

**MOUNTAIN LAKES DISTRICT**

**ZONING ORDINANCE**

**ADOPTED MARCH 16, 1996**

**AMENDMENTS;**

**MARCH 16, 2002**

**MARCH 11, 2006**

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## TABLE OF CONTENTS

|                                                                       |               |
|-----------------------------------------------------------------------|---------------|
| <b>ARTICLE 1 PREAMBLE AND TITLE</b>                                   | <b>4</b>      |
| <b><u>Section 101</u> Preamble</b>                                    | <b>4</b>      |
| <b><u>Section 102</u> Title</b>                                       | <b>4</b>      |
| <b><u>Section 103</u> Land Use Limited to Specific Listing Uses</b>   | <b>4</b>      |
| <br><b>ARTICLE 2 EXISTING USES</b>                                    | <br><b>4</b>  |
| <br><b><u>Section 201</u></b>                                         | <br><b>4</b>  |
| <br><b>ARTICLE 3 DISTRICTS AND DISTRICT REGULATIONS</b>               | <br><b>5</b>  |
| <br><b><u>Section 301</u> Only One Zoning District</b>                | <br><b>5</b>  |
| <b><u>Section 302</u> Zoning Maps</b>                                 | <b>5</b>      |
| <b><u>Section 303</u> District Objectives and Land Use Control</b>    | <b>5</b>      |
| <b><u>Table 303.1</u></b>                                             | <b>5</b>      |
| <b><u>Section 304</u> Permitted Uses</b>                              | <b>6</b>      |
| <b><u>Section 305</u> Special Exceptions</b>                          | <b>6</b>      |
| <b><u>Section 306</u> Lots</b>                                        | <b>7</b>      |
| <b><u>Section 307</u> Dimensional Requirements</b>                    | <b>7</b>      |
| <b><u>Section 308</u> Accessory Uses</b>                              | <b>8</b>      |
| <b><u>Section 309</u> Lot of Record</b>                               | <b>9</b>      |
| <br><b>ARTICLE 4 GENERAL PROVISION</b>                                | <br><b>10</b> |
| <br><b><u>Section 401</u> Yards on Corner Lots</b>                    | <br><b>10</b> |
| <b><u>Section 402</u> Driveway Permit</b>                             | <b>10</b>     |
| <b><u>Section 403</u> Abandonment of Structures &amp; Excavations</b> | <b>10</b>     |
| <b><u>Section 404</u> Septic System Requirements</b>                  | <b>11</b>     |
| <b><u>Section 405</u> Motor Vehicle Storage</b>                       | <b>12</b>     |
| <b><u>Septic 406</u> (From the Property Covenants)</b>                | <b>12</b>     |

|                                                                     |           |
|---------------------------------------------------------------------|-----------|
| <b>ARTICLE 5 NON-CONFORMING USES AND STRUCTURES</b>                 | <b>13</b> |
| <u>Section 501</u> <b>Definition</b>                                | 13        |
| <u>Section 502</u> <b>Change or Expansion of Non-Conforming Use</b> | 13        |
| <u>Section 503</u> <b>Abandonment of Non-Conforming Use</b>         | 13        |
| <u>Section 504</u> <b>Damage to a Non-Conforming Structure</b>      | 13        |
| <u>Section 505</u> <b>Damage to a Non-Conforming Use</b>            | 14        |
| <u>Section 506</u> <b>Expansion of Non-Conforming Structure</b>     | 14        |
| <br><b>ARTICLE 6 HOME PROFESSIONAL OCCUPATIONS</b>                  |           |
| <br>(From the Property Covenants)                                   | 14        |
| <br><u>Section 601</u> <b>Intent</b>                                | 14        |
| <u>Section 602</u> <b>Special Exception Standards</b>               | 14        |
| <br><b>ARTICLE 7 COMMERCIAL USE</b>                                 | <b>15</b> |
| <br><u>Section 701</u> <b>Intent</b>                                | 15        |
| <u>Section 702</u> <b>Special Exception Standards</b>               | 15        |
| <br><b>ARTICLE 8 DEFINITIONS</b>                                    |           |
| <br><u>Section 801</u> <b>Word Definitions</b>                      | 16        |
| <u>Section 802</u> <b>Terms &amp; Use Definitions</b>               | 16        |
| <br><b>ARTICLE 9 ADMINISTRATION AND ENFORCEMENT</b>                 | <b>19</b> |
| <br><u>Section 901</u> <b>Zoning Permit</b>                         | 19        |
| <u>Section 902</u> <b>Administration and Enforcement</b>            | 21        |
| <u>Section 903</u> <b>Enforcement and Penalty</b>                   | 21        |
| <u>Section 904</u> <b>Board of Adjustment</b>                       | 21        |
| <u>Section 905</u> <b>Variance</b>                                  | 23        |
| <u>Section 906</u> <b>Occupancy</b>                                 | 23        |
| <u>Section 907</u> <b>Fees</b>                                      | 24        |
| <br><b>ARTICLE 10 MISCELLANEOUS PROVISIONS</b>                      | <b>24</b> |
| <br><u>Section 1001</u> <b>Severability Clause</b>                  | 24        |
| <u>Section 1002</u> <b>Effective Date</b>                           | 24        |
| <u>Section 1003</u> <b>Amendments</b>                               | 24        |
| <u>Section 1004</u> <b>Validity</b>                                 | 24        |
| <u>Town of Haverhill Health Regulations</u>                         | 25        |

**ARTICLE 1            PREAMBLE AND TITLE**

**Section 101            Preamble**

In pursuance of authority conferred by New Hampshire Revised Statutes Annotated, Chapter 675, and Laws of 1994, chapter 363, for the purpose of promoting health, safety and general welfare of the inhabitants of the Mountain Lakes District, now therefore the following ordinance is hereby enacted by the voters of the Village District of Mountain Lakes in the Town of Haverhill, New Hampshire.

