

# Zoning Ordinance

## Town of Monroe, New Hampshire

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As Amended, March 14, 2017



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## **Article I Preamble**

### **Section 101 - Purpose**

The purpose of this ordinance is to promote health and general welfare, prevent overcrowding of land, avoid undue concentration of population, facilitate adequate provision of transportation, water, sewerage, and other public requirements and to retain the rural and farming nature of the town.

This ordinance shall be made with consideration given to the character of the town and its suitability for particular uses, with a view to encouraging the most appropriate use of the land throughout the town, and with the views if the expressed majority of Monroe's residents.

### **Section 102 - Authority**

In pursuance of the authority conferred by Chapter 31, Sections 60-89, New Hampshire Revised Statutes Annotated, 1955, the following ordinance is hereby enacted by the voters of Monroe.

### **Section 103 - Title**

This ordinance shall be known and may be cited as the "Monroe, N.H. Zoning Ordinance" and is hereby referred to as "this Ordinance".

### **Section 104 - Effective Date**

This Ordinance shall take effect immediately upon passage.

## **Article II**

### **Establishment of Districts and District Regulations**

#### **Section 201 - District Boundaries**

The Town of Monroe is hereby divided into the following districts:

**Zone A - Residential:** This district shall include all land enclosed within the following boundaries: Beginning at the southwest corner of Lot U02-050, then easterly following the southern boundary of Lot U02-050 and of Lot U02-044B and continuing across NH Route 135; then south following NH Route 135 to Lot U01-15; then following the southern boundary of Lot U01-011 to the western boundary of Lot U01-009; then continuing northwesterly along the western boundary of Lot U01-009 and of Lot U01-010; then continuing northwesterly along the western boundary of Lot U02-013 to its junction with Lot U02-018B; then continuing northwesterly along the northeast boundary of Lot U02-025B, of Lot U02-025A, and of U02-023 to Plains Road; then westerly along Plains Road to Lot U02-004; then continuing northwesterly along the southern boundary of Lot U02-005 and of Lot U03-042; then continuing southwesterly along the northwestern boundary of Lot U03-031 to NH Route 135; then north along NH Route 135 to the northern boundary of Lot U03-013; then west along the northern boundary of Lot U03-013 to the Connecticut River, thence southerly following the course of the river to the point of beginning.

**Zone B - Residential - Business:** This district shall include all land enclosed within the following boundaries not included in Zone A: Beginning at the mouth of Hunt Mountain Brook and following the westerly branch of the Brook until it crosses Coppermine Road; then following Coppermine Road northward to the northern boundary of Lot U02-005; then westerly following the northern boundary of Lot U02-005 to Lot U03-024, then following the boundary of Lot U03-024 north and west to NH Route 135; then following NH Route 135 north to the northern boundary of Lot R04-002; thence following the northern border of Lot R04-002 west to the Connecticut River; then southerly following the course of the river to the point of beginning.

**Zone C - Rural:** This district shall include all land in the Town of Monroe not included in Zone A and B.

The lot boundaries described above shall refer to the locations as shown on the April 1, 2015 official tax maps of the Town of Monroe as amended by the 2016 Lot Line Adjustment affecting Lots U01-11 and U01-15.

## **Section 203 - District Regulations**

### **203.1 Zone A**

Purpose: The intent of Zone A is to maintain the integrity of residential development for this district in the form of single family, two family and complimentary non-residential uses normally required to provide a balanced and attractive village area.

The following uses will be permitted in Zone A:

- a. Single family dwellings, single family dwellings with attached accessory dwelling units, and two-family dwellings
- b. Forestry
- c. Home businesses
- d. Schools
- e. Churches
- f. Community buildings
- g. Lodges, halls
- h. Accessory structures and uses
- i. Senior housing units

The following may be allowed as a Special Exception:

- a. Personal service businesses
- b. Offices
- c. Agriculture
- d. Outdoor recreational facilities
- e. Telecommunication facilities
- f. Retail store
- g. Restaurant
- h. Renewable energy facilities for the purpose of providing electricity, heating or cooling when not primarily for on-site needs, including small wind energy systems in accordance with RSA 674:62-66.
- i. Multi-family housing for the purposes of providing Workforce Housing in accordance with RSA 674:58-61.
- j. Other uses that are consistent with the residential nature of the zone and meet all of the criteria listed in Section 206

The minimum lot size in Zone A shall be one (1) acre.

### **203.2 Zone B**

Purpose: The intent of Zone B is to maintain the integrity of residential development within this district which is generally in transition from open to residential. The

regulations are intended to maintain the rural character while providing for residential and complimentary non-residential uses.

