- 13) Civic - Of, pertaining to, or belonging to a town, to a citizen, or to citizenship.
- 14) Civic Center – A building complex housing theaters for the performing arts and sometimes exhibition halls or a museum, usually constructed or maintained by municipal funds. Or, a building or building complex containing a municipality’s administrative offices, various departmental headquarters, courts and sometimes an auditorium, libraries or other community or cultural facilities. Or, a theater, meeting hall or the like for community or public use.
- 15) Clinic, Medical, Dental - A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of offices.
- 16) Conditional Use Permit – A permit issued by the Planning Board as authorized by RSA 674:21 Innovative Land Use Controls.
- 17) Condominium - A form of ownership in which a property is divided into units and a unit owner has an individual fee title in the unit and undivided interest in the common area and land, as defined by the condominium documents.
- 18) Convention Facility - A building or portion thereof designed to accommodate meetings, conferences and/or seminars.
- 19) Day Care – A setting for the supervision and care of children, or disabled and/or elderly adults during the day by a person or organization.
- 20) Directional Signs – A sign that includes the name as well as an indication of the direction to travel.
- 21) Dormitory - A building or part thereof principally used, designed or adapted to provide housing for enrollees and staff participating in a multiday program, and having common social and sanitary facilities, and common cooking and dining facilities, where provided.
- 22) Dwelling - A single detached principal building used primarily for residential occupancy.
- 23) Dwelling, Multi-Family - A detached principal building containing townhouses, row houses, condominiums, or apartments designed for or used by three or more families, each family living as an independent housekeeping unit, the total number of families in residence not exceeding the total number of dwelling units.

- 24) Dwelling, Single-Family - A detached principal building designed for or used as a dwelling exclusively by one family as an independent housekeeping unit.
- 25) Dwelling, Two-Family - A detached principal building designed for or used as a dwelling exclusively by two families, each living as an independent housekeeping unit.
- 26) Dwelling Unit - One or more living and/or sleeping rooms in a dwelling designed for occupancy by one or more individuals living as a single housekeeping unit with its own cooking, living, sleeping, and sanitary facilities. See also – "Two-Family Residential Unit."
- 27) Easement - A right afforded a person to make limited use of another's real property, as the right-of-way.
- 28) Family – The term Family is defined as:
  - a) A single individual doing his own cooking, and living upon the premises as a separate housekeeping unit, or
  - b) A collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, adoption, or employment as a domestic servant, or
  - c) A group of unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit, pursuant to a mutual housekeeping agreement (not including a group occupying a boarding house, club, lodge, hotel, or motel).
- 29) Foundation – The masonry substructure of a building.
- 30) Foundation Line – The top line of a foundation; for building height purposes it shall be defined as the highest point at which the pre-construction exterior grade would coincide with the proposed building.
- 31) Garage – A building or indoor area for parking or storing motor vehicles.
- 32) Gazebo – A pavilion-like structure of decorative design used for the momentary shelter from the elements and enjoyment of the surroundings and views.
- 33) Grand Opening – The introduction, promotion, announcement of a new business, store, business complex, or office or the introduction, promotion, announcement of an established business changing ownership.
- 34) Greenbelt – For purposes of this Ordinance, an area for parks, recreation, outdoor activities and natural areas as designated on Zoning Map B.
- 35) Habitable Floor Area – Those areas within the exterior walls of a building which have head room of not less than seven (7) feet measured perpendicularly from the top of the finished floor, but excluding garages.
- 36) Home Occupation – A use conducted entirely within a dwelling, except for gardening, which is incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the residential character thereof.
- 37) Home Produce – Everything of an agricultural nature grown or produced on the property of a resident, primarily for the personal use of the resident.
- 38) Hotel – A building or group of associated buildings designed for occupancy as the temporary lodging place of individuals either in accommodation units or in dwelling units, and in which all such

units are operated under a single management providing the occupants thereof the usual hotel services and facilities.

- 39) Indirect Lighting – A source of external illumination located a distance away from a sign, which lights the sign, but which is itself not visible to persons viewing the sign from any normal position view.
- 40) Inn – See "Hotel."
- 41) Institute – A society or organization for carrying on particular work, as of a literary, scientific, or educational character. Or, the building occupied by such a society.
- 42) Internal Lighting – A source of illumination entirely within a sign which makes the sign content visible at night by means of the lights being transmitted through a translucent material but wherein the source of the illumination is not visible.
- 43) Junk – Any discarded metals, discarded bottles, textiles or wood mill wastes, discarded products of natural or synthetic origin, old paper products, old rubber products, one or more unregistered motor vehicle or pieces of farm machinery which are unfit for use on highways, used parts and materials for motor vehicles or farm machinery and other second-hand articles.
- 44) Lodge – See "Hotel."
- 45) Loading Berth – A space generally within or in close proximity to a building which space is designed to accommodate a parked motor vehicle truck during transfer of goods or materials from such truck to the building and having access from a public street.
- 46) Lot – A plot of land, generally a subdivision of a city, town, or village block, or some other distinct tract, represented and identified by a recorded plat or deed.
- 47) Lot Coverage – The proportion of the lot area, expressed as a percent that is covered by the horizontal cross-section of all buildings located on the lot.
- 48) Lot Line – Boundary line of a lot.
- 49) Lot, Zoning – A portion or parcel of land occupied or intended to be occupied by a use, building, or unit group of buildings and accessory buildings, or other structures, together with such open spaces as are required under the provisions of this Ordinance and meeting any other requirements of this Ordinance for a lot in the District in which such land is situated. Such zoning lot shall have frontage upon a public street or a private easement or way determined by the Selectmen to be adequate for the purpose of access, and may consist of:
  - a) A single lot of record.
  - b) A portion of a lot of record
  - c) A combination of complete lots of record, and portion of lots of record.
  - d) A parcel of land, or the air rights over a parcel of land, described by metes and bounds.
- 50) Lounge – Generally, a cocktail lounge, which is a public room, where cocktails and other drinks are served, and service may include snacks and light meals.
- 51) Motel – See "Hotel."
- 52) Noxious Influences – Noise, glare, odor, air pollution, water pollution, smoke, fumes, particulate matter, heat or vibration produced by and emanating from a use or activity, and potentially detrimental to adjacent uses.

- 53) Open Space – Land not used by buildings or other structures, or for parking or roads, but maintained as green space for landscaping, parks or outdoor recreation. May include pedestrian walkways.
- 54) Park – An open space devoted to leisure, pastime or recreational uses. May include water features.
- 55) Parking Space, Off-Street – The area on a lot designed to be used exclusively as a parking stall to accommodate one parked motor vehicle.
- 56) Paved – Covered with a material such as hot bituminous paving, brick, cobblestone, or similar to form a firm, smooth surface. Includes pervious pavement. Does not include gravel or crushed stone.
- 57) Person – Any individual, firm, partnership, joint venture, association, club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, this and any other municipality, district or other political subdivision.
- 58) Personal services - Establishments providing frequent or recurrent services related to personal needs, and including accessory retail sales of products related to the services offered. Examples include beauty and barber shops, nail salons, tanning salons, massage services, clothing rental, tailors, garment and shoe repair shops, photographic studios, and similar businesses. The term shall not include laundromats or dry cleaning establishments.
- 59) Planned Unit Development (PUD) – A comprehensive and flexible planning and design approach for a zoning lot, or group of lots, where there may be more than one principal use and/or principal building on a lot, and certain dimensions may be reduced by the Planning Board as provided in Section V.O.
- 60) Plate Line – The point at which any part of the roof structure touches or bears upon an external wall.
- 61) Playground – An open space equipped for particular noncommercial leisure, pastime, and recreational uses such as tennis, basketball, swimming, sliding, climbing, soccer, baseball, skating, especially for children.
- 62) Pre-kindergarten – An institution providing education to children prior to kindergarten.
- 63) Premises – A tract of land including its buildings, or a building together with its grounds or other appurtenances (accessories or improvements).
- 64) Primary Business – The business which occupies the majority of the square footage of the building.
- 65) Primary Floor Area – The floor area of a building for purposes of determining required parking ratios, which shall include only that portion of the total floor area devoted to customer service, sales and office space, or in a hospital, clinic or medical center, that portion of the total floor area devoted to rooms, waiting rooms, treatment rooms and business offices, and shall not include storage, utility, hallway or other accessory space which does not generate parking demand.
- 66) Principal Building – The primary building on a lot.
- 67) Principal Use – The main use of the principal building or other structure or lot.
- 68) Professional Office – An office for the practice of professions, such as offices of physicians, dentists, lawyers, architects, engineers, musicians, teachers, accountants, marketing or advertising specialists, information technology specialists and others who through training are qualified to perform services of a professional nature, where there is a limited storage, sale or display of merchandise on the premises.



