BRENTWOOD, NEW HAMPSHIRE

ZONING AND LAND USE ORDINANCE INCORPORATING THE FOLLOWING ARTICLES:

BUILDING ORDINANCE

WETLANDS ORDINANCE

AQUIFER PROTECTION ORDINANCE

FLOOD PLAIN DISTRICT REGULATIONS

SHORELAND PROTECTION ORDINANCE

REQUIREMENTS FOR SITING SEPTIC SYSTEMS ORDINANCE

This book is current as of this date: March 2016

(The Planning Board assumes no responsibility for future changes beyond this date.)

ZONING ORDINANCE

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ZONING ORDINANCE

ARTICLE I: AUTHORITY AND PURPOSE

100.000 In pursuance of authority conferred by Chapter 31, Sections 60-89, N.H. Revised Statutes Annotated, 1955, as amended (now RSA 674), and for the purpose of promoting the health, safety, morals, prosperity, convenience or general welfare, as well as efficiency and economy in the process of development, of the inhabitants of the incorporated Town of Brentwood, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights-of-way, the promotion of good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, now therefore the following Ordinance is hereby enacted by the voters of the Town of Brentwood, New Hampshire, in official Town Meeting convened.

ARTICLE II: DEFINITIONS

200.001 Abutter. For the Town of Brentwood an abutter shall be any property owner whose property is located in New Hampshire and within two hundred (200) feet of any property line, including across a street or stream, of a land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

200.002 Accessory Building or Use. A building or use subordinate to the main building or use and customarily incidental to the main purpose of such building or use.

200.003 Adult Uses. Means and includes any of the following: Any place of business in which any of the following activities are conducted:

200.004 Adult Bookstore or Adult Video Store. A business that devotes more than 25% of the total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following:

200.004.001 Books, magazines, periodicals, other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMS or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, or;

200.004.002 Instrument, devices, or paraphernalia which are designed for use in connection with "sexual conduct" as defined in NH RSA 571-B:1, other then birth control devices.

An adult bookstore or adult video store does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock and trade and does not devote more than 25% of the total floor area of the establishment to the sale of books or periodicals.

200.005 Adult Motion Picture Theater. An establishment with a capacity of five or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of "harmful minors" and/or "sexual content" as set forth in NH RSA 571-B:1, for observation by patrons. For the purposes of this ordinance, substantial portion of the total presentation time shall mean the presentation of films or shows described above for viewing on more than 7 days within any 56 consecutive day period.

200.006 Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to 5 or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

200.007 Adult Drive-In Theater. An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of "harmful to minor" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

200.008 Adult Cabaret. A nightclub, bar, restaurant, or similar establishment at which greater than half of the total presentation time of live entertainment features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, greater than half of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1, or a nightclub, theater or other establishment which features live performances by topless and or bottomless dancers, go-go dancers, strippers, or similar entertainers, which such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. For the purposes of this definition, "specified anatomical areas" shall include any of the following:

200.008.001 Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top of the areola; or

200.008.002 Human male genitals in a discernibly rigid state, even if completely and opaquely covered.

200.009 Adult Motel. A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions a substantial part of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

200.010 Adult Theater. A theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

200.011 Nude Model Studio. A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals, and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or form of consideration or such display is characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

200.012 Sexual Encounter Center. A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration:

200.012.001 physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

200.012.002 activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; and

200.012.003 when the activities in section 1 or 2 above are characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

200.013 Animal Feedlot. A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock. An animal feedlot shall be considered one on which more than five (5) animals are raised simultaneously.

200.014 Aquifer. For the purpose of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supplies.

200.015 Bedroom. A room in a dwelling unit that can accommodate individuals for sleeping. With the exception of single family detached residences, any living space eighty (80) square feet or larger in size which is not designed to be constructed as a living room, dining area, kitchen, bathroom, combination utility room/laundry, or storage room shall be considered a potential bedroom in calculating the number of bedrooms in a proposed residential building plan.