The following uses will be permitted in Zone B:

- a. Single family dwellings, single family dwellings with accessory dwelling units, and two-family dwellings
- b. Agriculture
- c. Forestry
- d. Home businesses
- e. Accessory structures and uses
- f. Telecommunication towers
- g. Senior housing units

The following may be allowed as a Special Exception:

- a. Personal service businesses
- b. Offices
- c. Auto service stations
- d. Restaurants
- e. Retail stores
- f. Community buildings
- g. Lodges, halls
- h. Churches
- i. Schools
- j. Cemeteries
- k. Outdoor recreational facilities
- l. Renewable energy facilities for the purpose of providing electricity, heating or cooling when not primarily for on-site needs, including small wind energy systems in accordance with RSA 674:62-66.
- m. Multi-family housing for the purposes of providing Workforce Housing in accordance with RSA 674:58-61.
- n. Other uses that are consistent with the residential nature of the zone and meet all of the criteria listed in Section 206

The minimum lot size in Zone B shall be two (2) acres.

### **203.3 Zone C**

Purpose: The intent of Zone C is to maintain the integrity of rural activities within this district. The regulations of this district are designed to encourage the maintenance of the general rural characteristics of openness, residential uses, limited compatible commercial uses, appropriate agri-business, forest harvesting, agriculture and livestock production.



The following uses will be permitted in Zone C:

- a. Single family dwellings, single family dwellings with accessory dwelling units, and two-family dwellings
- b. Agriculture
- c. Forestry
- d. Home businesses
- e. Borrow pits
- f. Accessory structures and uses
- g. Telecommunication towers
- h. Senior housing units

The following may be allowed as a Special Exception:

- a. Agriculture processing facility
- b. Wood processing
- c. Outdoor recreational facility
- d. Community buildings
- e. Schools
- f. Churches
- g. Auto service stations
- h. Personal service businesses
- i. Offices
- j. Lodges, halls
- k. Cemeteries
- l. Renewable energy facilities for the purpose of providing electricity, heating or cooling when not primarily for on-site needs, including small wind energy systems in accordance with RSA 674:62-66.
- m. Other uses that are consistent with the rural-residential nature of the zone and meet all of the criteria listed in Section 206

The minimum lot size in Zone C shall be three (3) acres.

## **Section 204 - Present Use**

Every use being made of land, buildings, or structures in the town of Monroe on the effective date of this Ordinance may be continued.

## **Section 205 - Non-conforming Use**

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

1. Expanded, unless approved by the Board of Adjustment which shall find such expansion or extension does not create greater nuisance or detriment.
2. Changed to another non-conforming use, unless approved by the Board of Adjustment which shall find that such use is no more objectionable in character than the old use.
3. Re-established, if such use has been discontinued for a period of two years. Intent to resume a non-conforming use shall not confer the right to do so.
4. Restored to other than a conforming use after damage or destruction by fire, accident or other cause, unless such work is completed within five years of the damage or destruction.

## **Section 206 - Special Exception**

As defined by RSA 674:33 IV, the Board of Adjustment has the power and is required to hear and decide upon applications for uses identified in Section 203 as requiring a Special Exception. The Board shall consider the recommendations of the Monroe Planning Board for such Special Exceptions and may, in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, authorize the Selectmen or designee to issue a permit for Special Exception use. Before the application is approved, the Board shall determine that:

1. The proposed site is an appropriate location for such use, including consideration of the present and future use of surrounding properties;
2. The use will not adversely affect the neighborhood, including, but not limited to, consideration of lighting, traffic, noise, odor, stormwater runoff, hours of operation;
3. The bulk and mass of the proposed structures will not be detrimental to the general character of the neighborhood;
4. Adequate landscaping is proposed to screen the property from public roads and buffer the property from neighboring uses;
5. Property values in the district and surrounding property will not be reduced;
6. No nuisance or unreasonable hazard shall result;

7. Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use;
8. The proposed use will not exceed or impact adversely the capacity of public facilities; and
9. The use complies with all regulations established by the Ordinance.

Conditions may include, for example, greater setbacks, additional screening, limits on noise or hours of operation, or removal of renewable energy facilities when no longer intended for use.

### **Section 207 - Existing Lots**

In any district, notwithstanding limitations imposed by other provisions of this Ordinance, a single lot legally in existence at the effective date of adoption of this Ordinance may be built upon even though such lot fails to meet the minimum requirements for area or width, or both, that are generally applicable in the district.