- 69) Public – Of, pertaining to, or affecting a population or a community as a whole. Open to all persons. Of, pertaining to, or being in the service of a community or nation, especially as a government officer. Maintained at the public expense and under public control. Waterville example: post office.
- 70) Public Transportation Center – A facility for enabling or enhancing the use of shared ground transportation by the public such as a bus terminal or stop.
- 71) Public Utilities and Public Service Installations – Facilities necessary for the provision of electricity, telephone and other services to Waterville Valley property.
- 72) Recreation Center – A facility offering pastimes, diversions, exercise, or other leisure time activities affording relaxation and enjoyment.
- 73) Retail – A business enterprise consisting primarily of selling merchandise and/or rendering services directed to ultimate consumers where each sale or service transaction is in relatively small quantity or volume, as distinguished from a wholesale business.
- 74) Right-of-Way – The right to pass over property owned by another party; the path or thoroughfare on which such passage is made; the strip of land over which facilities such as highways or power lines are built.
- 75) Road Right-of-Way – Any local, collector, or arterial road and a specified amount of land on either side of same as designated in the Waterville Valley Subdivision Regulations.
- 76) RSA – Revised Statutes Annotated, i.e., the laws of the State of New Hampshire and amendments thereto.
- 77) School – Any building whose principal use is designed, constructed or used for academic education or instruction.
- 78) Setback – The horizontal distance between the established lot line, right-of-way, travelled way or paved edge of street as specified in this Ordinance, and the nearest point of any structure measured at right angles to the lot line. See also Article V Supplemental Regulations.
- 79) Shared Parking – Shared parking is a land use planning tool which reduces the amount of land required for parking areas by enabling two uses to provide fewer spaces together than would result if each use met the parking requirements individually. The same parking spaces are dedicated to two different uses when the parking demand for each varies by time of day, day of the week, or season, and the two demand patterns are complementary and predictable.
- 80) Sign – Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal, or similar organization, and further, not including any item of merchandise normally displayed within a show window of a merchant.
- a) The term "sign" shall mean and include any display of any letter, numeral, figure, emblem, picture, outline, character, spectacle delineation, announcement or anything in part or in combination by any means whereby the same are made visible to the eye and for the purpose of attracting attention outdoors to make anything known, whether such display be made on, attached to or as part of any other building, surface, or thing, including but not limited to the ground or any rock, tree or other natural object, which display is visible beyond the boundaries of the lot or parcel of property on or over which the same is made.

- 81) Sign Action – The movement of the sign body or any segment thereof such as rotating, revolving, moving up or down, or any other type of action involving a change of position of the sign body or segment thereof, whether caused by mechanical or any other means.
- 82) Sign, Animated – The movement of any light used in connection with any sign such as blinking, traveling, flaring, changing degree of intensity of any light movement other than burning continuously.
- 83) Sign, Change-Panel – A sign designed to permit immediate change of copy, which may be other than the name of the business but subject to specific regulations by the foregoing provisions of this Ordinance.
- 84) Sign, Free Standing – A sign that is self-supporting, permanently, in a fixed location and not attached to a building.
- 85) Sign, Informational – A sign that pertains to no specific business, building, or direction; presents either current or historical facts to the public regarding the town or resort.
- 86) Sign, Non-Conforming – Any sign which is not allowed under this Ordinance but which was constructed prior to the passage of this Ordinance.
- 87) Sign, Off Premises – A sign that announces businesses located elsewhere than the lot where the sign is located.
- 88) Sign, Permanent – Any sign which is intended to be or so constructed as be lasting and enduring, remaining unchanged in character, condition (beyond normal wear) and position, provided the sign is listed as a permanent sign in the Ordinance.
- 89) Sign, Political – As in RSA 664:2 "Political advertising" means any communication.... which expressly or implicitly advocates the success or defeat of any party, measure or person at any election.
- 90) Sign, Temporary – Any sign, banner, pennant, variance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other like materials, with or without frames, intended to be displayed for a short period of time only.
- 91) Ski Trail – Trail or slope designated for skiing.
- 92) Sports Institute – A facility which provides for the coaching and training of athletes, typically with formal multi-day programs, and may also include their academic development. The definition includes classrooms, dormitories and cafeterias for participants and staff, administrative space, and training facilities.
- 93) Sports Facility – An indoor or outdoor enclosed area such as a court, field, or ring, used for sports, which may be surrounded by seats for spectators. Or, the building housing such an area. May include support elements such as dressing, fitting, and locker rooms; team or player seating areas; exercise equipment and machines; saunas and steam rooms; bowling lanes.
- 94) Stealth – Camouflaged, for example, with use of monopines, internal antenna pole towers, or placement inside existing building components.
- 95) Storage Facilities – A building or portion thereof providing to the public-at-large storage space.
- 96) Structure - Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, walls, fences more than three (3) feet high, tennis courts, swimming pools, billboards, signs, piers and floats. "Structure" does not include poles, lines, cables or other transmission or distribution facilities

of utilities. “Structure” also does not include mail boxes, light fixtures, raised garden beds, walkways, or the like.

- 97) Studio – A building or portion of a building used as a place of work by an artist, photographer, or an artisan in the field of light handicrafts. Related activities may include sale of items produced by the artist or group of artists, workshops and classes to teach the craft to others, and sale of materials utilized in the workshops or classes.
- 98) Theater – A building, part of a building or outdoor area for housing dramatic presentations, stage entertainments, lectures, demonstrations, motion-picture shows, or concerts.
- 99) Traveled Way – The portion of the road on which through-traffic is carried.
- 100) Two-Family Residential Unit – A single-family residential dwelling with an accessory dwelling unit (ADU), with an interior door between the two units, and the two units being maintained in the same ownership entity.
  - a) One dwelling unit shall be identified as the primary dwelling unit and the other as the accessory dwelling unit.
  - b) Either the primary dwelling unit or the accessory dwelling unit, or both, may be rented.
  - c) The two-family residential unit shall be maintained in the same ownership entity, and neither dwelling unit can be conveyed separately.
- 101) Use – Use of property allowed under this Ordinance in a particular district. It includes construction, establishment, maintenance, alteration, moving onto, enlargement, and occupation.
  - a) Special Exception – Use by permit approved by the Zoning Board of Adjustment.
  - b) Use, Accessory – A use customarily incidental and accessory to the principal use located on the same lot.
  - c) Use By Right – Use of land, buildings, or both, expressly authorized within a particular zoning district.
  - d) Use, Non-Conforming – A legal use of a building or lot at the time this Ordinance became effective and which does not conform with the use regulations of the district in which it is located.
  - e) Use, Substantially Different - A use not permitted within the district in which the principal and the accessory use in question are located.
- 100) Water Feature – A piece of recreational equipment associated with a park or pool using water to enhance the activity, such as a splash pad or slide. Does not include water park.
- 101) Water Park – An amusement park featuring swimming pools, waterslides, wave pools, fountains or other attractions involving water.

## Article IV - Zoning Districts and Regulations

The following Districts shall be established for the following purposes and shall be subject to the following provisions:

### A) Lower Density Residential (LDR) District

#### 1) Development Regulations

##### a) Zoning Lot Size

- (i) The minimum lot size shall be one-half of an acre (21,780 sq. ft.) for all development except as provided below.
- (ii) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
- (iii) There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.

##### b) Lot Coverage - The maximum lot coverage shall be 25% by all buildings.

##### c) Building Height

- (i) The maximum principal building height shall be 3 stories but not to exceed a maximum of 35 feet measured from the highest point on the foundation line.

##### d) Floor Area

- (i) The minimum habitable floor area at grade level of the principal building shall be 900 sq. ft.
- (ii) The minimum floor area of a single-family dwelling shall be 1,500 sq. ft.
- (iii) In a two-family residential unit, the floor area of the accessory dwelling unit shall be no more than 50% of the floor area of the principal dwelling unit.
- (iv) The floor area of interior garages is excluded from each minimum.

##### e) Setbacks

- (i) There shall be between any structure and the right-of-way of any street a minimum of 35 feet; with the exception of Stone Tower Lane, Boulder Way, West Branch Road (east of West Branch Bridge), and Lower Greeley Hill Road where there shall be between any structure and the traveled way of any street a minimum of 35 feet. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
- (ii) No structure shall be located within 20 feet of any side or rear lot line. Exceptions: 1. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 2. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet.
- (iii) There shall be a 5-foot setback between any structure and the lot line of land designated as the White Mountain National Forest.

## B) Higher Density Residential (HDR) District

### 1) Development Regulations

#### a) Zoning Lot Size

(i) The minimum zoning lot size for multi-family dwellings shall be one acre (43,560 sq. ft.).

(ii) The minimum zoning lot size for single family dwelling, a two-family residential unit, or a two-family dwelling shall be one-half of an acre (21,780 sq. ft.).

(iii) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.

(iv) There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.

b) Lot Coverage - The maximum lot coverage for a single-family or two-family dwelling shall be 25% by all buildings.

#### c) Building Height

(i) For multi-family dwelling buildings, and agricultural use buildings, the maximum building height from the highest point on the building foundation line shall be 45 feet.

(ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage are one (1) story lower.

(iii) For single family dwellings, two-family dwellings and two-family residential units – the maximum building height shall be three stories but not to exceed 35 feet measured from the highest point on the foundation line.

d) Open Space - For multi-family dwellings, a minimum of one-third of any lot shall be open space.

#### e) Setbacks

(i) There shall be a minimum of 35 feet between any structure and the right-of-way of any street. Structures shall not be closer than 20 feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.

(ii) No structure shall be located within 20 feet of any side or rear lot line. Exceptions: 1. In cases where HDR property abuts property in the LDR District, there shall be no structure on HDR property within 35 feet of the LDR District. 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 2. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.

(iii) There shall be a 5-foot setback between any structure and the lot line of land designated as the White Mountain National Forest.

## C) Village Commercial (VC) District

### 1) Development Regulations

#### a) Zoning Lot Size

- (i) The minimum zoning lot size for single-family dwelling, a two-family residential unit or a two-family dwelling shall be one-half of an acre (21,780 sq.ft.).
- (ii) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
- (iii) There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.