200.016 Board. The Planning Board of the Town of Brentwood.

200.017 Buffer \ Areas. Areas, usually left free of development, that serve to separate non-compatible uses. In Brentwood, these areas are often associated with protecting wetland resources or separating residential uses from non-residential uses. **(3/12/2002)**

200.018 Bulk Storage. Storage of materials intended for wholesale distribution or used in a manufacturing facility.

200.019 Certified Soil Scientist. A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

200.020 Cluster Residential Development. A single family, residential subdivision of a parcel of not less than twenty (20) acres where, rather than subdividing the parcel into house lots which meet the minimum requirements of Section 4.2, 6, of Article IV, no more than the same number of dwelling units may be clustered on lots of reduced dimensions. The common land area for all cluster developments shall not be less than fifty (50) percent of the gross land area of the development. No more than fifty (50) percent of the common land area shall contain wetland soils as defined by the Town of Brentwood.

200.021 Common Land Area and Facilities. Any and all land in the development other than the individually owned lots. Facilities may include, but are not limited to, septic, potable water supply, fire ponds and recreational improvements such as pools, tennis courts, and playgrounds.

200.022 Completed Application. A final site plan review plat and application form submitted with all information, materials, and fees required by the Board, as stated within these regulations.

200.023 Critical Areas. Disturbed areas of any size within 50 feet of a stream, waterbody, or poorly or very poorly drained soils; disturbed areas exceeding 2,000 square feet in highly erodible soils; or, disturbed areas containing slope lengths exceeding 25 feet on slopes greater than 15 percent.

200.024 Developer. Any individual proposing development of land within the Town of Brentwood.

200.025 Development. Any construction or grading activities on real estate for other than agricultural and silvicultural (tree care and harvesting) practices.

200.026 Director of Public Works. The duly designated official of the Town of Brentwood or if there is no such official, the planning consultant or official assigned by the Brentwood Planning Board. This Town agent shall be responsible for estimating road bond prices as well as carrying out all inspections of road construction attendant to any subdivisions or site plan reviews presented to the Planning Board.

200.027 Disturbed Area. An area where the natural vegetation has been removed exposing the underlying soil.

200.028 Dwelling Unit. A building or that portion of a building consisting of one or more rooms designed for living and sleeping purposes, including kitchen and sanitary facilities.

200.029 Dwelling or Residence. Any structure or mobile home or trailer or building that meets the minimum requirements of the Building Ordinance that can be used as a permanent living place, and that is normally intended to be used by the family.

200.030 Erosion. The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

200.031 Farming & Agriculture: As found in the State of New Hampshire definition of Farming – RSA 21:34-a, as amended. (3/04)

200.032 Front Yard. A space extending for the full width of a lot between the extreme front line of a building and the nearest side of the right-of-way.

200.033 Frontage. Frontage means the length of the lot bordering on the right-of-way as defined in this Article.

200.034 Groundwater. All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

200.035 Groundwater Recharge. The infiltration of precipitation through surface soil materials into groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

200.036 Hazardous or Toxic Materials. Includes but is not limited to volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies, pesticides, herbicides, solvents and thinners, and such other substances as defined in N.H. Water Supply and Pollution Control Rules, Section Ws 410.04(1), in N.H. Solid Waste Rules He-P 1901.03(v), and in the code of Federal Regulations 40 CFR 261.

200.037 High Intensity Soil Maps for New Hampshire. The most recent document prepared by the Society of Soil Scientists of Northern New England, on file with the Rockingham County Conservation District.

200.038 Highly Erodible Soils. Any soil with an erodibility class of high or very high, in any horizon, as found in the table entitled Erodibility (K) Values of B and C Horizons for Soils of New Hampshire of the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire". (Copy available at Planning Board office)

200.039 Home Occupation. A home occupation is any business or commercial activity carried out for gain that is conducted in whole or in part in a dwelling unit, and is clearly subordinate to the residential use of the dwelling unit.

200.040 Home Produce. Home Produce means and includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident, also such articles as are manufactured or altered by members of the household of the bona fide resident of any property.

200.041 Junk. Any old metals, old bottles, or other solid textile mill waste, unfinished cloth, or other textile mill yarns, old paper products, old rubber products, old plastic products, used parts and materials of motor vehicles and other secondhand or waste articles, the accumulation of which is detrimental or injurious to the neighborhood.

Article II

200.041.001 For purposes of the Town of Brentwood Zoning Ordinance, junk yard shall be as defined by RSA 236:112,I and its successors.

200.041.002 For purposes of the Town of Brentwood Zoning Ordinance, machinery junk yard shall be as defined by RSA 236:112,II and its successors.