## **Article III General Provisions**

### **Section 301 - Setbacks**

Every structure shall be set back from the front property line not less than 50 feet, not less than 30 feet from the side line, and not less than 30 feet from the rear line.

### **Section 302 - Road Frontage**

1. All lots in Zone A shall have no less than 150 feet frontage on an existing Class V or better public highway, or street shown on a subdivision plat approved by the Planning Board and recorded with the County Registry of Deeds, which provides the principal means of access to the lot.
2. All lots in Zone B and C shall have no less than 200 feet frontage on an existing Class V or better public highway, or a street shown on a subdivision plat approved by the Planning Board and recorded with the County Registry of Deeds, which provides the principal means of access to the lot.
3. The road frontage along a public highway or street shown on a subdivision plat shall be measured along the right-of-way.

### **Section 303 - Principal Building**

There shall be only one principal building on a lot.

### **Section 304 - Remodeling and Repairing**

Remodeling or repairing a structure is permitted without a permit when the use, building or structure is not changed, extended or enlarged. See also Article II, Section 205, Non-conforming Use.

### **Section 305 – Signs**

No sign shall be permitted in Zones A, B and C except the following: Town and State directional, regulatory, and historic signs; and signs used to advertise the profession or goods dealt in by the owner or occupant of property on which the sign is placed. No sign or group of signs shall exceed 20 square feet (outside dimension) and shall not be placed so as to obstruct the view of highways and roads.

## **Section 306 - Temporary Construction Structures**

On-site temporary structures used in conjunction with construction work are permitted only during the period construction is in process and in no event for longer than 12 months. This period may be extended by the Board of Adjustment upon application.

## **Section 307 – Ruins**

The owner or occupant shall remove or level and bury fire or other ruins within one year after fire or other damaging incident occurred.

## **Section 308 - Multiple Districts**

If an existing lot falls into more than one zoning district and if 60 percent or more of that lot shall fall into any one district, the regulation of that district shall apply to the entire lot. Other questions of the application of district regulations to lots which fall into more than one district shall be appealed and decided upon by the Board of Adjustment.

## **Section 309 - Junk Yards**

In the Town of Monroe, junk yards shall not be permitted in Zone A, B, or C.

## **Section 310 - Agriculture**

Agricultural activities shall be consistent with the most recent best management practices published by the NH Department of Agriculture, Markets and Food, as amended.

## **Section 311 - Telecommunication Towers**

### **311.1 - Purpose and Goals**

In recognition of the requirements of the federal Telecommunications Act of 1996, this Ordinance is designed and intended to balance the interests of the residents of Monroe, telecommunications providers, and telecommunications customers in the requirements and siting of telecommunications facilities within the town of Monroe so as to ensure coordinated development of communications infrastructure while preserving the health, safety and welfare of the Town and its residents. This Ordinance establishes general guidelines for the siting of telecommunications towers and antennas to enhance and fulfill the following goals:

1. Preserve the authority of the town to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of

- telecommunications services to provide such services to the community quickly, effectively, and efficiently;
2. Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;
  3. Provide for co-location and minimal impact siting options through assessment of technology, current locational options future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;
  4. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;
  5. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town;
  6. Provide constant maintenance and safety inspections for any and all facilities;
  7. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and Building code compliance. Provide a mechanism for the Town to remove these abandoned towers to protect the citizens from imminent harm and danger; and
  8. Provide for the removal or upgrade of facilities that are technologically outdated.

### 311.2 - Definitions

1. **Alternative Tower Structure.** Innovative siting techniques such as artificial trees, clock towers, bell towers, steeples, light poles, and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
2. **Antenna.** Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.
3. **Co-location.** The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.
4. **Elevation.** The measurement of height above sea level.
5. **Equipment Shelter.** An enclosed structure, cabinet, shed, vault, or box near the base of the wireless service facility within which are housed equipment for those facilities such as battery and electrical equipment.

6. **Fall Zone.** The area on the ground within a prescribed radius from the base of a personal wireless facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice), collapsing material or the collapse of the tower itself.
7. **Guy Wires.** A cable used to secure and steady a tower.
8. **Guyed Tower.** A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
9. **Height.** The vertical distance measured from the average elevation of the finished grade surrounding the tower or other structure to the highest point on the tower or other structure, including antennas.
10. **Lattice Tower.** A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
11. **Monopole.** A type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top, constructed without guy wires.
12. **Preexisting Towers and Antennas.** Any tower or antenna lawfully constructed or permitted prior to the adoption of this Ordinance. Also, any tower or antenna lawfully constructed in accordance with this Ordinance that predates an application currently before the town.
13. **Secondary Use.** A use of land or of a building or portion thereof which is unrelated to the principal use of the land or building.
14. **Telecommunications Facilities.** Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications services (PCS), and common carrier wireless exchange access services.
15. **Tower.** A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice or monopole towers but not including guyed towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

### 311.3 - Regulations

All personal wireless service facilities shall comply with the following requirements. These requirements shall supersede any and all other applicable standards found elsewhere in the town's Zoning Ordinances and Regulations that are less strict.