**Section 102            Title**

The ordinance shall be known and may be cited as the “Mountain Lakes Zoning Ordinance.”

**Section 103            Land Use Limited to Specific Listing Uses**

No structure shall be constructed, erected, placed, or maintained and no land use commenced or continued within the Mountain Lakes District except as specifically or by necessary implication authorized by this Ordinance.

**ARTICLE 2   EXISTING USES**

**Section 201**

Any lawful building, or use of a building, or land, or parts thereof in existence at the time the adoption of this Ordinance, or of any amendment thereto, may be continued although such building or use does not comply with the provisions herein.

Such building or use shall be lawful if there was compliance with existing regulations in effect. This Zoning Ordinance shall not apply to existing structures or the existing use of any building or land. It shall, however, apply to any alteration or for which is substantially different from the existing use or from the existing structure prior to alteration. Non-conforming uses and structures shall be subject to the provisions of Article 5, Non-Conforming Uses and Structures. As to what constitutes the lawful use of a building or land as of the time of the adoption of this Ordinance, reference is made to Property Covenants and Easements recorded in the Grafton County Registry of Deeds which covenants and easements restrict the use of land by deed covenants.

Property Covenants: Mountain Lakes District covers the original Town & Country Homes subdivisions which created about 1,000 lots. As part of the original scheme of development, all but a few lots were made subject to perpetual property covenants.

This Zoning Ordinance restricts the use of land in accord with the Property Covenants. The restrictions on trailers (manufactured housing) come from the Property Covenants, not the Zoning Ordinance, because to do so violates New Hampshire Law.

The Property Covenants are recorded in the Grafton County Registry of Deeds for each section of the original Town & Country Homes subdivisions. The Property Covenants shall be utilized as a guiding standard in construing and applying the terms of the Zoning Ordinance.

**ARTICLE 3      DISTRICTS AND DISTRICT REGULATIONS**

**Section 301      Only One Zoning District**

The Mountain Lakes District is only one zoning district as all but a few lots are restricted by property covenants to single family residential use.

**Section 302      Zoning Maps**

The districts as established in Section 301 are shown on the maps on file in the offices of the Mountain Lakes District which map is part of this Ordinance. There is a map entitled “Mountain Lakes District Zoning Map” which has been identified by the signatures of the members of the Planning Board and the date of adoption and any further amendments.

**Section 303      District Objectives and Land Use Control**

The following table establishes the objectives of the District established above and the provisions of the regulations that apply respectively in the District. Any use designated as a “Permitted Use” in the table may be commenced pursuant to Section 304. Any use designated as a “Special Exception” may be commenced pursuant to Section 305. Explanation of lots, dimensional requirements, accessory uses and application of District Regulations affecting all uses are found in Sections 306-309 inclusive.

Table 303.1

**MOUNTAIN LAKES ZONING DISTRICT**

**Objective**

Mountain Lakes was established as an about a 1,000 lot subdivision, over a period of time and was intended to be a residential community with the exception of a few lots. It is the intent to allow uses of land consistent with that objective and consistent with the Property Covenants and Easements.

**Uses**

**Permitted Uses**

1. Single Family Dwelling
2. Accessory Use

**Special Exception Use**

1. Professional Occupation
2. Commercial Use (this use is available on any lot in the Mountain Lakes District which has not been restricted by the property covenants to a single family dwelling.)
3. Accessory use





- B. No structure, except signs, fences, mailboxes and similar structures may be erected in a front yard.
- C. Measure of Front Yard. The front yard requirement shall be measured from the street right-of-way, if known. If not known, then 25 feet shall be added to the required front yard and measured from the center line of the existing traveled way of the street.

**307.3 Side Yard**

- A. No structure, except fences and similar structures may be erected in a side yard.

- 307.4 B.** For those lots which front on the lake, boat houses, docks, wharves, decks and similar structures accessory to the use of the lot on the lake, are allowed by special exception.

**307.5 Height Restrictions**

- A. The height of any building shall be measured from the average finished grade. In no instance shall a building be more than thirty-five feet above the average grade.
- B. Flagpoles may exceed the height restriction.
- C. Chimneys, spires, lightning rods, or like structures not used for human occupancy may exceed the height restriction on the building of main use.
- D. Radio, TV antennae, or satellite dish antenna systems for private, non-commercial reception may extend above the height limit.

**Section 308      Accessory Uses**

- 308.1** Accessory uses are uses customarily incidental to the main (primary) use and shall include but not be limited to the following:

- A. Garage or parking space for occupants and visitors.
- B. The outdoor parking of the personal vehicles of the occupants of the residence located on the property, including a maximum of one vehicle maintained primarily for business or hire such as a taxi or light truck; provided, however, that no such vehicle whose empty weight exceeds 10,000 pounds shall be permitted, and provided, further, that the parking of any vehicle used for business or hire must meet the following criteria:

- (1) Parking of such vehicles shall not be within the required front setback area as set forth in Table 303.1.