200.042 Leachable Wastes. Waste materials, including solid wastes, sludge and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

200.043 Living Unit. The structure and indoor space occupied by one or more individuals living together as a single housekeeping unit with cooking, living, sleeping, and sanitary facilities.

200.044 Lot Line Adjustment. The minor change of boundary lines between two abutting parcels that does not result in the creation of any new building lots. Requirements for completing a lot line adjustment through the Brentwood Planning Board are found in Addendum B of the Town's Subdivision Regulations.

200.045 Lot of Record. Land designated as a separate and distinct parcel in a legally-recorded deed and plan filed in the records of Rockingham County, New Hampshire.

200.046 Mandatory Home Owner's Association. A private, non-profit corporation, association, or other non-profit legal entity established by the applicant or developer for the purposes of managing and maintaining all common land area and facilities. Membership in said association shall be mandatory for all property owners and made a required covenant in any deed issued or passed.

200.047 Mining of Land. The removal of geologic materials such as topsoil, sand and gravel, metallic ores, or bedrock to be crushed or used as building stone.

200.048 Multi-family Dwelling. A building containing more than two (2) but no more than six (6) dwelling units.

200.049 Non-Conforming Building or Structure. A lawfully constructed building or structure that does not comply with the use regulations for the zoning district in which it exists, but which complied with all applicable regulations existing at the time of the construction of the building or structure.

200.050 Non-Conforming Lots of Record. A lot, properly recorded at the Rockingham County Registry of Deeds, which lawfully existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to conform to the use district in which it is located.

200.051 Non-Conforming Use. Any lawful use of buildings, structures, premises, land or parts thereof existing as of the effective date of this Ordinance, or amendment thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use.

200.052 Non-Municipal Well. Any well not owned and operated by the Town of Brentwood or its agent.

200.053 Planning Board Agent. The planning consultant, official, recording agent, or other person(s) assigned by the Board to perform plan review and other such duties.

200.054 Plat. The final map, drawing or chart on which the developer's plan of site development is presented to the Brentwood Planning Board for approval, and which, if approved, will be submitted to the Register of Deeds of Rockingham County for recording. Plats must be drawn in ink on mylar for recording purposes. A margin of at least one inch shall be provided outside ruled border lines on three sides and of at least two inches along the left side for binding. Only the following sizes are currently accepted at Registry for recording: 8 1/2" x 11"; 11" x 17"; 17" x 22"; 22" x 34".

200.055 Professional Office Facility. A facility housing the offices of one or more persons or associations of persons, providing professional services characterized by a high level of training or proficiency in a particular pursuit, study, or science, such as medicine, dentistry, law, engineering, or land use planning.

200.056 Project Area. The area within the subdivision or site plan boundaries.

200.057 Perennial Brooks and Streams. Continuously flowing brooks and streams that appear on U.S. Geological Survey quadrangle maps (7.5", scale 1":24,000") depicting the Town of Brentwood.

200.058 Recharge Area. The land surface area from which groundwater recharge occurs.

200.059 Recording Agent. The agent chosen by the Town to record the approved final plan with the Rockingham County Registry of Deeds. This person shall affix their signature to the plan on a line provided on the endorsement block.

200.060 Residential Accessory Building. A subordinate building located on the same lot as the main building, the use of which is incidental to the main building, and discharges no sewage or other wastes.

200.061 Right-of-way. Right-of-way means and includes any highway for which the town, state or federal government has the responsibility for maintenance and liability for the use thereof excluding bonded roads not accepted by the Town. Roads closed subject to gates and bars are not considered rights-of-way for the purposes of this Ordinance.

200.062 Road Agent. Town representative appointed by the Board of Selectmen to issue driveway permits, inspect the construction of new roads and act on the Towns behalf in other matters dealing with roads in Town.

200.063 Seasonal High Water Level. The average annual high water elevation of a stream, brook or river, including contiguous wetlands and floodplains.

200.064 Sediment. Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

200.065 Septic System Inspector Test Pit Witness. An agent of the Town responsible for inspecting the plans and installation of all septic systems in the Town as well as being responsible for the viewing of all test pits and percolation tests.

200.066 Service Maintenance Roads. Roads constructed within a development to provide access to on-site services including but not limited to community septic systems, community water systems. With Planning Board approval these roadways need not be constructed to Town standards.