1. **Height.** New personal wireless service facilities located on any existing structures shall not increase the height of the existing structure more than 20 feet. No personal wireless service facility shall project higher than 20 feet above the average surrounding tree canopy unless

it can be proven that significant improvement in performance will be achieved at a higher level.

2. **Fall Zone.** In order to ensure public safety, the minimum distance from the ground mount of a personal wireless service facility to any property line, road, habitable dwelling, business or institutional use or public recreational area shall be 200% of the height of the facility, including any antennas or other appurtenances. This setback is considered the "fall zone".
3. **Visual Impact and Lighting.** In order to preserve the character of the existing developed and natural environments within the Town of Monroe, and to minimize any detrimental visual impact that personal wireless service facilities might have, all personal wireless service facilities will adhere to the following requirements:
  - a. The design of the towers, ground mounts, antennas, buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting it is placed in.
  - b. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - c. Personal wireless service facilities shall not be artificially lighted, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Board of Selectmen may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
  - d. Towers shall be located on sites where the grade/slope and tree cover of the site and surrounding land can be used to decrease any adverse visual impacts.
  - e. Towers or ground-mounted facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the facilities from adjacent properties and public roads. Natural vegetation is preferred.
  - f. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
  - g. Towers shall not contain any permanent or temporary signs, writing, symbols or other graphic representation of any kind,



except as may be allowed or required by the Board of Selectmen in the interests of public safety.

4. **Fencing.** Towers shall be enclosed by security fencing located inside the landscaped buffer. The fencing shall be at least 6 feet in height and equipped with appropriate anti-climbing devices.
5. **Building Codes.** To ensure safety and structural integrity of personal wireless service facilities and antennas, the owner of a facility shall certify that it is constructed and maintained in compliance with standards contained in applicable building codes and the applicable standards for personal wireless service facilities that are published by the Electronic Industries Association, as amended from time to time. The owner of the facility shall initially provide proof of structural integrity by report of a structural engineer licensed in New Hampshire and thereafter shall provide certifying reports to the town every five years. If, upon inspection, the Town concludes that a facility fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the facility, the owner shall have 30 days to bring such facility into compliance with such standards. If the owner fails to bring such facility into compliance within 30 days such action shall constitute grounds for the removal of the facility at the owner's expense.
6. **Federal Requirements.** All personal wireless service facilities must meet or exceed current standards and regulations of the FAA, the Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the facilities governed by this Ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring facilities into compliance with such revised standards and regulations shall constitute grounds for the removal of the facilities at the owner's expense.
7. A full written disclosure of all materials in the sealed transmitters located at the base of the tower must be submitted. The applicant must pay for any training required in handling any potential problem created by any hazardous materials in the transmitter.
8. Access for motorized vehicles to the sites where telecommunications facilities are located shall conform to the Town regulations relating to driveways.