#### b) Lot Coverage – the maximum lot coverage for a single-family dwelling or two-family dwelling or a two-family residential unit shall be 25% by all buildings.

#### c) Building Height

- (i) For single-family, two-family dwellings and two-family residential dwelling units, the maximum building height shall be 3 stories but not to exceed a maximum 35 feet measured from the highest point on the foundation line.
- (ii) For all other buildings, the maximum building height from the highest point on the building foundation line shall be 45 feet.
- (iii) To achieve greater architectural variety, up to 25% of the rooflines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.
- (iv) Steeples or bell towers or similar structures in this zone are exempt from height requirements.

#### d) Deviation From Building Height Requirements

- (i) Upon written application and after public hearing, the Planning Board shall have the authority to grant a conditional use permit to allow deviation from the foregoing height limitations provided that the Board finds on the record presented that:
  - 1. The added height makes the building more aesthetically attractive; and
  - 2. The added height does not unreasonably detract from the views of abutting properties.
- (ii) This authority is granted to the Planning Board as an innovative land use control pursuant to RSA 674:16, II and RSA 674:21, II.

#### e) Open Space – For multi-family dwellings a minimum of one-third of any lot shall be open space. For all other uses, the minimum open space shall be one-fifth.

#### f) Setbacks

- (i) There shall be a minimum of 35 feet between any structure and the right-of-way of any street. There shall be a 5-foot setback between any off-street parking area and the right-of-way of any street. Structures shall not be closer than 20 feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
- (ii) No structure shall be located within 20 feet of any side or rear lot line. Exceptions: 1. In cases where VC property abuts LDR property, there shall be no structure on VC property within 35 feet of the LDR District. 2. The side and rear setback for fences, walls, retaining

walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet..

- (iii) There shall be a 5-foot setback between any structure and the lot line of land designated as the White Mountain National Forest.

## **D) Special Civic (SC) District**

### 1) Development Regulations

#### a) Zoning Lot Size

- (i) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
- (ii) There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
- (iii) There is no minimum lot size for any development in this zoning district other than as detailed above.

#### b) Lot Coverage – Not applicable.

#### c) Building Height

- (i) The maximum building height from the highest point on the building foundation line shall be 45 feet.
- (ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.

#### d) Open Space - A minimum of 50% of any lot shall be open space.

#### e) Setbacks

- (i) There shall be a minimum of 25 feet between any structure and the right-of-way of any street, with the exception of Boulder Way and West Branch Road (east of West Branch Bridge) where there shall be a minimum of 25 feet between any structure and the traveled way of any street. There shall also be a 5-foot setback between any off-street parking and the right-of-way of any street. Structures shall not be closer than 20 feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
- (ii) No structure shall be located within 20 feet of any side or rear lot line. Exceptions: 1. In cases where SC property abuts property in the LDR District, there shall be no structure within 35 feet of the LDR District. 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.
- (iii) There shall be a 5-foot setback between any structure and the lot line of land designated as the White Mountain National Forest.

## **E) Recreational (REC) District**

### 1) Development Regulations

#### a) Zoning Lot Size

- (i) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
- (ii) There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
- (iii) There is no minimum lot size for any development in this zoning district other than as detailed above.

#### b) Lot Coverage – Not applicable.

#### c) Building Height

- (i) The maximum building height from the highest point on the building foundation line shall be 45 feet.
- (ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.

#### d) Open Spaces – A minimum of 50% of any lot shall be open space.

#### e) Setbacks

- (i) There shall be a minimum of 25 feet between any structure and the right-of-way of any street, with the exception of Boulder Way, Stone Tower Lane, and West Branch Road (east of West Branch Bridge) where there shall be a minimum of 25 feet between any structure and the traveled way of any street. There shall also be a 5-foot setback between any off-street parking area and the right-of-way of any street. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
- (ii) No structure shall be located within 20 feet of any side or rear lot line. In cases where REC property abuts property in the LDR District, there shall be no building on REC property within 35 feet of the LDR District. 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.
- (iii) There shall be a 5-foot setback between any structure and the lot line of land designated as the White Mountain National Forest.

## **F) Greenbelt (GB) District**

### 1) Development Regulations

#### a) Zoning Lot Size

- (i) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
- (ii) There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.



- (iii) There is no minimum lot size for any development in this zoning district other than as detailed above.
- b) Lot Coverage – Not applicable
- c) Gazebo Height – The maximum gazebo height from the highest point on the gazebo foundation line shall be eighteen (18) feet.
- d) Open Spaces – A minimum of 95% of any lot shall be open space.
- e) Setbacks
  - (i) There shall be a minimum of twenty (20) feet between any structure and the right-of-way of any street. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
  - (ii) No structure, including fences, walls, retaining walls and similar types of improvements, shall be located within ten (10) feet of any side or rear lot line.
- f) Proximity of Gazebos – Separate gazebos in the GREENBELT shall not be closer than two hundred (200) feet at their closest point.

**G) White Mountain National Forest (WMNF) District**

- 1) General – Those areas of land in the Town of Waterville Valley controlled by the Federal Government and designated by the Federal Government as the White Mountain National Forest.

**H) Commercial 1 (C1) District**

- 1) Development Regulations
  - a) Zoning Lot Size
    - (i) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.  
There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
    - (ii) There is no minimum lot size for any development in this zoning district other than as detailed above.
  - b) Lot Coverage – Not Applicable
  - c) Building Height
    - (i) For all buildings, the maximum building height from the highest point on the building foundation line shall be 45 feet.
    - (ii) To achieve greater architectural variety, up to 25% of the rooflines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.
    - (iii) Steeples, or bell towers or similar buildings in this zone are exempt from height requirements.
  - d) Deviation From Building Height Requirements
    - (i) Upon written application and after public hearing, the Planning Board shall have the authority to grant a conditional use permit to allow deviation from the foregoing height limitations provided that the Board finds on the record presented that:
      - (1) the added height makes the building more aesthetically attractive; and

- (2) the added height does not unreasonably detract from the views of abutting properties.
- (ii) This authority is granted to the Planning Board as an innovative land use control pursuant to RSA 674:16, II and RSA 674:21, II
- e) Open Space – For all uses, the minimum open space shall be one-fifth (20%).
- f) Setbacks
  - (i) There shall be a minimum of ten (10) feet between any structure and the right-of-way of any street. There shall be a five (5) foot setback between any off-street parking area and the right-of-way of any street. Structures shall not be closer than ten (10) feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
  - (ii) No structure shall be located within ten (10) feet of any side or rear lot line. Exceptions: 1. In cases where C1 property abuts property in the LDR District, there shall be no structure on C1 property within twenty (20) feet of the LDR District. 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet.
  - (iii) There shall be a five (5) foot setback between any structure on C1 property and the lot line of land designated at the White Mountain National Forest.
- 2) Corcoran's Pond – A special zoning area is hereby created along the northerly edge of Corcoran's Pond, beginning at a point which is 175 feet from the northwest corner of the dam and continuing along the edge of the pond and then along the boundary of the town's property to the intersection of said boundary with Valley Road. Within this special zoning area the following dimensional regulations shall apply:
  - a) No more than six (6) buildable lots may be created with frontage along the boundary of Corcoran's Pond, and each such lot shall have a minimum of one hundred fifty feet (150') of such frontage.
  - b) As to any lot which has frontage along the boundary of Corcoran's Pond, there shall be no required setback for structures from the boundary for a continuous distance, which is equal to no more than fifty percent (50%) of the total amount of such frontage.
  - c) With the exception of the foregoing, all other provisions of the zoning ordinance otherwise applicable to the special zoning area shall remain in full force and effect.

**I) Snow's Mountain Special Zoning Area (Snow's)**

- 1) Creation of a Special Zoning Area – A special zoning area is hereby created on the portion of the parcel of recreation-zoned land at Snow's Mountain consisting of the flat lot at the base of Snow's Mountain bordered by Cascade Ridge Subdivision, Boulder Path Road, tennis courts and Snow's Mountain ski hill. The ski hill itself is not part of this zone.
- 2) Development Regulations.
  - a) Zoning Lot Size
    - (i) The minimum lot size shall be five (5) acres for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.
    - (ii) There is no minimum lot size for any agricultural use except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a.

- (iii) There is no minimum lot size for any development in this zoning district other than as detailed above.
- b) Lot Coverage – Not applicable.
- c) Building Height
  - (i) The maximum building height from the highest point on the building foundation line shall be 45 feet.
  - (ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.
- d) Open Spaces – A minimum of 50% of any lot shall be open space.
- e) Setbacks
  - (i) There shall be a minimum of 25 feet between any structure and the right-of-way of any street, with the exception of Boulder Way, Stone Tower Lane, and West Branch Road (east of West Branch Bridge) where there shall be a minimum of 25 feet between any structure and the traveled way of any street. There shall also be a 5-foot setback between any off-street parking area and the right-of-way of any street. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
  - (ii) No structure shall be located within 20 feet of any other lot line Exceptions: 1. In cases where Snow's property abuts property in the LDR District, there shall be no structure on Snow's property within 35 feet of the LDR District. 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.
  - (iii) There shall be a 5-foot setback between any structure and the lot line of land designated as the White Mountain National Forest.

## J) Uses

A person shall not use any lot in any zoning district in Waterville Valley except as hereinafter specifically allowed. Those uses designated with a “P” are permitted and allowed by right. Those uses designated “SE” are allowed only with a Special Exception granted by the Zoning Board of Adjustment. Those uses designated “CU” are allowed only with a Conditional Use Permit granted by the Planning Board. Those uses designated “a” are allowed only as an accessory use to a principal use which is either permitted or has been granted a Special Exception or Conditional Use Permit. If a use is designated “a/SE,” it is allowed as an accessory use, otherwise requires a Special Exception.