200.067 Shoreline. The water's edge at seasonal high water level.

200.068 Signs. A structure, building wall or other outdoor surface, or any device used for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public or to display, identify and publicize the name and product or service of any person.

200.069 Site Plan Review. Site plan review is the process through which the Planning Board of the Town of Brentwood reviews and approves or disapproves site plans for the development or change or expansion of use of tracts for non-residential uses or for multi-family dwelling units.

200.070 Sludge. Residual materials produced by the sewage treatment process.

200.071 Solid Waste. Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He-P 1901.03. Solid waste includes solid, liquid, semi-solid, or contain gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations.

200.072 Soil Type. As defined by the National Cooperative Soil Survey Standards or " High Intensity Soil Maps for New Hampshire - Standards and Origins", SSSNNE Special Publication No. 1 as amended on file with the Rockingham County Conservation District.

200.073 Special Exception. A special exception is a use of land or buildings that is permitted, subject to specific conditions that are set forth in the ordinance. The Zoning Board of Adjustment is empowered to grant special exceptions.

200.074 Stream. A stream that flows for sufficient times of the year to develop and maintain defined channels but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on U. S. Geological Survey Maps.

200.075 Street. A State highway, highway, boulevard, avenue, lane or road which is lawfully existing in the Town for vehicular travel. Streets shall also include the entire right-of-way.

200.076 Structure. Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purposes of this Ordinance, buildings are structures.

200.077 Subdivider. An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity or agent therefore that undertakes the subdivision of land in the Town of Brentwood.

200.078 Subdivision. The division of a tract or parcel of land into two or more lots plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development, the creation of one or more new streets or the extension of existing streets. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision. In addition, the grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and supporting apparatus, including any unmanned structure which is less than 200 square feet, shall not be construed as a subdivision, and shall not be deemed to create any new division of land for any other purpose.

200.079 Town Engineer. The duly designated registered professional engineer or consulting firm of the Town of Brentwood.

200.080 Tradesman. A self-employed person offering services outside the home.

200.081 Variance. A variance is a waiver or relaxation of particular requirements of an ordinance when strict enforcement would cause undue hardship because of circumstances unique to the property. The Zoning Board of Adjustment is empowered to grant variances.

200.082 Wetlands: Lands containing soils that are hydric, including freshwater and saltwater marshes as defined by the National Cooperative Soil Survey or further defined by "High Intensity Soil Maps for New Hampshire".

ARTICLE III: ESTABLISHMENT OF DISTRICTS AND USES

300.001 District Boundaries

For the purpose of this Ordinance, the Town of Brentwood is divided into the following districts as shown on the official zoning map filed with the Town Clerk and dated March 11,1991 (1) Commercial / Industrial District; (2) Multi-family and Professional / Office District; (3) Town Center Zone; (4) Residential / Agricultural District;

300.001.001 The Commercial/Industrial Districts outlined by short dashed lines on the Town Map are defined as follows:

300.001.001.001 West side of 125 between Kingston town line and Middle Road (111A).

Starting at Kingston town line the commercial zone is to be bounded by the westerly and northerly bounds of lot 62 of Brentwood tax map sheet 223 until reaching existing 500 feet commercial zone which will remain 500 feet until reaching the southerly bounds of lot 70 on Brentwood tax map sheet 223. The depth of the commercial zone shall then be determined by the westerly bounds of lots 70, 71 (sheet 223) and lot 100 as shown on the Brentwood tax map sheet 224. Beginning at the northwest corner of lot 100, the commercial zone shall follow the southerly and westerly bounds of lot 23 (sheet 217) to the corner of lot 24 (sheet 217). The westerly bounds is a line from the southern most corner of lot 24 to the southwest corner of lot 25. Beginning at the northwest corner of lot 25 a straight line shall be drawn to intersect with the existing 500 feet commercial zone approximately at the northerly bounds of lot 27. The commercial zone shall remain at 500 feet in depth from the northerly bounds of lot 27 Brentwood tax map sheet 217 to Middle Road (Route 111A).

300. 001.001.002 West side of Route 125 between Middle Road (Route 111A) to Epping town line.