- (2) The parking area for such vehicles shall be adequately screened from the street, using a garage, fencing, vegetation or other means approved by the Zoning Officer.
  - (3) If such screening is to be provided by a garage or another building it must be in compliance with Section 406.12 or this Ordinance, and must remain subordinate to the dwelling located on the lot.
  - (4) The storage of parking of vehicle parts or an unregistered or un-inspected vehicle shall be permitted only in an enclosed structure.
  - (5) In circumstances regarding the use of vehicles for work in progress refer to Section 406.2.
- C. The outdoor storage or parking of recreational equipment including travel trailers, pick-up coaches, motor homes, boats, and boat trailers, snowmobiles, or similar equipment is permitted provided that the criteria in subparagraphs (1) through (4) of paragraph B, above are met. The outdoor storage or parking of boats, boat trailers, snowmobiles and similar items is permitted without screening, except in the front setback area as set forth in Table 303.1, provided such items are registered and in good working condition.
  - D. Home recreational activities, including tennis courts, swimming pools and the like.
  - E. Fences and mailboxes.
  - F. An accessory apartment in an owner-occupied single-family dwelling, limited to use of related family members subject to the following conditions:
    - (1) The landowner shall obtain a zoning permit for the installation of independent cooking facilities solely for the use of related family members.
    - (2) The landowner shall comply with the requirements of Section 404 relating to increasing the load on a sewage disposal system.
    - (3) The accessory apartment shall not be used by persons other than related family members regardless of whether or not rent is charged.

**Section 309**

**Lot of Record**

**309.1 Any lot record may be used for a single family dwelling on the following conditions:**

- A. The lot is a lot of record.

- B. A numbered approval for construction of a Subsurface Disposal System is obtained from the Water Supply and Pollution Control Division.**
- C. In Skiway only: A source of water is available on the lot with a protective radius required by the New Hampshire Division of Environmental Services (NHDES) or an off-site water source suitable for a single family dwelling is available.**

**ARTICLE 4**

**GENERAL PROVISIONS**

The following shall apply except where listed.

**Section 401**

**Yards on Corner Lots**

Any yard adjoining a street shall be considered a front yard for the purposes of these regulations.

**Section 402**

**Driveway Permit**

All driveways that intersect a Town highway must receive a permit from the Selectmen of the Town of Haverhill or their appointed representative, working in conjunction with the Road Agent as provided in RSA 236:13 as amended or such similar statute. In instances where the Town of Haverhill will not issue a driveway permit because the road intersected by the proposed driveway is a private road, the owner shall not construct the driveway without first applying for and receiving a special use permit from the Mountain Lakes District Planning Board. In addition to the requirements of Section 901.2, the Planning Board shall require sufficient information to find, and may attach sufficient conditions to ensure, that the following standards are met:

- (a) That the intersection location being selected, and manner proposed for installation and construction, will adequately protect the safety of the traveling public, including both road and driveway users, both presently and in the future;**
- (b) That grades and drainage, including any drainage structures, are sufficient to prevent erosion or other damage to either the driveway or private road; and**
- (c) In cases where the private road involved has never been constructed to the minimum standards for a Class V highway, that the private road is, or with sufficient conditions attached will become, adequate to enable reasonable access to the property, in light of the proposed use and the particular circumstances pertaining to the case.**

**Section 403**

**Abandonment of Structures & Excavations**

- 403.1 Within six months after work on excavation for a building has begun, the excavation thus remaining shall be covered, such as with building construction or filled to normal grade by owner and piles of unused or excess excavated material are to be removed.**
- 403.2 Within six months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from**

**the site and the excavation thus remaining shall be covered over as with building construction or filled to normal grade by the owner.**

**403.3 No structure in the process of completion or demolition and no ruins from fire or other casualty shall be abandoned in a hazardous or disorderly state. Such structure shall be considered to be abandoned when work to remedy the improper condition shall not have been initiated within 90 days of the occasion of the casualty, or if initiated work shall have been discontinued with the owner's consent for 30 or more consecutive days.**

#### **Section 404   Septic System Requirements**

##### **404.1   Operations and Maintenance**

**Protection of the two lakes at Mountain Lakes is essential for the indirect water supply, public health, District recreation, and land value purposes. Proper operation and maintenance of the subsurface sewage disposal system (septic tank and leaching field) is mandatory. Therefore, every four years all home owners at Mountain Lakes are required to submit written proof to the District Office within 60 days that:**

- 1. Their septic tank has been pumped and the septic system has been verified to be functioning properly.**

**Or**

- 2. That the septic system is functioning properly and the septic tank has a combined thickness of sludge and surface scum less than one third of the tank depth. (Required by NH Code of Administrative Rules Part ENV-WS 1023)**

##### **404.2   Increased Septic System Requirements**

**The expansion of any dwelling unit to increase the number of bedrooms or a change in occupying any dwelling unit from seasonal to a full-time basis, or the expansion of any structure which would increase the load on an existing sewage disposal system, shall comply with the following:**

- 1. The landowner shall comply with RSA 485-A: 38 "Approval to Increase Load on a Sewage Disposal System". The landowner shall submit an application for approval of the sewage disposal system to the NHDES and shall obtain approval, and**
- 2. The landowner shall obtain a zoning permit as provided in Article 9.**

### **404.3 Administration and Enforcement**

Administration and enforcement of these septic system requirements shall be in accordance with Sections 902 and 903 of this Ordinance.