### **311.4 - Application Procedure**

1. Application to erect personal wireless service facilities in the town shall be made to the Board of Selectmen of the Town of Monroe. The application will be reviewed by the Planning Board, who will make recommendations to the Board of Selectmen. The Board of Selectmen will have the authority to approve or deny the application, and issue the Personal Wireless Service Facility Permit after a favorable recommendation of the Planning Board.
2. The application shall contain a scaled plan including a scaled elevation view, surrounding topography, surrounding tree cover and natural vegetation, radio frequency coverage, setbacks, fall zone, design of the facility and construction materials, design characteristics that will avoid visual obtrusiveness, landscaping, fencing, parking, access roads, adjacent uses, and any other information deemed necessary by the Board of Selectmen to assess compliance with this Ordinance.
  - a. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
  - b. The applicant shall submit written proof of legal authority to use the proposed site.
  - c. The applicant shall submit written proof that an elevation has taken place, as well as the result of such elevation, satisfying the requirement of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board of Selectmen prior to the beginning of the federal 30 day comment period and the Town process, shall become part of the application requirements.
  - d. Each applicant for a facility shall provide to the Board of Selectmen an inventory of its existing facilities that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each facility, as well as economic and technological feasibility for co-location on the inventoried facilities. The Board of Selectmen may share such information with other applicants applying for approvals or conditional use permits under this Ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided however that the Board of Selectmen is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- e. Each applicant for a facility shall provide a list of any additional towers which may be required in the town for completion of their planned wireless coverage.
- 3. Burden of Proof on Applicant Regarding Siting Priority. The burden of proof that there are no existing structures upon which the applicant may locate its personal wireless facility and/or transmit or receive radio signals shall include, at a minimum:
  - a. The applicant shall submit a list of all owner contacts made with regard to the availability of potential wireless service facility. If the Board of Selectmen or Town staff finds additional existing buildings and structures that may be satisfactory, the applicant shall contact the property owners.
  - b. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered "return receipt requested" forms from the US Post Office shall be provided for each owner of existing structures that was contacted.
  - c. If the applicant claims that a structure is not structurally capable of supporting a personal wireless service facility, this claim must be certified by a registered, professional engineer licensed in the State of New Hampshire. This certification shall at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the personal wireless facility at a reasonable cost.
- 4. If the applicant is proposing to build a new tower or other ground-mounted structure, the applicant shall submit written evidence demonstrating why no existing structure can accommodate the applicant's proposed facility. The evidence must be substantial and can address such issues as location within required geographic area, required height, electromagnetic interference, unreasonable financial requirements, etc.
- 5. The application proposing to build a tower or ground mounted structure shall submit an agreement with the Town that allows for co-location of additional facilities upon the new structure by a future applicant to the extent such co-location can exist while minimizing adverse impacts.
- 6. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Board of Selectmen may have any submitted information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations, or any other matter required by the application. Cost for this review shall be borne by the applicant.

### **311.5 - Applicability**

1. **Amateur Radio Receive-Only Antennas.** This Ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This includes antennas used on residential structures for cable and television reception.
2. **Essential Services and Public Utilities.** Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land, and is subject to the Town's Zoning Ordinance and all other applicable ordinances and regulations.

### **311.6 - Siting Standards**

1. **General Provisions.** The uses listed in this section are deemed to be permitted uses in the designated district in accordance with all other applicable ordinances and regulations of the Town including Non-Residential Site Plan Review and approval by the Planning Board.
  - a. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
  - b. For purposes of determining whether the installation of a tower or antenna complies with district development standards, the dimensions of the entire lot shall control, even though the antennas and towers may be located on leased parcels within such lots.
  - c. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Ordinance, shall not be deemed to constitute the expansion of nonconforming use or structure.
  - d. Applicants receiving approval to construct new telecommunication towers must execute a written agreement with the Town specifying that the applicant agrees to provide for maximum shared use of the tower with other telecommunication providers and with governmental agencies at industry standard lease rates. This agreement shall include use by the Town for municipal communication purposes. The applicant shall also provide notice to all commercial carriers in the region that a new facility is to be erected and that an opportunity for co-location exists.
2. **Districts Permitted.** New tower construction and co-location of telecommunication facilities shall be permitted in Zone B and C and only as a special exception in Zone A subject to all applicable local, state and federal

regulations and Non-Residential Site Plan Review and approval by the Planning Board.

### **311.7 - Bonding, Security, and Insurance**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and/or unwilling to remove the tower. Furthermore, the Planning Board shall require submission of adequate insurance covering accident or damage.

### **311.8 - Removal of Abandoned Antennas and Towers**

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

### **311.9 - Waivers**

1. **General.** The Board of Adjustment may approve waivers to the requirements of Section 100 where it finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing terms, or the purposes of these regulations may be served to a greater extent by an alternative proposal. The purpose of granting waivers under the provisions of this Ordinance shall be to ensure that an applicant is not unduly burdened as opposed to merely inconvenienced by the terms of the ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:
  - a. The granting of the waiver will not be detrimental to the public safety, health, or welfare or be injurious to other property and will promote the public interest.
  - b. The waiver will not, in any manner, vary the provisions of the Town's Zoning Ordinance or Master Plan.
  - c. The waiver will substantially secure the objectives, standards, and requirements of this Ordinance.

- d. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
    - i. Topography and other site features.
    - ii. Availability of alternative site locations.
    - iii. Geographic location of the property.
    - iv. Size/magnitude of the project being evaluated and availability of co-location.
2. **Conditions.** In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure the objectives of the standards or requirements of this Ordinance.
3. **Procedures.** A petition for any such waiver shall be submitted in writing by the applicant with the application for Planning Board Review. The petition shall state fully the grounds for the waiver and all of the facts relied on by the applicant. Failure to submit petition in writing shall require an automatic denial of the waiver request.