The commercial zone shall remain at 500 feet in depth from Middle Road (Route 111A) to the southern bounds of lot 37 (sheet 216) and lot 2 as shown on the Brentwood tax map sheet 209. Beginning at the southern bounds of lots 37 and 2 the depth of the commercial zone shall extend westerly to the Fremont town line and follow the Fremont town line northerly to the northern most bounds of lots 13 and 15, as shown on the Brentwood town tax map page 208 then easterly to the existing commercial zone depth of 500 feet. The 500 feet front commercial zone depth shall remain along the Route 125 right-of-way until reaching the northern bounds of lots 24 and 30 (sheet 208) and the southern bounds of lot 2 as shown on the Brentwood town tax map sheet 201. The westerly depth of the commercial zone shall be the westerly bounds of lots 2, 4, 5, 6 and 7 (sheet 201). From the northwest corner of lot 7 to a point 1,125 feet in-depth from the Route 125 right-of-way on the Epping town line shall determine the depth of the commercial zone.

300.001.001.003 East Side of Route 125 from Kingston Town Line to Middle Road (Route 125). East Side of Route 125 from Middle Road to Epping Town Line.

The existing 500 foot zone shall remain until reaching the southern bounds of lot 10 and 14 on sheet 217. The zone will then commence with the southern and eastern boundary of lot 45 on sheet 216, and the eastern boundaries of lots 42, 43 and 44 on sheet 216. The zone shall run with the eastern boundaries of lot 40 (sheet 216) and lots 72 and 71 on sheet 209

and the northern bounds of lots 72 and 71 as shown on Brentwood tax map sheet 209. Starting at the northern bounds of lot 209 the depth of the commercial zone shall remain at 500 feet until reaching the southerly bounds of lot 18 as shown on the Brentwood town tax map sheet 209. There the depth shall change to the eastern bounds of lot 18. **(3/14/2000)** The commercial zone shall extend to the western boundaries of the lots lettered A, B, C, 1D, 1E, 1F, 1G, 1H, 1I, 1J, 1K, 1L, and 1M on a plan entitled 'Boundary Survey Plan for Phase III, Blackthorn Subdivision, prepared by Jones and Beach Engineers, Inc, dated 10/21/97. **(3/1999)**

Beginning at the northern bounds of lot 77 the commercial zone depth shall remain at 500 feet until reaching lot 16 on the Brentwood town tax map sheet 201 where the depth shall be determined by the eastern bounds of lots 16, 15 and 14 with the exception being that the eastern bound of lot 5.1 along lot 14 shall continue to intersection with the southeastern corner of lot 14. Lot 7 located on tax map 217 shall be entirely within the residential zone. **(3/14/2000)** (See commercial zone map.)

300.001.001.004 Pine Road

Easterly side of Pine Road between Middle Road (Route 111-A) and Exeter Town Line (Route 101)

Beginning at the southern bounds of the parcel designated on the Brentwood Tax Map 212 lot 13 and including all of said lot (including the area of this lot added by lot line adjustment as voted in 3/2013, the commercial zone encompasses all other lots northerly to the Exeter Town Line. The Exeter Town Line shall be the eastern limit of the commercial zone for the remaining length of Pine Road. **(3/1996)**

Western side of Pine Road between Middle Road (Rt. 111A) and Public Service Co.'s right-of-way.

The existing 500 foot depth shall remain until reaching the southern bounds of lot 11 sheet 212 at which point the western limit of the commercial zone shall be determined by the western bounds of lot 11 as shown on the Brentwood town tax map sheet 212.

Western side of Pine Road north of the PSNH power lines and south of NH Route 27.

The land located on the westerly side of Pine Road, north of the PSNH power lines and south of NH Route 27 is all zoned Commercial / Industrial. These properties include map 203 lots 34,35 and 36; map 204 lots 19, 20, 21,22,23,24,25,26,27 and 28; and map 205 lots 8,9,10 and 11. (3/08)

The property added to tax map and lot 205.002 by lot line adjustment approved by the Planning Board in 2007 is zoned Commercial/Industrial. (3/08)

300.001.001.005 Northern Side of Routes 101 and 27 between Exeter Town Line and Epping Town Line.

Starting at the Exeter town line sheet 204 the 500 foot depth of commercial zone shall remain until reaching the eastern bounds of lots 5, 4, 3, and 2.

There the depth shall be the northern bounds of lots 5, 4, 3 and 2 until the point where lot 2 reaches the Epping town line. The northern depth for the remainder of Routes 101 and 27 shall be the Epping town line. This shall exclude Tax Map 204 lots 9, 10, 11, 12, 14, 15, 16 and 17.