USES	LDR	HDR	VC	C1	SC	REC	Snow's	GB	WMNF
<b>1) RESIDENTIAL</b>									
a) Single-family dwelling & Two-family residential unit (ADU)	P	P	P						
b) Two-family dwelling (duplex)		P	P						
c) Multi-family dwellings		P	P	P					
d) One or more dwelling units above the ground floor in buildings that include retail stores, services, restaurants and/or offices			a	a					
e) Home Occupations	a	a	a	a					
f) Greenhouses, tool sheds, playhouses, home produce from a garden, garages and carports, studios, swimming pools, patios, and dog kennels	a	a							
g) Caretaker or manager dwelling unit (on lots one acre or larger)		a	a	a	a	a	a		
h) Raising and keeping of livestock, equine or poultry when accessory to single or two-family dwellings on lots five (5) acres or larger	a	a	a						
<b>2) RECREATION</b>									
a) Playing fields	a	a	a	a	P	P	P		
b) Parks	a	a	a	a	P	P	P	P	
c) Playgrounds	a	a	a	a	P	P			
d) Trails for nonmotorized recreation (includes downhill ski trails)	P	P	P	P	P	P	P	P	
e) Alpine ski lift, tram, or other aerial transportation	P	P	P	P	P	P	P	P	
f) Golf courses						P			
g) Golf clubhouses and pro-shop			P	P		P			
h) Gazebos	a	a	a	a	a	a	a	a	
i) Skating rinks and tennis courts, indoor or outdoor	a	a	a	a	P	P	P		
j) Swimming pools and water features	a	a	P	a	P	P	P		
k) Recreation centers		a	P	P	P	P	P		

USES	LDR	HDR	VC	C1	SC	REC	Snow's	GB	WMNF
l) Sports facilities			P	P	P	P	P		
m) Sports Institutes			P	P	P	P	P		
n) Camps for recreational instruction			a	a	P	P	P		
o) Special recreational and entertainment events, such as ski races, bicycle races and outdoor concerts, may include camping for up to one week.			a/SE	a/SE	a/SE	a/SE	a/SE		
p) Skills venues and courses, such as archery, target/skeet shooting, Biathlon and the like			a/SE	a/SE	a/SE	a/SE	a/SE		
q) Health and wellness facilities such as spas, outdoor baths and pools, fitness facilities; provision of health and wellness services.			a	P	a	a	a		
r) Use of animals for recreational purposes for up to eight weeks. For animals to be kept in the Town of Waterville Valley overnight, site plan review will be required and compliance with state and federal BMPs demonstrated.		a	a	a	a	a	a		
<b>3) INSTITUTIONAL/PUBLIC</b>									
a) Public buildings and grounds	SE	SE	P	P	P	a			
b) Civic centers, churches		SE	P	P	P	a/SE			
c) Day care, pre-kindergarten	SE	a/SE	P	a /SE	P	P	a		
d) Schools			a	a	P		P		
e) Cemeteries					P				
f) Dormitories			a	a	a		a		
g) Uses authorized by the US Forest Service that are consistent with the White Mountain National Forest Land and Resource Management Plan									P

USES	LDR	HDR	VC	C1	SC	REC	Snow's	GB	WMNF
<b>4) COMMERCIAL</b>									
a) Professional and business offices		a/SE	P	P		a			
b) Studios, arts and crafts centers		a/SE	P	P	SE				
c) Retail stores		a/SE	P	P		a			
d) Restaurants and lounges, without drive-through service		a	P	P		a			
e) Personal Services		a	P	P					
f) Theaters, indoor			P	P	p				
g) Theaters, outdoor			P	P	P	P	a		
h) Hotels, motels, inns, and public lodging			P	P					
i) Convention facilities		a	P	P					
j) Indoor water park		a	a	a					
k) Storage facilities			P	a	P				
l) Facilities for construction equipment, contractor's yards, maintenance facilities, rental car services, and building supply yards						P			
<b>5) TRANSPORTATION/UTILITIES</b>									
a) Parking facilities, including buildings and lots.	a	a/SE	P	P	P	a	a		
b) Public transportation terminals and information centers	SE	SE	P	P	P				
c) Public utilities and public service installations	SE	SE	P	P	a	a			
d) Stormwater management facilities	a	a	a	a	a	a			
e) Telecommunications towers utilizing stealth technology			SE	SE					

USES	LDR	HDR	VC	C1	SC	REC	Snow's	GB	WMNF
f) Wind, solar or geothermal energy facilities for on-site use	a	a	a	a	a	a	a	a	
<b>6) AGRICULTURE</b>									
a) The tilling of soil and the growing and harvesting of crops and horticultural commodities, as a primary or accessory use	P	P	P	P	P	P	P	P	P
b) All other agricultural uses except for the raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a	P	P	SE	SE	P	P		P	
c) The raising and keeping of animals as an agricultural use pursuant to RSA 21:34-a	SE	SE			SE	SE		SE	
<b>7) ACCESSORY USES AND STRUCTURES</b>									
a) Any other structure or use on the same site with the principal use, incidental and accessory thereto, and necessary for the operation of the principal use.	a	a	a	a	a	a	a	a	a
<b>8) OTHER</b>									
a) Planned Unit Developments	CU	CU	CU	CU					

## Article V - Supplemental Regulations

### A) Principal and Accessory Uses

- 1) Except in the case of a business complex or professional building where the principal building may contain multiple business entities, or a Planned Unit Development approved by the Planning Board, there shall not be more than one principal use and one principal building on each lot.
- 2) Location - All accessory uses and structures must comply with required setbacks as provided in Article IV.

3) Fences, Hedges, Walls - For the purpose of minimizing hazards at town or state road intersections by improving visibility for converging vehicles, no fence, hedge, wall or retaining wall over 36 inches above the adjacent street elevation shall be permitted to be placed, planted, or erected on any corner lot within the triangular portion of such lot measured from the point of intersection of the lot lines abutting the streets a distance of 30 feet along each such lot line. No barbed wire or electrically charged fence shall be erected or maintained.

4) Antenna/Satellite Dishes - All antennas/satellite dishes, when associated with a nonresidential or multi-family use, shall be considered as accessory uses and shall be subject to Site Plan Review Regulations (regardless of zone), for the purpose of protecting public safety, preserving natural features, and considering aesthetic values.

5) Home Occupations

In any district where home occupations are permitted as an accessory use, the establishment and continuance of a home occupation shall be subject to the following requirements:

- a) Such use shall be conducted entirely within a dwelling, except for gardening, and carried on principally by the inhabitants thereof.
- b) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof.
- c) The only advertising, display, or other indications of home occupation on the premises may be an un-illuminated sign no larger than 3 square feet mounted at the point of access on the premises which sign shall be of stained wood routed with white letters.
- d) Incidental retail sales may be made in connection with permitted home occupations; however, the business of selling merchandise supplies, or products shall not be conducted on the premises.
- e) There shall be no exterior storage on the premises of material used in the home occupation.
- f) There shall be no offensive noise, vibration, smoke, dust, odor, heat, or glare noticeable at or beyond the property line, as a result of the home occupation.
- g) A home occupation shall provide additional off-street parking area to accommodate associated employee parking and other vehicles as appropriate. Parking shall not be allowed in the street.
- h) For purposes of this section, provided all requirements contained herein are met, the following by way of example shall be considered home occupations:
  - (i) Professional offices
  - (ii) Art studios.
  - (iii) Teaching, with musical instruction limited to two pupils at a time.
  - (iv) Dressmaking or millinery.
  - (v) Home day care

A home occupation shall not include the following: Clinic, funeral home, nursing home, tea room, restaurant, antique shop, veterinarian's office or use similar to any of the foregoing excluded uses

- i) The maximum number of employees in a home occupation shall be the resident plus the equivalent of one full-time, non-resident employee.

**B. Off-Street Parking, Access and Loading Requirements**

1) General –Parking and loading spaces shall be provided for new and expanded buildings and uses as specified by the following requirements.

2) Application to Existing Uses

- a) Parking spaces and loading berths shall be required for uses and buildings in existence as of the date of the enactment of this Ordinance, only if such uses or buildings are expanded, and only to the extent that the expanded portion of such use or buildings generates a parking or loading



space requirement; such requirement resulting from the expansion of an existing use or building shall be met in accordance with the schedule set forth in ARTICLE V, Section C, Schedule of Parking and Loading Requirements.

### 3) Determination of Space Requirements

- a) The parking plan shall include adequate documentation to support the proposed number of spaces and demonstrate adequate parking for the number and type of vehicles which are expected as part of the operation of the facility, including all commercial vehicles required for the normal operation of the facility and any oversized vehicles such as tour buses, trailers and ramps for loading and unloading.
- b) The number of parking spaces or loading berths required shall be based upon anticipated parking demand or operational need and shall be designated for specific uses and situations in ARTICLE V, Section C, Schedule of Parking and Loading Requirements. Where a use is not indicated in Section C., the Planning Board, as part of its subdivision and/or site plan review, will establish parking standards on an individual basis as the public safety shall require.
- c) The required number of parking spaces may be higher than indicated in Section C when judged by the Planning Board to be necessary for public safety.
- d) Requests for a reduction in the parking requirements may be approved by the Planning Board as part of subdivision and/or site plan review upon receipt of a parking study deemed by the Board to adequately document the reduced need.