### **Section 405 Motor Vehicle Storage**

**No unregistered motor vehicle, unless garaged, will be permitted on any lot.**

*Comment: This is a provision of the Property Covenants and Easements. Under New Hampshire law, a maximum of one unregistered motor vehicle may be stored on any lot. RSA 236:112.*

### **Section 406 (From the Property Covenants)**

- 406.1 Any residence erected on any lot shall have a minimum ground floor area of 500 square feet except in Skiway, which shall have a minimum ground floor area of not less than 900 square feet.**
- 406.2 All structures shall be completed on the exterior within six (6) months from the start of construction, including paint, stain, or varnish on any exterior wood surfaces. During periods of active construction work not exceeding six (6) months, vehicles other than those permitted under section 308.1 may be parked on the property, in conjunction with such construction work.**
- 406.3 Exterior walls must be finished with approved siding material or if concrete block is too be used as an exterior surface; it must be painted with two coats of masonry paint.**
- 406.4 Dwellings must be built on a continuous foundation wall. No posts, piers or combination of these where the outside of the building is exposed to light and air will be permitted except that this standard shall not apply to attachments to a dwelling that is not built for year-round use.**
- 406.5 No visible sign or advertising device of any kind offering a lot or building/s for sale, rent or lease shall be permitted, nor shall any other types of signs or advertising devices be permitted, except signs posted by the District or its agents, signs under section 602.5 for home professional occupations which have been granted a special exception, or signs under Section 702.5 for commercial uses which have been granted a special exception.  
(Amended 3/10/07)**
- 406.6 Alteration of shorelines is governed by State Law, which requires Dredge and Fill permits from the Wetlands Board. Permits for the construction of docks must be obtained from the N.H. Department of Environmental Services. All permits and plans must be reviewed by the District Planning Board to ensure that such plans comply with provisions of the Zoning Ordinance before construction or alteration of land may begin.**

- 406.7** Owners of occupied or unoccupied lots shall at all times keep and maintain their property in an orderly manner. Accumulations of rubbish or debris are prohibited. Outdoor storage or accumulation of new, used or scrap construction materials, items of equipment, appliances, or parts are prohibited, except for as may be reasonably necessary for a limited period in conjunction with active construction on the property.
- 406.8** “No tent shall be set on nor will any trailer be permitted on any lot except a lot owner may obtain a permit from the Board of Adjustment to live in a tent or trailer on the owner’s lot during the construction of a dwelling house.” (This restriction is incorporated into the Zoning Ordinance from the Property Covenants for information only and not as a legal restriction.)
- 406.9** No business, trade or enterprise of any kind or nature whatsoever shall be conducted or carried on upon any residential lot, except lawyers, Doctors, Architects, Engineers and Accountants may practice in a residential building as a home professional occupation.
- 406.10** No person shall keep any animals, birds, fowls or poultry, except common household pets.
- 406.11** There shall be no habitation in structures other than dwelling houses.
- 406.12** Any garage or out-building shall conform in appearance to the residential structure on the lot it serves.
- 406.13** Buildings on any lot shall be connected to the Mountain Lakes District Water System upon such terms and conditions as set forth in the tariff.
- 406.14** No person shall use or operate any power boat, snowmobile, all terrain vehicle, car or truck or any gasoline, diesel or electric powered conveyance on the waters or ice of the lakes in Mountain Lakes or any wetlands in the Mountain Lakes District, nor on the Mountain Lakes District lands except as authorized by the Mountain Lakes Commissioners.. District residents may operate snowmobiles on routes designated in writing by the Commissioners for the purpose of accessing approved snowmobile corridors outside the District.

**ARTICLE 5**            **NON-CONFORMING USES AND STRUCTURES**

**Section 501**            **Definition**

Any lawful structure or use of a building in existence at the time of the adoption of this Ordinance, or of any amendment hereto, may be continued although such structure or use does not comply with the provisions of this Ordinance. Such structures shall be known as “Non-Conforming Structures” and such uses as “Non-Conforming Uses”. A structure or use of a building or lot contrary to the applicable Property Covenants and Easements pertaining to that lot recorded in the Grafton County Registry of Deeds shall not be considered a lawful structure or use of a building or lot.

**Section 502**

**Change or Expansion of Non-Conforming Use**

No non-conforming use shall be changed to another non-conforming use and no such non-conforming use shall be enlarged or extended in excess of twenty percent (20%) of the gross floor area of the main building existing at the time the non-conformance commenced. The expanded 20% use shall comply with all other provisions of this Ordinance, including but not limited to dimensional requirements, sign regulations, and off-street parking requirements.

**Section 503**

**Abandonment of Non-Conforming Use**

If a non-conforming use is changed to a conforming use and continued for a period of four (4) months or more, such change shall constitute the abandonment of the prior non-conforming use. A non-conforming use shall be presumed to be abandoned if the use has been discontinued for a period of eighteen (18) months or more. A determination shall in the first instance be made by the Zoning Officer, and any person aggrieved may appeal that decision to the Zoning Board of Adjustment.