300.001.002 Multi-family / Professional Office District

The Multi-family / Professional Office District for the town of Brentwood shall be composed of all the lots located on the north side of North Road east of NH Route 125. It shall also contain all lots north of NH Routes 101 and 27 to the Epping Town line with the exception of Tax Map 204, lots 9, 10, 11, 12, 14, 15, 16 and 17.

300.001.003 Town Center Zone District 1

The boundaries of the Town Center Zone District 1 are as follows; from the easterly corner of NH Route 125 at its intersection with NH Route 111-A northerly along the east side of NH Route 125 to its intersection with Crawley Falls Road thence along the southerly bounds of lot 45 sheet 216 thence northerly along the eastern bound of lot 52 to its intersection with the southerly edge of the Public Service right of way easterly to the northwest corner of lot 4 (sheet 215) thence southerly along the westerly bound of lot 4 to its intersection with lot 2 thence southerly along the westerly bound of 2 to its intersection with NH Route 111-A thence westerly along NH Route 111-A to the beginning point at the easterly corner of NH Route 125.

South of NH Route 111-A (Middle Road) along Crawley Falls Road the following parcels are included in the Town Center District I zone: Map 217, Lots 1-6; Map 217, Lots 8-10; and Map 217, Lots 14-22. **(3/14/2006)**

All of Tax map 216.052 is included in the Town Center Zone District 1. (3/07)

300.001.004 Residential / Agricultural District

The Residential / Agricultural District is defined as all land in the Town of Brentwood not included in either the Commercial / Industrial District or the Professional Office District.

300.001.005 Cluster Development

Cluster Development District is an overlay district and therefore, such developments may occur anywhere in the Residential / Agricultural District described in number 300.100.004 above.

<u>300.002 Establishment of District Uses</u>

The permitted uses and standards for development for each zoning district follow:

300.002.001 The Commercial / Industrial District

A building may be erected, altered or used, and a lot may be used or occupied, only for the following purposes and in accordance with the following provisions:

300.002.001.001 No dwelling shall be permitted in the Commercial/Industrial District of Pine Road, and no subdivisions shall take place within this district with less than the required land area stated in 300.002.001.004, A. below.

300.002.001.002 The following uses shall be permitted upon site plan review approval:

A. Shops, restaurants and other retail businesses.

B. Medical and other professional offices.

C. Garages and filling stations.

D. Places of worship.

E. Public educational use.

F. Hospitals, nursing homes.

G. Manufacturing and warehousing. **(3/12/2002)**

H. Food service industry.

300.002.001.003 Industrial and commercial **(3/12/2002)** uses of land and buildings may be permitted by Site Plan Review, if approved, after public hearing, by the Planning Board in accordance with such conditions, restrictions, and safeguards as may be deemed necessary by the Board of the purpose of protecting the health, safety and general welfare of the community.

300.002.001.004 Land and Building Requirements

A. No lot shall be less than one hundred and twenty thousand (120,000) square feet, in cases where the proposed septic system demands an increased lot size the minimum lot size is determined by the Soil Type Lot Size Regulations found in the Subdivision Regulation Section of this book. Every lot shall have a minimum continuous lot frontage of three hundred (300) feet, provided that where lots are located on the exterior of a curving street, a shorter front dimension may be permitted, although never to be less than one hundred and fifty (150) feet, **(3/12/2002)** provided the average width of the lot measured across its center shall be three hundred (300) feet. No building shall be constructed on such a lot if the building would not otherwise be permitted by the provisions of this Ordinance.

300.002.001.005 Front, Side and Rear Yards:

A. Each building or structure shall be set back at least 125 feet from the edge of the pavement, except any such building or structure with frontage on an internal road within a subdivision or industrial park shall be set back at least 75 feet from the centerline **(3/11/2003)** of such internal road. Properties located on the commercial/industrial portion of Pine Road shall maintain a 50 foot front yard setback from the edge of right-of-way. (3/12)

B. All parking areas shall be set back at least 50 feet from the edge of the pavement.

C. A landscaped, vegetated strip shall be maintained along the road frontage to a depth of at least fifty feet. Driveway(s) and a permitted sign may be placed within this area, but it shall not be used for any building, structures, parking, or the display or storage of goods.