## **Section 312 - Aquifer Protection Zone**

### **312.1 - Purpose and Intent**

Pursuant to RSA 674:16-21, the Town of Monroe adopts an Aquifer Protection Zone and accompanying regulations in order to protect, preserve, and maintain potential groundwater supplies and related groundwater recharge areas within a known aquifer identified by the Town. The objectives of the Aquifer Protection Zone are:

1. to protect the public health and general welfare of the citizens of the Town of Monroe;
2. to prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifer;
3. to promote future growth and development of the Town, in accordance with the Master Plan, by ensuring the future availability of public and private water supplies;
4. to encourage uses that can appropriately and safely be located in the aquifer recharge areas.

### **312.2 - Zone Boundaries**

The Aquifer Protection Zone is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Wellhead Protection Area as shown on the most recent mapping by NHDES and the stratified drift aquifer as shown in the most current U.S.G.S.- NHDES aquifer mapping.

### **312.3 - Prohibited Uses**

The following uses are prohibited in the Groundwater Protection District:

- A. The development or operation of a solid waste landfill;
- B. The outdoor storage of road salt or other deicing chemicals in bulk;
- C. The development or operation of a junkyard;
- D. The development or operation of a snow dump;
- E. The development or operation of a wastewater or septage lagoon;
- F. The development or operation of a petroleum bulk plant or terminal;
- G. The development or operation of gasoline stations.

### **312.4 - Conflict with Other Regulations**

Where any provision of this section is in conflict with state laws or other local ordinances, including another section of this Ordinance, the more stringent provision shall apply.



## **Article IV**

### **Administration and Enforcement**

#### **Section 401 - Duty**

It shall be the duty of the Board of Selectmen, and they are hereby given the power and authority, to administer and enforce the provision of this Ordinance. The Selectmen may appoint a designee to administer (accept applications and issue permits, and inspect) but not enforce this Ordinance.

#### **Section 402 - Zoning Permit**

##### **402.1 - Regulations**

1. A zoning permit shall be obtained from the Board of Selectmen or designee before any action is taken to erect, construct, move, or expand any building or structure. A zoning permit shall be valid for one year from the date of issuance.
2. The Planning Board may adopt Site Plan Review Regulations and require Site Plan Review approval for all applications for Multi-family Housing or non-residential uses, or for a change of use of an existing building for new or expanded business purposes, or significant business expansion. Site Plan Review approval from the Planning Board, if in effect, is required prior to issuance of a zoning permit. Such construction and use approval will have to meet conditions so as not to change the character of a neighborhood.

##### **402.2 - Application Procedure**

Two copies of an application for a zoning permit shall be submitted and shall include a plan showing:

1. the shape, dimensions, area and location of the lot involved;
2. the buildings or structure to be erected, constructed, moved or expanded;
3. any private driveway entering upon a right-of-way.

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

##### **402.3 - Review**

A zoning permit shall be issued or denied within 60 days of its request by the Board of Selectmen or designee. Extensions can be made in situations where additional research by the Board or developer is needed. If a permit is denied, the reason for the denial shall be clearly stated. Compliance with all the provisions of this Ordinance is required before issuance of a permit by the Board of Selectmen or designee.



## **Section 403 - Legal Action**

The Board of Selectmen are authorized to institute or cause to be instituted in the name of the Town of Monroe, any and all actions, legal or equitable, that may be necessary or appropriate for the enforcement of this Ordinance.

## **Section 404 - Penalties**

Sanctions, fines or penalties for any violation shall be as provided in RSA 676:17 et seq. as the same may be amended from time to time.

## **Section 405 - Board of Adjustment**

### **405.1 - Authority**

There shall be a Board of Adjustment, as provided by RSA 673:3, whose original members shall be appointed by the Board of Selectmen for the terms described in RSA 673:5. Thereafter, members shall be annually elected at town meeting for a term of three years. Vacancies between town elections are to be filled by majority vote of the remaining Board of Adjustment members. The powers shall be as described in RSA 674:33 and in conformance with this Ordinance.

### **405.2 - Decisions**

The Board of Adjustment shall consider the recommendations of the Monroe Planning Board upon appeals, Special Exceptions, and variances and in attaching conditions of these decisions.

### **405.3 - Rules**

The Board of Adjustment shall adopt and publish rules to govern its proceedings in accordance with the provisions of RSA 676:1.