**Section 504**

**Damage to a Non-Conforming Structure**

If a non-conforming structure is damaged by fire, explosion or other catastrophe, the Planning Board may issue a zoning permit for the rebuilding and restoration of such building which may not be greater in size or floor space and in the original location of the original structure except as provided in Section 506. Application for a building permit to restore the structure must occur within two years of the date of damage. Otherwise the non-conforming use shall be presumed to have been abandoned, except as to rights vested by law.

**Section 505**

**Damage to Non-Conforming Use**

If a building housing a non-conforming use is damaged by fire, explosion or other catastrophe, the Planning Board may issue a zoning permit for the resumption of such use in the rebuilt or restored structure limited to the original size and floor space utilized by the non-conforming use. Application for a zoning permit to restore the structure must occur within two years of the date of damage. Otherwise, the non-conforming use shall be presumed to have been abandoned.

**SECTION 506**

**Expansion of Non-Conforming Structure**

A structure that is non-conforming as to one or more dimensional requirements (setbacks and/or height limit) may be enlarged or extended up to twenty percent (20%) of the gross floor area existing at the time the non-conformance commenced. *For example a house which is too close to the road and does not comply with the front yard requirement may be extended parallel to the road in an amount equal to 20% of the gross floor area of the house.* The extension, however, cannot violate a side yard or rear yard requirement.

**ARTICLE 6**

**HOME PROFESSIONAL OCCUPATIONS**

**(From the Property Covenants)**

**Section 601**

**Intent**

A home professional occupation as described in Section 406.9 may be allowed as a Special Exception by the Board of Adjustment to carry out the objectives and intent for the establishment for the Mountain Lakes Subdivision.

**Section 602**

**Special Exception Standards**

The following standards define the acceptable home professional occupations, and are intended to insure compatibility with other uses, and to make clear that the home professional occupation is to be an accessory use to the primarily residential use of the main building.

- 602.1 There shall be no exterior evidence of the conduct of a home professional occupation, except where other sections allow. The principal character of residential use shall not be changed by the home occupation.
- 602.2 A home professional occupation shall be conducted only within the enclosed area of the dwelling unit or within an accessory structure, limited in area by the following:
  - A. The home professional occupation located in a dwelling unit shall not occupy more than 25% of the total floor area of the dwelling unit.

- B. The home professional occupation located within an accessory structure shall occupy an area not to exceed 50% of the combined floor spaces of the main dwelling unit.**
- C. The percent of floor area occupied may be increased by the Board of Adjustment for accessory structures which exist on the effective date of this Ordinance.**
- D. Total floor area is defined as follows: The sum of the horizontal area of all floors of a building, measured from the interior surfaces of the walls, and not including cellars, attics, porches, etc.**

- 602.3 Home professional occupations shall be carried on by persons who live in the home full time. One non-resident employee is permitted.**
- 602.4 Adequate off-street parking must be provided for the employee, clients and residents.**
- 602.5 One rectangular shaped sign, conforming to the requirements of the regulations contained in this Ordinance, not to exceed 450 square inches, shall be allowed for the home professional occupation. Letters shall be black on a white background.**

**ARTICLE 7            COMMERCIAL USE**

**Section 701            Intent**

**The following standards define allowable commercial uses and are intended to minimize the potential conflict with residential uses in the area for the purpose of preserving the residential character of the District.**

- 702.1 The number of employees shall not exceed four (4), subject to the right to request an increase by application to the Board of Adjustment.**
- 702.2 The building shall comply with the front, side and rear setback requirements.**
- 702.3 The lot shall front on a Town maintained highway.**
- 702.4 There shall be adequate off-street parking for customers and employees.**
- 702.5 There shall be only one rectangular shaped on-premise sign, not to exceed 450 square inches. Letters shall be black on a white background.**
  - (1) No sign shall be erected or maintained within the street right-of-way.**
  - (2) No sign shall be placed in such a position as to endanger motor vehicle or pedestrian traffic.**

- (3) Signs shall refer only to a use or activity on the lot upon which the sign is situated.
- (4) Signs may be illuminated only by continuous indirect white light, that is, light reflected from the surface of the sign. Any sign illuminated from within will be considered directly lit and not permitted.
- (5) No flashing or animated signs with visible moving parts or intermittent lighting to create the visual effect of movement are permitted.
- (6) The above regulations shall not apply to a non-illuminated sign and window poster that are displayed from within a building.

702.6 There shall be an adequate buffer consisting of natural vegetation and trees and/or additional planted vegetation and trees so as to provide reasonable screening from adjoining abutting lots.

702.7 All exterior lighting shall be installed so as not to spill over onto any abutting lot.

702.8 The building shall be residential in appearance.

702.9 The side and rear yard setbacks may be increased by the Board of Adjustment for the purpose of providing an additional separation between structures and the lot lines for the purpose of minimizing the impact on adjoining residential lots.

## ARTICLE 8            DEFINITIONS

### Section 801            Word Definitions

The word *person* includes a firm, association, organization, partnership, trust company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word *shall* or *will* is mandatory, the word *may* is permissive.

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

If a word is not defined herein, it shall be given its usual dictionary meaning.

### Section 802            Terms & Use Definitions

1. Accessory Building or Use: A building or use subordinate and customarily incidental to the main building or use on the same lot.