### 4) General Parking and Loading Requirements

- a) Off-Street Loading - Off-street loading areas shall be provided for uses that will be receiving truck deliveries on a regular basis.
  - (i) Location - All off-street loading berths or areas shall be located on the same lot as the use for which they are permitted or required. Off-street loading berths or areas shall be provided in addition to required off-street parking and shall not be located within access ways.
  - (ii) Size - Each required loading berth may be open or closed and shall be appropriately sized for the anticipated use. Reasonably adequate turning and maneuvering space shall be provided to prevent backing into or maneuvering in the street or pedestrian ways.
  - (iii) Access Ways - Access ways at least 10 feet in width shall connect all loading berths or areas to a street or parking area.
- b) Off-Street Parking
  - (i) Location of Parking Areas - Parking areas, whether open or enclosed, shall be provided upon the same lot containing the use for which they are required, or on separate lots within a 300 foot radius of such lot containing such use, provided such separate lots or the right to use such separate lots for the purposes herein required shall be held under unified ownership or control. All parking aisles and parking spaces shall be entirely within the lot lines, and not on a public right-of-way. Parking spaces shall be arranged so that no part of any vehicle overhangs the public right-of-way.
  - (ii) Size of Space - Each off-street parking space shall not be less than 10 feet wide by 20 feet long if uncovered, or 9 feet wide by 19 feet long if covered or enclosed; and if so, the enclosure or cover shall not be less than 8 feet high.

### 5) Access

- a) Off-street Parking - Unobstructed and direct access ways shall be provided from off-street parking to a street, or access way, which access way shall have a minimum width of at least 10 feet.
- b) Private Driveways - An access to a single residence shall be subject to Fire Lane requirements and driveway permit regulations.

- c) Common Driveways – A common driveway can access up to 4 multiple buildings, sites or lots. Requires the approval of the Public Safety Department.
- d) Internal Roads – An access way serving only a group of related buildings, sites or lots developed as part of an approved subdivision or site plan application shall have a minimum width of at least 18 feet. Requires the approval of the Public Safety Department.
- 6) Entrances and Exits - No entrance or exit shall exceed 30 feet in width.
- 7) Aisles- Aisles shall be provided affording unobstructed vehicular passageway between each parking space and one or more access ways.
- 8) Surfacing - All open parking areas required by this Ordinance shall be paved except parking areas for one or two-family dwellings.
- 9) Garages - Parking spaces inside dwelling units qualify for off-street parking space requirements of this section.

**C. Schedule of Off-Street Parking and Loading Requirements**

- 1) Minimum Off-Street Spaces – The minimum number of off-street spaces required of every new or substantially reconstructed building shall be as follows:

USE PARKING REQUIREMENTS Single-family and two-family dwellings and two-family residential units	2 spaces per dwelling unit.
Multi-family dwellings (townhouses, apartments).	1 ½ spaces per dwelling unit for 2 bedroom units or smaller, 2 spaces for 3 bedroom units or larger.
Public accommodation hotels, motels, and lodges.	1-1 1/8 spaces for each rental unit.
Churches, theaters, auditoriums, and other public assembly facilities housing seated audiences.	1 space for every 8 seats (provided however, that spaces required by other uses on the same lot, may be applied as a credit to the space required by a church, theater, etc., use if such other uses and such church, theater, etc., uses occur at different hours, no two of which coincide).
Elementary school and nursery.	2 spaces for every classroom.
Medical and dental clinics.	1 space for every 200 sq. ft. of Primary Floor Area.
Retail floor space.	5 spaces for every 1,000 sq. ft. of Primary Floor Area.
Public, commercial or professional offices and banks.	2 ½ spaces for every 1,000 sq. ft. of Primary Floor Area.
Restaurants and bars.	One space for every 75 sq. ft. of Primary Floor Area
Home occupations	One space for employee if any; one space for receiving deliveries if any, as appropriate for customers to ensure no parking will be on street.

- 2) Flexible Parking - The Planning Board, in conjunction with site plan or subdivision review, may allow the following types of flexibility from the parking requirements described in Sections V.B and V.C.:
  - a) Parking provided by public lots, designated on-street parking, or other off-site parking may be utilized to fulfill some or all of the parking requirements when provided within a distance appropriate to the proposed use but not exceeding 1,000 feet walking distance for nonresidential uses. For residential uses, the 300-foot limit contained in Section B.4.b.i. above shall apply.

- b) Shared parking arrangements may be utilized.
- c) Provisions may be made for temporary parking areas, which may be grass or gravel, for events or other uses that are expected to occur no more than twelve times per year and no more than twice in any given month. These parking areas may include a combination of on-premises, off-premises with the owner's written permission, or public parking areas. In the case of off-premises or public parking areas, documentation of the means of passage of event participants from the parking area to the premises shall be required, e.g., sidewalk or other pedestrian way, or shuttle bus.
- d) The Planning Board may impose conditions, such as, but not limited to: monitoring of parking usage to ensure that the need for parking does not exceed projections with the excess number, size or type of vehicles leading to unsafe conditions, or to parking on roadsides in locations other than legally designated parking areas; and identification of a reserve area which will be set aside for the construction of additional parking if needed in the future.

#### **D) Junk Yards**

- 1) No junk yards or place for the outside storage of discarded machinery, vehicles, or other scrap materials shall be permitted in any district unless specifically approved as a Town Dump by the Selectmen, who shall have full authority to locate and regulate any such use.
- 2) Except for areas pursuant to Paragraph 1 of this section and temporary permits granted by the Board of Selectmen, no inoperative or unregistered motor vehicle or parts thereof may be kept on any property within sight of any residence for more than seven consecutive days, or more than 30 days within any 365-day period.

#### **E) Earth Removal Sites**

- 1) No removal of clay, sod, loam, sand, gravel, etc. is permitted in any District, unless permitted by the Selectmen, who shall have full authority to approve sites and regulate the earth removal process, pursuant to RSA 155E, including the subsequent restoration of the land to a natural state.

#### **F) Forest Products**

- 1) The cutting of forest products shall be permitted in any District provided no commercial processing or attendant operation shall be carried on and all slash is disposed of in conformity with RSA 224:44 and 45.

#### **G) Flood Area**

- 1) See Floodplain Management Ordinance.

#### **H) Basement Occupancy**

- 1) In any District, no person shall be permitted to live in the basement of an uncompleted building.

#### **I) Sanitary Protection**

- 1) All on-site sanitary systems for buildings shall be constructed and maintained in strict accordance with the laws and regulations of New Hampshire Department of Environmental Services.

#### **J) Open Space Occupancy**

- 1) Projection into open spaces in addition to other uses permitted in this Ordinance may be occupied by the following:

- a) Balcony, bay window, step, terrace, stoop (not including a porch), chimney, eaves, required means of fire egress, or similar architectural feature, provided it shall not project more than two (2) feet beyond the face of the wall.
  - b) Fence, wall, retaining wall, tree, shrub, hedge, lawn, and all other vegetation.
  - c) Accessory use of a residentially used lot, such as play equipment, temporary tent, light fixture, mailbox, outdoor fireplace, in-the-ground swimming pool, and similar building normally found on such lots, provided that a swimming pool shall be completely enclosed with a woven wire or other substantial fence or gate, capable of being padlocked, both fence and gate at least five (5) feet in height.
  - d) Accessory uses of a non-residentially-used lot for a flagpole or temporary outside storage of materials other than junk.
- 2) Uses Permitted and Descriptive Purposes - Open lot storage of material and equipment accessory to a business on the same premises may be permitted on an open lot, provided that the area is compatible with the area of development and that any material stored in unenclosed premises is fenced with suitable solid fencing or screened from view with suitable and properly maintained evergreen shrubbery.

### **K) Sign Code and Regulations**

- 1) Statement of Purpose and Intent - The principle guiding these regulations is that signing should not destroy or detract from the scenic vistas or compete unnecessarily with the natural environment, and should also not endanger the public health or safety by obscuring lines of sight of the traveling public.
- 2) Application Permit Requirements
- a) All signs shall require the filing of a permit application and approval by the Board of Selectmen or their agent prior to installation or display.
  - b) An application for a sign shall include site location, sign site, method of illumination, a scaled rendition of the sign illustrating types of material and colors, and any other information that the Selectmen or their agents may reasonably require. For signs on private property there is no requirement to disclose the message on the sign. Private signs on public property are limited to providing walking/driving directions to the public. Permits will be issued by the Selectmen or their agent per the fee schedule adopted by the Selectmen.
- 3) Existing Uses and Non-Conforming Uses – Every sign lawfully existing at the time of the adoption of these regulations may continue in existence and be maintained in form and color or replaced in kind, but shall not be changed in any of its dimensions, such as height, diameter, width, thickness, circumference and perimeter, or relocated unless it is made to comply with the provisions of these regulations and a permit obtained.
- 4) Scope and Application of Signs on Private Property
- a) The provisions of these regulations shall apply to the display, construction, erection, alteration, location and maintenance of all signs on private property within Waterville Valley.
  - b) The following are exempted from these regulations
    - (i) Signs which are not visible (readable) from a public right of way.
    - (ii) Signs smaller than 72 square inches.
    - (iii) Signs needed for public safety or E911 regulations. Such allowed signs shall not exceed 6 sq. ft. in area per sign.
    - (iv) All signs on and indicating the existence of private property. These include, but are not limited to, the following: directions (e.g. “path this way”), forbidding, trespassing, hunting, and other such activities on the property. Such allowed sign exceptions shall not exceed 6 sq. ft. in area per sign.