### **405.4 - Multiple Requests**

A request cannot be taken or granted by the Board of Adjustment for both a Special Exception and a variance at the same time, or concurrently, for the same case, use, structure, or lot.

### **405.5 Appeal**

An appeal of an administrative decision must be made to the Zoning Board of Adjustment within 30 days of the date of the decision of the administrative officer and pursuant to RSA 676:5, as amended.

### **405.6 Special Exceptions**

The standards for approving an application for Special Exception use are outlined in Article II, Section 206.

#### **405.7 - Variance**

As provided in RSA 674:33, as amended, a variance from the terms of this Ordinance may be legally granted by the Zoning Board of Adjustment if the following conditions are met:

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

The definition of "unnecessary hardship" set forth in subparagraph (E) 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.

#### **405.8 Developments with Potential Regional Impact**

When acting on an application which could reasonably be expected to have an impact on a neighboring community, the Board of Adjustment shall follow the notice requirements for Review of Developments of Regional Impact, RSA 36:57.

## Article V Definitions

**Accessory Structure or Use:** A structure or use subordinate and customarily incidental to the primary structure, building or use on the same lot. Includes renewable energy structures for the purpose of providing electricity, heating or cooling primarily for on-site needs, including small wind energy systems in accordance with RSA 674:62-66.

**Agriculture:** The primary use of land for farming as defined in RSA 21:34-a as amended, excluding agricultural processing.

**Agricultural Processing Facility:** Operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plants or plant products, excluding forest products, into goods that are used for intermediate or final consumption, including goods for nonfood use.

**Auto service station:** The use of land and buildings for the cleaning and repair of motorized vehicles.

**Building:** A constructed unit forming a shelter for persons, animals, or property having a roof and being permanently located on the land.

**Church:** A place of public worship.

**Commercial Business (Use):** Business involving the sale of goods or services carried out for profit.

**Community Buildings:** Buildings used for administrative, public safety, recreational, social, educational, and cultural activities, open to the public and/or operated for the benefit of the public, owned and operated by a governmental or non-profit group or agency.

**Dwelling: Single family-** A detached or free-standing structure containing one or more rooms connected together, constituting a separate, independent housekeeping unit with cooking, sanitary and sleeping facilities for owner occupancy, rental or lease. The term includes mobile homes, modular homes, and on-site-constructed homes.

**Two family -** A building containing two single-family dwelling units totally separated from each other by an un-pierced wall extending from ground to roof.

**Accessory, Attached -** A residential living unit that is within or attached to a single-family dwelling or attached garage, and that provides independent living facilities for one or more

persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies; contains an interior door between the principal dwelling unit and the accessory dwelling unit; and has either the principal dwelling or the accessory dwelling unit occupied by the owner as his or her principal place of residence.

**Forestry:** Timber growing and harvesting, not including processing activities such as stationary sawmills, but including harvesting equipment such as log trucks, skidders, portable sawmills, and shippers. Excludes the clearing of trees in conjunction with development activities.

**Home Business:** Any activity carried out for gain and conducted as a customary, incidental, and accessory use inside of the resident's dwelling unit and/or a building that is accessory to the residential dwelling, by resident(s) of that unit, and does not change the character thereof through such impacts as noise, odor, or outside storage.

**Junk Yard:** A place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material (as defined by RSA 236:112 as amended).

**Lodge/hall:** Building or use catering to members of an organization and their guests for recreational or social purposes, and not operated primarily for profit.

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

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

**Office:** A room or group of rooms used for professional services such as are provided by lawyers, engineers, architects, accountants, insurance, real estate, investment agencies, clergy or any similar type of profession, as well as medical offices not including hospital or ambulatory surgical care facilities.

**Outdoor recreation facilities:** Facilities for activities conducted in the outdoor environment by groups or individuals for relaxation or sport. Examples include outdoor tennis courts, swimming pool, golf courses, and ball fields. Includes associated restroom facilities and maintenance buildings.

**Permitted Use:** A use specifically allowed in a zoning district by right, excluding illegal and non-conforming uses.

**Personal service business:** An establishment 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, and shoe repair. The term shall not include laundromats or dry cleaning establishments.

**Principal Building:** A building or use which houses or constitutes the primary/principal activity on a lot.

**Restaurant:** An eating establishment designed to allow patrons to eat on-site at tables, booths or a counter. Includes take-out as incidental to the on-site service. Does not include drive-in or drive-through restaurants.

**Retail store:** A business which has as its primary purpose the sale of goods directly to the consumer for use and consumption off-site. Does not include transactions conducted through drive-through windows. Goods may include fuel for motor vehicles.