2. **Building:** A constructed unit forming a shelter for persons, animals, or property and having a roof and being permanently located on the land. Where the context allows, the word “*building*” shall be construed as though followed by the words “*or part thereof*”.
3. **Building Height:** Vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof.
4. **Commercial Use:** An operation of a commercial nature limited to business and professional offices and/or personal services which include barber, hairdresser, beauty parlor, shoe repair, photographic studio and other similar businesses that primarily provide services not goods to customers.
5. **Coverage:** That percentage of the lot area covered by the building. Coverage of a lot shall be limited by front, side and rear yard requirements.
6. **Dwelling, Single Family:** A detached residential dwelling unit other than manufactured housing (based on deed restrictions), designed for and occupied by one family only.
7. **Dwelling Unit:** A room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities.
8. **Family, Related:** Any number of persons related by blood or marriage.
9. **Family, Unrelated:** Any number of persons not related by blood or marriage living together as a single non-profit housekeeping unit. The number of unrelated family members shall be limited by the number of bedrooms contained in the dwelling unit. There shall be one bedroom for the first two persons and one bedroom for each additional person. There shall be two parking spaces for the first two persons and one space for each additional person thereafter. Where there are more than four persons living together as an unrelated family, there must be established to the satisfaction of the Zoning Officer that the septic system and water system is capable of handling more than four persons.
10. **Frontage:** The width of a lot measured along its common boundary with the street line.
11. **Lot:** A parcel of land occupied or to be occupied by a main building and accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage, area and to provide such yards and other open spaces as are herein required. All lots shown on a subdivision plan which have received final plot approval from the Planning Board shall be separate lots regardless of whether there is separate ownership or common ownership of contiguous lots.

12. **Lot Area:** The horizontal area of the lot lying within the lot lines, exclusive of any area in a street.
13. **Lot of Record:** A lot which is part of a subdivision recorded in the Office of the Grafton County Registry of Deeds, or a lot or parcel described as a separate lot or tract or parcel in a deed, recorded in the Registry of Deeds, prior to the adoption of this Ordinance.
14. **NHDES:** New Hampshire Department of Environmental Services
15. **Non-Conforming Structure:** A structure, which was lawful prior to adoption of this Ordinance, which does not now conform to the dimensional regulations for the District in which it was located.
16. **Non-Conforming Use:** A use, which was legal prior to the adoption of this Ordinance which does not now conform to the use regulations for the District in which it is located.
17. **Non-Residential Use:** All uses of buildings, structures, and land except single-family dwellings and multi-family dwellings.
18. **Power Boats:** Vessel that can move across water as a result of action by an internal combustion or electric motor.
19. **Roads:** See Streets.
20. **RSA:** New Hampshire Revised Statutes Annotated
21. **Numbered Section:** (See Sections Numbered) Numbered shall mean Subdivisions of the original Mountain Lakes Area described in the Subdivision plans on record in the Grafton County Registry of Deeds and indicated as Section 1, Section 2, Section 3, and etcetera.
22. **Plat:** A map or plan.
23. **Special Exception:** A use of a building or lot or other requirement allowed under this Ordinance only by the issuance of a special exception by the Zoning Board of Adjustment. The landowner has the burden of establishing that the proposed requested special exception meets the requirements of general and/or specific standards for the issuance of that special exception as contained in this Ordinance.
24. **Street:** Shall mean a Class V or better highway, a private road on a Subdivision plot approved by the Planning Board; or a Class VI highway provided that the requirements of RSA 674:41,I are met.
25. **Structure:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

26. **Variance:** Such departure from the terms of this Ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize under the terms of Section 901 and applicable statutes of the State of New Hampshire.

**ARTICLE 9      PERMITS, ADMINISTRATION AND ENFORCEMENT**

**Section 901      Zoning Permit**

- 901.1** Written application for a zoning permit must be filed with the District for any of the following, and except as provided in applicable statutes of the State of New Hampshire, until a permit has been reviewed by the Zoning Officer and approved by the Planning Board to assure conformity with the terms of this Ordinance (or, if the permit is denied, until the Zoning Board of Adjustment has directed that a permit be issued), none of the following shall be commenced:
- A.** The erection or use of any new building, exterior sign, or other structure.
  - B.** The alteration, restoration, moving, or demolition of any building, or part thereof.
  - C.** Any use of the premises which would constitute a departure from the terms of this Ordinance, including, but without limiting the generality of the foregoing, a change in the nature of the use of any building or premises to a non-conforming use except as provided in Section 506 or any change in lot size or shape which would result in a violation of area or dimensional regulations.
- 901.2** Application for a zoning permit shall be upon the appropriate form to be prescribed by the District and shall be accompanied by such of the following as the Zoning Officer or Planning Board may require:
- A.** Building plans, drawn to scale, showing the actual shape, dimensions, and location of the lot to be used, of existing building upon it, or alterations proposed for existing buildings, and of proposed new buildings.
    - 1.** Name of project, names and addresses of owners of record, tax map and lot number.
    - 2.** North arrow, date of the plat, scale appropriate to the scope of the building(s), name and address of person preparing the plat.
    - 3.** Vicinity sketch at an appropriate scale showing the location of the building(s) in relation to the existing public streets.
    - 4.** The shape, size, height, location and use of existing and proposed structures located on the site and those existing within 50 feet of the site.
    - 5.** A copy of an approved driveway permit from the Town of Haverhill, or, where the proposed driveway is to intersect a private road, an application for a special use permit as set forth in Section 402 of this Ordinance, in which case the following provisions shall apply:
      - (a)** Plans and specifications shall be presented detailing any upgrades or changes to the private road which may be required by the Planning Board as part of its special use

permit review. The Board may also require a performance bond to secure such work.