- 5) General Requirements for Permanent Signs (See also Article III, Definitions)
- a) Maintenance - Signs shall be in good order and repair at all times, so as to constitute no danger or hazard to public safety and to enhance the overall attractiveness of the Town. A permit is required for any relocation, enlargement, redesign or other similar alteration of an existing sign.
  - b) Prohibited Lighting for Signs- No exposed or similar type of lighting for illumination, including open light bulbs, except indirect lighting, shall be permitted. No internally lighted signs are permitted. Further, no flashing, blinking and/or moving lights shall be permitted.
  - c) Prohibited Sign Features – No action or animated signs shall be permitted. Signs cannot make sounds. Exceptions to these features will be granted in those cases where the feature is required by state law or regulation.
  - d) Construction and Aesthetic Requirements – Permanent Signs
    - (i) Each outside sign requiring a permit shall be designed to withstand a wind load of at least thirty (30) pounds per square foot.
    - (ii) The maximum sign size, unless further restricted by these regulations is 12x24 feet. The maximum height of a stand-alone sign is 25 feet from the top of the sign to the grade. No sign attached to a building will be higher than the drip edge of the main roof.
    - (iii) Signs adjacent to roads may not restrict the view lines of pedestrians, bicyclists or motorists.
    - (iv) Signs will be constructed of substantial materials designed to enhance the natural beauty of the valley. Suitable materials include wood, masonry, and metals. or substitute materials which simulate them. Lettering should be professional and either engraved, carved or painted. Use of thin sheet metal, plastic, paper or cardboard is prohibited. Use of fluorescent colors are prohibited.
    - (v) Permanent banners, pennants and flags are considered to be signs. They shall be professionally printed on materials of a lasting nature
    - (vi) Change panel signs are allowed as long as they conform to all other sign regulations.
- 6) General Requirements for Temporary Signs
- a) Temporary signs may be displayed once for a maximum period of 14 days and require a permit. The permit may be extended for one additional period. Once a sign is displayed for 28 days it must be removed.
  - b) Temporary signs may not exceed 9 square feet. They should be professionally constructed of materials that will last at least fourteen days in typical weather conditions.
  - c) Temporary signs must be professional lettered. Hand written paper or cardboard signs are prohibited.
  - d) Temporary Banners and flags are considered temporary signs.
- 7) Number of Allowed Signs on Private Property by Type of Property.

Property Type	Allowable Permanent Signs	Allowable Temporary Signs	Other Limitations
Single Family and Two-Family Homes	One sign per lot limited to 9 square feet	None permitted	Home decorations are not considered to be signs

Property Type	Allowable Permanent Signs	Allowable Temporary Signs	Other Limitations
Completed Condominiums & Home Owners' Associations	<p>One sign per point of access from a town road. limited to 144 square feet</p> <p>One sign per building limited to 9 square feet</p> <p>Two signs per stand-alone business operating within the condominium complex or association limited to 36 square feet per sign. One of these signs must be attached to a building.</p>	Two signs per point of access from a town road.	The association has the right to further limit signs.
Completed Commercial properties with multiple business	<p><u>For the complex</u> Two signs per point of access from a town road limited to 288 square feet.</p> <p><u>For each business in the complex</u> Two signs per business limited to 36 square feet per sign, one of which must be attached to the building.</p>	Two signs per point of access from a town road	The property owner has the right to further limit signs.
Vacant land	None permitted	Two signs permitted	
Vacant property with approved site plan for residential/commercial construction	One sign per town road access to the property. Sign is limited to 144 square feet	Two signs permitted	

Property Type	Allowable Permanent Signs	Allowable Temporary Signs	Other Limitations
Recreational property	<p>One sign per point of access from a town road limited to 144 square feet</p> <p>Two signs per business limited to 36 square feet per sign one of which must be attached to the building</p>	Two signs per road access	Signs, on the property, used to direct persons within the recreational venue are exempted
Residential /commercial development under construction	<p>One sign per town road access limited to 144 square feet</p> <p>One sign per completed building limited to 9 square feet</p>	One sign per road access	The owner has the right to further limit signs.

8) Regulations for Private Signs on Public Property

- a) Statement of Intent – The town recognizes that businesses need access to town road rights of way in order to construct signs that provide directions for the public to find businesses, resort amenities and special events.
- b) Approval – Approval of private signs on public property is at the sole discretion of the board of selectmen and its appointed agents and the board reserves the right to reject any sign for non-compliance with these regulations.

9) Regulations for Directional Signs on Public Property Including Road Rights of Way.

- a) Directional signs either permanent or temporary on town road rights of way are limited to the intersection of town arterial roads.
- b) Permanent or temporary directional signs should conform to the general requirements for permanent signs (Sections 5) above).
- c) Each business complex or stand-alone business if not located within a complex is allowed to have a maximum of two permanent directional signs.
- d) Directional signs for business complexes are limited to naming the amenities in the complex, names of the businesses or to highlight special events.
- e) Directional signs for stand-alone businesses are limited to naming the amenities offered, the name of the business or to highlight special events.
- f) Directional signs should be constructed in a way that facilitates easily changing the businesses or amenities on the sign.
- g) Businesses should work together to create directional signs that can accommodate all businesses, business complexes and events.

- h) The cost of erecting a new directional sign is the responsibility of the applicant. The cost of adding to an existing directional sign is the responsibility of the applicant. Once erected the maintenance of the sign will be supervised by the town; the applicant remains responsible for any needed repairs and /or replacement.
- i) Once a directional sign is established the business(es) that use the sign may not restrict a new business or event from attaching a sign. If a business leaves or is no longer operational any signs must be removed within 60 days of the business vacating or no longer being operational; if after this period the signage remains, the town reserves the right to remove it.
- j) Temporary directional signs are permitted. If possible, the sign should be added to an existing sign. Temporary signs are limited to 9 square feet. There is a limit of three temporary directional signs per permit request.

**L) Trailers, Snowmobiles, Boats and Commercial Vehicles**

- 1) Travel trailers, tent trailers, pick-up trucks equipped with camper bodies, or other so-called recreational vehicles, shall not be parked for more than seven (7) days, nor used overnight if so parked, within sight of any residence or commercial establishment serving the public, or visible from any road within Waterville Valley, except that such vehicles may be parked under such rules as may be promulgated by the Selectmen.
- 2) Any OHRV as defined in NH RSA 259:69 or OHRV trailer, boat or boat trailer, other than a canoe or rowboat, stored on any property shall be stored so as to be out of view from any public street or neighboring property. The Selectmen may approve permits for temporary storage where such storage would not interfere with the purposes of this paragraph.
- 3) Any vehicle registered as a commercial vehicle (other than a private passenger vehicle, a pickup truck or small van, or other similar vehicle) shall not be kept on any property unless such vehicle is regularly used by an occupant of the residence in the normal course of that person's occupation. The Selectmen may approve permits for temporary storage of such a commercial vehicle or may issue a permit for permanent storage where such storage would not interfere with the purposes of this paragraph.
- 4) Construction trailers may be permitted on site only during the construction period of a specific building and shall be promptly removed following occupancy. Efforts shall be made to screen such trailers from public view.
- 5) No OHRV shall be used in any district without approval of the Selectmen.

**M) Appurtenant Structures**

- 1) An appurtenant structure attached to a building but not used for human occupancy, such as a church spire, belfry, antenna, chimney, or similar service feature shall not be subject to the height restrictions of this Ordinance.

**N) Architectural Regulations**

The following architectural requirements apply to all building construction or modifications in all Zoning Districts:

- 1) Exterior architecture must be compatible with the Northern New England mountain resort-style construction currently dominant in Waterville Valley.
- 2) All buildings must have a predominantly pitched roof, i.e., a minimum of 8:12 and a maximum of 14:12 inclination over at least sixty (60) percent of the roofing area. The Planning Board, as part of Site Plan Review, shall have the authority to approve modification of the roof pitch when necessary for the reasonable use of the lot for a special purpose building, provided mitigation is provided for



as appropriate to ensure that the general appearance is consistent with the existing Northern New England mountain resort-style character of the community.

- 3) Roofing material must be of colors which are compatible with the surrounding landscape and adjacent buildings. Where used, flashing on building to prevent the formation of ice dams on roof overhangs shall be of a non-reflective material substantially the same color of the roof covering.
- 4) Acceptable finish materials for exterior walls are wood, brick, stone, stucco, glass, or architecturally treated concrete. Alternative materials providing equivalent appearance and quality require submission to and approval by the Town Code Enforcement Office. No garish color schemes are permitted on the exterior, and the preferred finish for exterior wood walls is natural or weathering stains.
- 5) All utility lines must be underground from the zoning lot lines.