**School:** Facility primarily engaged in education.

**Senior Housing:** A complex of independent housekeeping units with cooking, sanitary and sleeping facilities, consistent with the Fair Housing Act "Housing for Older Persons" exemption. May include provisions for congregate meals.

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

**Structure:** Anything constructed or erected which is permanently attached to the ground (on, above or below the ground). Structures include (but are not limited to) buildings, docks, decks, garages, sheds, swimming pools, telecommunications towers, transmission towers, wind or solar energy generation towers or facilities, fuel storage. Structures also include portable storage units or canopies permanently erected, whether or not on a pad. Structures shall not include minor installations such as (but not limited to) flagpoles, walkways, recreational apparatus, fences, and stone walls.

**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 provision of this Ordinance and the applicable statutes of the State of New Hampshire.

Appendix A  
**Town of Monroe Floodplain Management Ordinance**

**SECTION I - PURPOSE**

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

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

**SECTION II - ESTABLISHMENT**

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Grafton County, NH" dated February 20, 2008, or as amended, together with the associated Flood Insurance Rate Maps dated February 20, 2008, or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference.

**SECTION III - PERMITS**

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

**SECTION IV - CONSTRUCTION REQUIREMENTS**

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

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

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

## **SECTION V - WATER AND SEWER SYSTEMS**

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

## **SECTION VI - CERTIFICATION**

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

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

The Board of Selectmen shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

## **SECTION VII - OTHER PERMITS**

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

## **SECTION VIII - WATERCOURSES**

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Board of Selectmen, in addition to the copies required by the RSA 482-A: 3. Further, the applicant shall be required



to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.

2. The applicant shall submit to the Board of Selectmen certification provided by a registered professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Board of Selectmen shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

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

## **SECTION IX - SPECIAL FLOOD HAZARD AREAS**

1. In Zone A, the Board of Selectmen shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals). In Zone A, where a base flood elevation is not available or not known, the base flood elevation shall be at least two (2) feet above the highest adjacent grade.
2. The Board of Selectmen's base flood elevation determination will be used as criteria for requiring in Zone A that:
  - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation.
  - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood elevation; or together with attendant utility and sanitary facilities, shall:
    - (i) be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
  - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor



of the manufactured home is at or above the base flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- d. All recreational vehicles placed on sites within Zone A shall either:
  - (i) be on the site for fewer than 180 consecutive days;
  - (ii) be fully licensed and ready for highway use; or,
  - (iii) meet all standards of Section III of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Section IX (2) (c) of this ordinance.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
  - (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
  - (ii) the area is not a basement; and
  - (iii) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

## **SECTION X - VARIANCES AND APPEALS**

- 1. Any order, requirement, decision or determination of the Board of Selectmen made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- 2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
  - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

- b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
  - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3. The Zoning Board of Adjustment shall notify the applicant in writing that:
  - a. the issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - b. such construction below the base flood elevation increases risks to life and property.

Such notification shall be maintained with a record of all variance actions.

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

## **SECTION XI - SEVERABILITY**

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

## **SECTION XII - ENFORCEMENT**

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

## **SECTION XIII - DEFINITIONS**

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

- 1. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Monroe subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FIRM.
- 2. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
- 3. "Basement" means any area of a building having its floor subgrade on all sides.
- 4. "Building" - see "structure".
- 5. "Development" means any man-made change to improved or unimproved real estate,

including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.

6. "FEMA " means the Federal Emergency Management Agency.
7. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland or tidal waters, or
  - b. the unusual and rapid accumulation or runoff of surface waters from any source.
8. "Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.
9. "Flood Insurance Study" (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
10. "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
11. "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
12. "Floodway" - see "Regulatory Floodway".
13. "Functionally dependent use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
14. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
15. "Historic Structure" means any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - i. by an approved state program as determined by the Secretary of the

- Interior, or
- ii. directly by the Secretary of the Interior in states without approved programs.

16. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
17. "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.
18. "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
19. "Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.
20. "New construction" means, for the purposes of determining insurance rates, structures for which the start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
21. "Recreational Vehicle" is defined as:
  - a. built on a single chassis;
  - b. 400 square feet or less when measured at the largest horizontal projection;
  - c. designed to be self-propelled or permanently towable by a light duty truck; and
  - d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
22. "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
23. "Special flood hazard area" - see "Area of Special Flood Hazard"
24. "Start of Construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure

on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

25. "Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
26. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
27. "Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:
  - a. the appraised value prior to the start of the initial repair or improvement, or
  - b. in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

28. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.