- (b) The applicant shall sign a statement, to be recorded, acknowledging that neither the Town of Haverhill, nor the Mountain Lakes District, has any liability for maintenance of the private road, nor for any injury or damages that may occur due to the condition of the private road, and that neither the Town nor District is under any obligation to assume the maintenance of the road in the future
  - (c) No private road will be approved by the Planning Board unless adequate provision is made for all utilities serving the site. The plan submitted must show the location and size of necessary utility easements; and if private lines are to be connected to public lines, a public "turn off" must be installed and maintained by the applicant at the end of an in use utility.
6. Copy of the septic system design including detailed sketches and NHDES approvals.
  7. Location of any existing or proposed easements, deed restrictions or covenants.
  8. Such other information as deemed necessary by the Board in order to apply the regulations contained herein. Should the Board determine that any additional plans or information are to be required, the applicant will be notified in writing within ten (10) days of the meeting at which the determination was made.

- B. Information as to the existing and intended use of each building, lot, or a part thereof.
- C. Any other information with respect to the lot and the applicant's use thereof, as well as relative to other lots in the neighborhood which, in the judgment of the Zoning Officer or Planning Board, is necessary to determine whether the action or use for which a permit is sought is a conforming action or use under the terms of this Ordinance.

**901.3** The Zoning Officer shall review an application for a permit to determine its compliance with a Permitted Use or action as defined by this Ordinance. The Zoning Officer will then submit his/her recommendation to the Planning Board within 30 days after the application has been filed. The Planning Board will approve, conditionally approve or deny the application at its next regularly scheduled Planning Board meeting.

**901.4** Issuance of a Zoning Permit pursuant to this Ordinance constitutes approval by the District of the proposed use only under the terms of this Zoning Ordinance.

**901.5** The issuance of a Zoning Permit for any use for which it is required shall precede or be in conjunction with the issuance of a Building Permit from the Town of Haverhill.

**901.6** A Zoning Permit shall become void if a building permit is not issued and construction is not begun hereunder within twelve (12) months from the date of issue of the Zoning Permit, or, if no building permit is required, a Zoning Permit shall become void if the rights conferred thereby are not exercised with twelve (12) months from the date of issue of the Zoning Permit. Zoning Permits may be extended for no more than an additional twelve (12) months by the Planning Board on receipt of a written request for extension at least thirty ((30) days prior to the expiration of the original permit.

**901.7** No cutting or clearing of trees which, within any 5-year period, results in the removal of all existing trees from any contiguous area 2500 square feet in size, or which results in the removal of more than 30% of the basal area of all existing trees from any existing building lot, may be commenced without a Special Exception from the Mountain Lakes Zoning Board of Adjustment. In lieu of the other special exception standards found in this Ordinance a special exception under this section shall be subject to the following standards:

**A.** For purposes of this section, a “tree” means any woody plant which has a circumference of 15 inches or more at a point 4 feet from the ground. “Basal area” is as defined in RSA 227-G:2.

**B.** The applicant for such a special exception shall have the burden of demonstrating to the Zoning board of Adjustment, through the testimony of appropriately qualified and competent persons: (1) That the project will not result in the violation of any applicable state law, including the Comprehensive Shoreland Protection Act, RSA 483-B; (2) That all of the buffer areas required by RSA 227-J:9 will be complied with, and that slash will be handled as required under RSA 227-J:10; and (3) That over the lot as a whole, a minimum of 30% of the basal area of trees, and a minimum of 30% of the number saplings, shall remain in place and healthy, distributed in such a manner as to minimize any harmful runoff to lakes or streams, and to maintain buffer areas from streets and abutting properties.

**C.** If the clearing is for purposes of enabling the erection of a building or structure, or change of use which requires a permit under Section 901.1 of this Ordinance, then no cutting shall begin until the zoning permit for the building, structure or conversion of use has been obtained. In addition, building construction must begin no later than 6 months after tree clearing begins, unless a variance is obtained from the Mountain Lakes District Zoning Board of Adjustment.

**D.** If the clearing is not for purposes of enabling a building, structure or change of use requiring a zoning permit under Section 901.1, then in addition to the requirements of paragraph B above, the applicant shall have the burden of demonstrating to the satisfaction of the Zoning Board of Adjustment: (1) That the cutting is to be in accord with a specific forest stewardship plan, prepared by a NH licensed forester, providing for long-term sustained yield, and requiring compliance with Best Management Practices for Erosion Control on Timber Harvesting Operations, as published by the NH Department of Resources and Economic Development, and (2) That the cutting will have no undue

adverse impact upon other properties in the area or upon the view of the area from roads, streets and water bodies.

E. The Zoning Board of Adjustment shall attach, to the special exception, such conditions as it deems necessary to assure that cutting remains in compliance with the provisions of this section at all times during the cutting or clearing operation. The requirements of this section are in addition to any requirements of State Law, and are in addition to the building permit and driveway permit requirements of the Town of Haverhill.

901.8 On approval by the Zoning Board of Adjustment of a Variance or Special Exception, the Planning Board may issue a Zoning Permit.

**Section 902**                    **Administration and Enforcement**

The administration and enforcement of this Ordinance shall be by the Mountain Lakes Board of Commissioners or their duly appointed representatives, the Zoning Officer and Planning Board.