#### **O) Planned Unit Development (PUD)**

- 1) Intent. These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying town, and economically desirable development of building sites within a Planned Unit Development (PUD). These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation, and imagination for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.
- 2) Approval – The Planning Board may issue a Conditional Use Permit for a PUD in any zoning district in which PUDs are identified as an allowed use in Article IV. No such PUD permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this section. Compliance with the regulations of this section in no way excuses the developer from the applicable requirements of the Town's Subdivision Regulations and Site Plan Review Regulations, except as modifications thereof are specifically authorized in the approval of the application for the PUD. The approval process for a PUD will follow the procedures for subdivision and/or site plan review and may occur in concert with the subdivision and/or site plan application for the development, or for the first phase if the development is to be phased.
- 3) Concept Plan - An application for a Conditional Use Permit for a PUD shall include a concept plan demonstrating compliance with the requirements of this section and containing:
  - a) A map showing existing site conditions
  - b) The anticipated distribution of permitted uses, and preliminary layout of pedestrian and vehicular access and open space areas
  - c) Tentative timing schedule and phasing plan
  - d) Proposed dimensions where different than underlying zoning district.
  - e) Any other information which the Planning Board may reasonably require.
- 4) Conditions
  - a) Area – On lots or combinations of lots one (1) acre or larger in size in the Village Commercial and Commercial 1 Districts, and two (2) acres or larger in Lower Density Residential and Higher Density Residential Districts, owners shall have the option to have their lands considered as a

- PUD. It shall be understood that adjacent owners may pool their lands and planning to create a site of the minimum size required to obtain PUD consideration.
- b) Dimensional Requirements – The Planning Board may permit exceptions with respect to internal setbacks, street set-backs, open space, and building proximity, provided that the land in question is under a comprehensive development scheme that stipulates:
    - (i) That the various uses proposed are all permitted in the district.
    - (ii) That the total open space resulting from the PUD approach will meet or exceed the minimum percentage required, although it may be concentrated.
    - (iii) That the building height requirements shall be adhered to.
    - (iv) That arrangement for internal and external circulation by vehicles and pedestrians shall be safe and attractive.
    - (v) That the scheme shall not be detrimental to adjacent properties.
    - (vi) That the prevention of fire hazards and other public safety considerations have been adequately addressed.
  - c) Ownership – The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.
  - d) Design – The Planning Board shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected.
  - e) Open Spaces – Preservation, maintenance and ownership of open spaces approved with the PUD shall be accomplished by either:
    - (i) Dedication of the land as a public park at the discretion of the town to accept, or,
    - (ii) Creation of a permanent, open space easement on and over the said private open spaces to guarantee that the open space remains perpetually in recreational or green space use, with ownership and maintenance being the responsibility of either the Town or an owner’s association established with articles of association and bylaws which are satisfactory to the Selectmen.
  - f) Landscaping – Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the Planning Board for approval, together with other required plans for the development. A conceptual planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A conceptual grading and drainage plan shall also be submitted with the application.
- 5) Approval – The Planning Board shall have the authority to require that the following conditions for a PUD (among others it deems appropriate) be met by the applicant:
- a) That the applicant intends to start construction within 2 years of the approval of the project and intend to complete said construction, or approved phases thereof, within 5 years from the date construction begins. The Planning Board may, for good cause, extend these time periods.
  - b) That the development is planned as one integrated land use rather than as an aggregation of individual and unrelated buildings and uses.
- 6) Limitations of Application
- a) Upon approval of a PUD, construction shall proceed only in accordance with site plan review regulations and other town regulations and controls (e.g. building permit process).
  - b) Amendment to conditions for a PUD shall be obtained only by following the procedures here outlined for first approval.
  - c) The Code Enforcement Officer shall not issue any permit for any proposed building, structure

or use within the PUD unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.

**P) Construction Site Clean-Up**

All sites on which buildings or other structures are being constructed shall be maintained in the following manner:

- 1) The site must be kept in an orderly and slightly manner at all times.
- 2) A suitable container for solid waste must be on site at the start of structural construction. All employee food waste must be deposited in this container.
- 3) Storage of construction waste must be centralized and screened by appropriate means from public view and removed from the site on a weekly basis.

**Q) Landscaping and Property Maintenance**

- 1) From April 15 to November 1, substantial grading and landscaping must be completed around all structures within ninety (90) days of the basic finish of the exterior of the structure.
- 2) For all structures constructed or completed between November 1 and April 15, grading and landscaping must be completed no later than the next July 15.
- 3) All solid waste containers and exterior mechanical/electrical equipment must be screened.
- 4) All developments which make use of dumpsters for solid waste, must conform to specifications in the Manual of the Municipal Services Department (MSD).
- 5) The grounds and the exterior appearance of buildings and landscaping shall be maintained in conformance with the general standards of the community.
- 6) At least 20% of the area of each lot shall retain its existing plantings or be replanted with native species and/or species hardy to the local plant zone.

**R) Submission of As-Built Plans for Utilities**

- 1) As-built plans for all utilities, public or private, shall be submitted, with certification printed thereon by the developer and/or contractor that all installations are as shown. These as-built plans will show true locations of sewer and drain manholes, culverts, headers, underground utility (telephone, electric, and TV cable) locations and depths, water mains, shut-offs and entrances, and any other pertinent information.
- 2) The above information to be posted to the approved plat, two copies of which must be submitted to the Town Office within seven days after inspection of the utilities by municipal employees.

**S) Outdoor Lighting Regulations**

- 1) Statement of Need and Purpose – The benefits of good outdoor lighting are increased safety, energy efficiency, enhancement of the Town’s evening character, reduced light pollution, and improved security. New technologies have created extremely powerful lights which can inadvertently lead to excessive glare, light trespass and higher energy use. Concerns resulting from excessive glare and light trespass include safety issues, loss of privacy, and increased energy costs for everyone. The goal of this lighting ordinance is to recognize the benefits of outdoor lighting and provide clear guidelines for its installation. Appropriately regulated and properly installed, outdoor lighting will maintain and complement the town’s character and contribute to the safety and welfare of the residents of the town.
- 2) Intent – The intent of this regulation is to reduce the problems created by improperly designed and installed outdoor lighting by establishing regulations which limit the area that certain outdoor lighting luminaires can illuminate and by limiting the total allowable illumination of lots located in the Town of Waterville Valley.

- 3) Definitions – For the purposes of this section, terms used shall be defined as follows:
  - a) Direct Light – Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.
  - b) Fixture – The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.
  - c) Flood or Spot Light – Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.
  - d) Glare – Light emitting from a luminaire with intensity great enough to reduce a viewer’s ability to see, and in extreme cases causing momentary blindness.
  - e) Height of Luminaire – The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.
  - f) Indirect Light – Direct light that has been reflected or has scattered off of other surfaces.
  - g) Lamp – The component of a luminaire that produces the actual light.
  - h) Light Trespass – The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
  - i) Lumen – A unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this Ordinance, the lumen output values shall be the initial lumen output ratings of a lamp.
  - j) Luminaire – This is a complete lighting system, and includes a lamp or lamps and a fixture.
  - k) Outdoor Lighting – The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.
  - l) Temporary Outdoor Lighting – The specific illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of less than 30 days, with at least 180 days passing before being used again.
- 4) Regulations – All public and private outdoor lighting installed in the Town of Waterville Valley shall be in conformance with the requirements established by this section.
- 5) Outdoor Lighting Design –
  - a) Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens shall be fully-shielded so as to produce no light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.
  - b) Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot lights with a lamp or lamps rated at a total of more than 900 lumens, shall be mounted at a height equal to or less than the value  $3 + (D/3)$  where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire shall not exceed 20 feet.
  - c) Any luminaire with a lamp or lamps rated at 1800 lumens or less, and all flood or spot lights with a lamp or lamps rated at 900 lumens or less, may be used without restriction to light distribution or mounting height, except that, to prevent light trespass and glare, if any spot or flood luminaire is aimed, directed, or focused so as to cause light trespass to be a nuisance for neighboring properties, or to create glare for persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output reduced or shielded as necessary to eliminate such conditions.
  - d) Luminaires mounted on a canopy such as for a gas station, bus shelter, or portico, shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the canopy and fully shielded.

- e) Lighting associated with nonresidential and multifamily uses shall utilize lamps with a Correlated Color Temperature of 3000 Kelvin (3000k) or less.
  - f) Moving, fluttering, blinking or flashing lights shall be prohibited.
- 6) Exceptions
- a) Luminaires used for public roadway illumination may be installed at a maximum height of twenty-five (25) feet and may be positioned at that height up to the edge of any bordering property.
  - b) All temporary lighting required for construction projects, related to road construction and repair, installation of sewer and water facilities, and other public infrastructure shall be exempt from the requirements of Section S.5).
  - c) All temporary emergency lighting needed by the police or fire departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of Section S.5).
  - d) All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of Section S.5), except that all luminaires used must be red and must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
  - e) Luminaires used primarily for sign illumination may be mounted at any height to a maximum of 25 feet, regardless of lumen rating.
  - f) Seasonal holiday lighting and illumination of the U.S. and state flags shall be exempt from the requirements of Section S.5), providing that such lighting does not produce glare or light trespass on neighboring residential properties.
  - g) Properties that share a driveway or other access way or have adjoining parking areas may have light trespass over the shared property line subject to agreement of all parties. Such agreement shall be in writing and filed with the application.
  - h) In conjunction with site plan approval, the Planning Board may allow lighting for outdoor recreation facilities that is not in conformance with Section S.5). Appropriate conditions may be required to minimize glare and light trespass.
- 7) Temporary Outdoor Lighting
- a) Any temporary outdoor lighting that conforms to the requirements of this section shall be allowed.
  - b) Nonconforming temporary outdoor lighting may be permitted by the Board of Selectmen after considering the following:
    - (i) the public and/or private benefits that will result from the temporary lighting;
    - (ii) any annoyance or safety problems that may result from the use of the temporary lighting;
    - and
    - (iii) the duration of the temporary nonconforming lighting.
  - c) The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Board of Selectmen, who shall consider the request at a duly called meeting of the Board of Selectmen. Prior notice of the meeting of the Board of Selectmen shall be given to the applicant.
  - d) The Board of Selectmen shall render its decision on the temporary lighting request within two weeks of the date of the meeting.
  - e) A failure by the Board of Selectmen to act on a request within the time allowed shall constitute a denial of the request.
- 8) Effective Date and Grandfathering of Non-Conforming Luminaires

- a) This ordinance shall take effect immediately upon approval by the voters of the Town of Waterville Valley at annual Town Meeting and shall supersede and replace all previous ordinances pertaining to outdoor lighting.
  - b) Except for those causing a public safety hazard or public or private nuisance, all luminaires lawfully in place prior to the date of this section or any amendments thereto shall be grandfathered. However, any luminaire that replaces a grandfathered luminaire, or any grandfathered luminaire that is moved, must meet the standards of this section.
- 9) Notification Requirements
- a) The Town of Waterville Valley building permit shall include a statement asking whether the planned project will include any outdoor lighting.
  - b) Within 30 days of the enactment of this section, the Code Enforcement Officer shall send a copy of the Outdoor Lighting Regulations, with cover letter, to all local electricians and the local electric utility (including at least those in the towns of Plymouth, Campton, and Thornton, as listed in the Yellow Pages).

## **Article VI - Non-Conforming Uses, Structures and Signs**

- A) Non-Conforming Uses – Any non-conforming use, building, sign or other structure may continue in its present use and form, except that any non-conforming use, building, sign or other structure may not undergo change in any of the following ways:
- 1) Building Alteration – Altered for use for a purpose or in a manner substantially different from the use to which it was put before alteration.
  - 2) Sign Alteration – Relocated, enlarged or altered in a manner which increases its degree of nonconformity.
  - 3) Change – Changed to another non-conforming use; or, once changed to a conforming use, revert to a non-conforming use.
  - 4) Re-Establishment – Re-established after use has been abandoned for one (1) year and/or a building for two (2) years, except to a use and building conforming to the district in which it is located.
  - 5) Increase – A building enlarged and the use extended or a use of land extended.
  - 6) Restoration – Rebuilt after damage exceeding 75 percent of its gross physical valuation as determined by the local assessors, except in accordance with this Ordinance.
- B) Ruined Buildings & Calamities
- 1) Any ruined building or foundation left after a calamity shall be removed within two (2) months of the date of the calamity.
  - 2) If the calamity occurs between April 15 and September 15, the site shall also be graded, covered with topsoil, seeded and mulched within two (2) months.
  - 3) If the calamity occurs during the period between September 15 and April 15, the site shall be graded, covered with topsoil, seeded and mulched by June 15.

## **Article VII - Administration and Enforcement**

- A) Authority - It shall be the responsibility of the Selectmen and they are hereby given power and authority to administer and enforce the provisions of this Ordinance. The Selectmen shall request and consider the advice of the Planning Board for any significant development, regardless of whether such development involves a subdivision. The Selectmen may appoint an agent to administer, accept, and issue sign or building permits, conduct on-site inspections, and to enforce this Ordinance.

- B) Permit Required - After passage of this Ordinance, it shall be unlawful to change the nature or extent of the use of any building or lot, erect and use any building, sign or other structure, or alter any existing sign or the size of any building or other structure, or relocate any building or other structure in any district without first obtaining a permit from the Selectmen or their agent, but subject to the provisions of Article VII, A. above.
- C) Permit Issuance - The Selectmen or their agent shall establish specific review and approval procedures to carry out the provisions of this Ordinance, and shall issue any and all permits requested when such permits are in accordance with the provisions of this Ordinance. The Selectmen shall establish a fee schedule that is fair and equitable for the various permits required by this Ordinance.
- D) Remodeling/Repairing - A permit shall be required for remodeling or repairing where the value or cost of such remodeling or repairing shall exceed \$1,000.00.
- E) Enforcement - Upon well-founded information that this Ordinance is being violated, the Selectmen or their agent shall take immediate steps to enforce the provisions of this Ordinance as follows:
- 1) They may issue a cease and desist order to the permittee directing the permittee to correct the violation.
  - 2) They may suspend the building permit until such time as the violation has been corrected. If a building permit is suspended, all work other than that which is necessary to correct the violation shall cease; however, this suspension does not affect any items under Article V, Section P of this Ordinance.
  - 3) They may subject the violator to procedures and penalties as provided by law (RSA 676: 15-19).
  - 4) They may take such other action as may be legal.

## **Article VIII - Board of Adjustment**

- A) Creation – A Board of Adjustment is hereby created and shall consist of five (5) members.
- B) Appointments
- 1) Upon adoption of this Ordinance, the Board of Selectmen shall appoint one member to serve for five years, one member to serve for four years, one member to serve for three years, one member to serve for two years, and one member to serve for one year; and thereafter, the Board of Selectmen shall appoint members for a term of three years. The Board of Selectmen may also appoint up to three (3) alternates to the Board of Adjustment. Each alternate shall be appointed for a term of three years.
  - 2) A member shall be removed by the Selectmen upon written charges and after a public hearing.
  - 3) Vacancies for any unexpired term shall be filled by appointment by the Selectmen.
- C) Adoption of Rules – The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this Ordinance, and the provisions of RSA 676:5 - 676:7.
- D) Powers of Board of Adjustment
- 1) Interpretation and Appeals – The Board of Adjustment may hear and decide a case where it is alleged that there is error in any order, requirement, decision, or determination by the Selectmen or their agent in the enforcement of this Ordinance.

- 2) Special Exception
  - a) As defined by RSA 674:33, the Board has the power to hear and decide applications for uses identified as allowed by Special Exception in Article IV.
  - b) Each application to change from one use allowed by Special Exception to another use allowed by Special Exception shall be considered on its individual merits and regarded as an application for a Special Exception. The Board may, if it deems an application to be an appropriate use and subject to appropriate conditions and safeguards, as determined by the Board, authorize the Selectmen or their agent to issue a permit for such Special Exception use. Before an application is approved, the Board shall determine that:
    - (i) The proposed site is an appropriate location for such use.
    - (ii) The proposed use will not adversely affect the adjacent area or result in a diminution of property value, including consideration of noise, traffic, lighting, hours of operation, increase in the volume or velocity or decrease in quality of stormwater runoff.
    - (iii) The proposed use complies with all other regulations established by this Ordinance for the District involved and for the proposed use.
    - (iv) There will be no nuisance or serious hazard to vehicles or pedestrians resulting from such use, and that provision has been made for the proper operation of such use.
- 3) Variance – The Board of Adjustment may authorize a variance from the terms of this Ordinance only where the Board finds that all of the following conditions apply:
  - a) That such variance from the terms of the zoning ordinance will not be contrary to the public interest if owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done, without diminishing the values of surrounding properties.
  - b) For purpose of a variance, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
    - (ii) The proposed use is a reasonable one.
  - c) If the criteria in subparagraph (b) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.
  - d) The definition of “unnecessary hardship” set forth in subparagraph (b) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.
  - e) 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
- 4) Requests for Variance and Exceptions – A request for both a variance and an exception on the same application may be allowed at the discretion of the Board of Adjustment.
- 5) Equitable Waivers of Dimensional Requirements
  - a) When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the Zoning Board of Adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the Board makes all of the following findings:
    - (i) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been



- substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;
- (ii) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;
  - (iii) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and
  - (iv) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.
- b) In lieu of the findings required by the Board under subparagraphs a(i) and (ii), the owner may demonstrate to the satisfaction of the Board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.
  - c) Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.
  - d) Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.
- 6) Pursuant to RSA 36:56, upon receipt of an application for special exception, the Board shall review it and determine whether or not the development, if approved, could reasonably be construed as having the potential for impact beyond the boundaries of the town. This regional impact could result from a number of factors, such as, but not limited to, the following:
- a) Relative size or number of lots or units compared with existing stock;
  - b) Transportation networks;
  - c) Proximity to the borders of a neighboring community;
  - d) Anticipated emissions such as light, noise, smoke, odors, or particles;
  - e) Proximity to aquifers or surface waters which transcend municipal boundaries; and
  - f) Shared facilities such as schools and solid waste disposal facilities.
- Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. Upon determination that a proposed development has a potential regional impact, the Board shall afford the Regional Planning Commission and the affected municipalities the status of abutters for the limited purpose of providing notice and giving testimony. Within five (5) business days of reaching a decision that a development has regional impact, the Board shall, by certified mail, furnish the Regional Planning Commission with copies of the minutes of the meeting at which the decision was made and copies of the initial project plan and the affected municipalities with copies of the minutes of the meeting at which the decision was made. A least fourteen (14) days prior to the public hearing, the Board shall notify, by certified mail, all affected municipalities and

the Regional Planning Commission of the date, time and place of the hearing and right to testify concerning the development.

### **Article IX – Amendments**

- A) This ordinance may be amended in accordance with the provisions of RSA 675 (1985).

### **Article X – Penalties**

- A) Any violation of this Ordinance shall be subject to the maximum penalty, fine, or forfeiture provided by law. The Selectmen, in enforcing this Ordinance, may institute such appropriate enforcement action or compelling of penalties as they deem appropriate.

### **Article XI – Separability**

- A) Should any section, sub-section, paragraph or part of this Ordinance legally be declared invalid, it shall not affect the validity of the remainder of this Ordinance.

### **Article XII - Existing Ordinances**

- A) All existing ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

### **Article XIII - Effective Date**

- A) This Ordinance shall take effect immediately upon its passage.