**Section 903**                    **Enforcement and Penalty**

903.1 This Ordinance shall be enforced by the Mountain Lakes Board of Commissioners or their duly appointed representatives. If any building or use of land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Ordinance, the Commissioners shall institute, in the name of the District, any appropriate action, injunction, or other proceeding to prevent, restrain, correct or abate such construction or use or to prevent in or about the premises any act, conduct, business, or use constituting a violation.

903.2 A notice of violation shall be sent by mail to any person determined to have violated this Ordinance and such notice shall describe the acts constituting the violation and the section of this Ordinance. No enforcement action shall be initiated unless the alleged offender has had at least ten (10) calendar days from the date of the violation letter to correct the violation. Any person who violates this Ordinance shall be subject to a civil penalty not to exceed \$275 for each day for the first offence and \$550 for each day for subsequent offences that such violation is found to continue after the date on which the violator received written notice from the District of the violation. In any legal action brought by the District to enforce this Ordinance, the District may recover its costs and reasonable attorneys' Fees. *See RSA 676:17.*

**Section 904**                    **Board of Adjustment**

There shall be a Board of Adjustment as provided by New Hampshire statutes and its members shall be appointed by the Board of Commissioners.

904.1 The Board of Adjustment shall have the following powers as conferred by law.

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Officer and/or the Planning Board in the administration of this Ordinance.**
- B. To hear and decide Special Exceptions to the terms of this Ordinance upon which the Board of Adjustment is required to pass as provided herein.**
- C. To authorize upon appeal in specific cases such Variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will be observed and substantial justice done. In so doing, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community.**
- D. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm wholly or in part or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and to that end shall have all the powers of the Zoning Officer and/or Planning Board from whom the appeal is taken.**
- E. The concurring vote of a simple majority of the membership of the Board of Adjustment shall be necessary to reverse any action of the Zoning Officer and/or Planning Board or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Ordinance or to affect any variation in this Ordinance.**

**904.2 The following rules shall apply in all proceedings before the Board of Adjustment:**

- A. All appeals and applications to the Board of Adjustment shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the Ordinance involved, and shall set forth the interpretation, the Special Exception, or Variance for which application is made.**
- B. Whenever a notice of appeal is filed for a Variance or an application made for a Special Exception, the Board of Adjustment shall hold a public meeting and notice shall be given as required by law.**
- C. The Board of Commissioners shall establish such appropriate fees as will compensate the District for the cost of processing and reviewing all appeals and applications submitted to the Board of Adjustment. The applicant shall pay the established fee upon submission of the appeal or application.**
- D. The provisions contained herein are intended to comply with applicable provisions of New Hampshire Revised Statutes Annotated, Title LXIV, as amended. Any such amendment shall constitute a similar amendment herein without further action.**

**Section 905      Variance**

**905.1** The Board of Adjustment may, on an appeal, grant a Variance from the Provisions of this Ordinance, if the Board determines that the following five standards as required by State Law, are met, namely:

- A. No diminution in value of surrounding properties would be suffered;**
- B. Granting the permit would be of benefit to the public interest;**
- C. Denial of the permit would result in unnecessary hardship for the owners seeking it;**
- D. By granting the permit, substantial justice will be done;**
- E. The use must not be contrary to the spirit of this Ordinance.**

**In determining whether or not these standards are met, the Zoning Board of Adjustment shall find the following facts and so specify in its decision:**

- 1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot, size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.**
- 2. That because of such physical circumstances or conditions the property cannot be used in strict conformity with the provisions of this Ordinance and that the authorization of a Variance is therefore necessary to enable the reasonable use of the property.**
- 3. That the Variance if authorized will not diminish the value of surrounding properties.**
- 4. That the Variance if authorized will represent the minimum Variance that will afford reasonable relief.**

**905.2** In authorizing a Variance, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community, as to the use of the land.

**Section 906      Occupancy**

**No building may be occupied or used unless the Zoning Officer has issued a successfully completed Zoning Compliance Checklist (ZCC). The Zoning Officer shall not issue a**

**Zoning Compliance Checklist until the Zoning Ordinance and Water Tariff regulations have been met.**

**Section 907      Fees**

**The fee for any permit or appeal required under this Ordinance shall be established by the Board of Commissioners. Such fees shall be paid the applicant and shall accompany each application for permit.**

**ARTICLE 10      MISCELLANEOUS PROVISIONS**

**Section 1001      Severability Clause**

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

**Section 1002      Effective Date**

**This Ordinance shall take effect immediately upon its adoption.**

**Section 1003      Amendments**

**The Ordinance may be amended in accordance with the provisions of the applicable statutes of the State of New Hampshire.**

**Section 1004      Validity**

**Whenever the provisions of this Ordinance or rulings made under the authority hereof differ from those of other ordinances or regulations of the District or of the Town of Haverhill, that provision or ruling which imposes greater restriction or higher standard shall govern.**

**TOWN OF HAVERHILL HEALTH REGULATIONS**

**Reg. 101 Refuse Containers. Refuse stored outside of an enclosed structure shall be placed securely in covered containers of permanent construction. For the purpose of this Regulation, plastic bags or materials such as cardboard or paper shall not constitute “Permanent Construction”. This regulation shall apply only to the Mountain Lakes District.**