D. There shall be no outside storage of goods within the first 125 feet of depth as measured from the edge of the pavement unless such storage is completely shielded from view by fencing, landscaping, or natural topography.

E. Extent of outside display within the 125 foot setback shall be determined at the site review.

F. No building or structure shall be located nearer than 25 feet of the property of any abutter.

G. No building or structure shall be located nearer than 75 feet of a State right-of-way.

H. As part of Subdivision approval, the Planning Board may approve lots not meeting minimum requirements for use as open space, buffer zone, reserve space, parks, recreation area, or similar uses, subject to such reasonable terms and conditions as the Planning Board may require.

300.002.001.006 The following restrictions shall govern communication, radio and television towers and accessory facilities in the commercials district.

A. Communication, radio and television towers and accessory facilities as permitted in this section shall be unmanned facilities.

B. These uses shall be exempt from the requirements of Article IV, 400.001 and from Article III, 300.002.001,004,A.

C. Tower heights shall not exceed two hundred and fifty (250) feet.

D. Shared use of existing towers shall be preferred to the construction of new towers. In the case of new towers, the applicant shall be required to present an inventory of existing towers within a reasonable distance and outline opportunities for shared use of existing facilities as an alternative to the proposed use.

E. The tower shall be located on the site so as to provide a minimum distance equal to twenty (20) per cent of the tower height from all property lines.

F. All tower supports and peripheral anchors shall be located entirely within the boundaries of the property and in no case less than 20 feet from the property line.

G. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

H. Existing on-site vegetation shall be preserved to the maximum extent possible.

I. Towers shall not be artificially lighted except to assure public safety as required by the Federal Aviation Administration or other Federal or State authority.

J. A chain link fence or barrier, not less than six (6) feet in height shall be provided around each tower. Access to the tower shall be through a locked gate.

300.002.002 Multi-family District (Example design shown on page 126)

The purpose of this Article is to make provision for the development of multi-family structures in accordance with RSA 672:1, III-d and to provide " a balanced supply of housing which is affordable to persons and families of low and moderate income" that is consistent with the rural character, health, safety, and welfare of the Town of Brentwood.

300.002.002.001 Standards and Regulations

Multi-family dwellings, including condominiums, shall be permitted in the Professional Office/Multi-family zone. Such developments must conform to all restrictions and regulations stated herein, as well as those mandated by the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division. All multi-family developments shall be subject to the Town of Brentwood Site Plan Review Regulations. In addition, the following standards shall apply:

A. Area. The multi-family development shall have a minimum area of twenty (20) acres of contiguous land lying within the Professional Office/Multi-family zone.

B. Dwelling Unit Density. The following density of development is established for multi-family units:

1) Density shall be governed by current soil type lot size regulations as adopted by the Planning Board and/or Town but in no case will density be greater than one unit per two (2) acres of land. **(03/13/2001)**

2) Developable area is the total area less all acreage comprised of Type B hydric (poorly drained) and Type A hydric (very poorly drained) soils, alluvial soils (subject to flooding), water bodies, and slopes greater than 25%.

3) Multi-family buildings shall have no more than six (6) individual dwelling units.

C. External setbacks. The following are requirements applicable to the external boundaries of the development:

1) There shall be reserved a minimum frontage to serve as the access to the multi-family development. This shall be no less than one hundred (100) feet and must be located on a road with a Class V designation or better.

2) A perimeter buffer zone having a minimum depth of one hundred (100) feet shall be provided between any structure, septic system or service maintenance road, and the perimeter lot line of the tract. Said buffer zone shall be comprised of vegetation, either natural or planted.

3) No construction shall be permitted within the buffer zone, other than the primary access road which shall be allowed to cross the buffer zone at the point of access to the pre-existing Class V or better road serving as the entrance to the development. Along both sides of this primary access road reserve strips of twenty-five (25) feet must be maintained for the first one hundred feet of said primary access road.

D. Internal setbacks and development standards. The following are requirements applicable to the internal development of a multi-family parcel:

1) Building setbacks - Forty (40) feet front setback from edge of a road constructed to Town standards, thirty (30) feet from other structures.

2) All roads (except service maintenance roads) within a multi-family development complex shall conform to the roadway construction specifications for the Town of Brentwood. Once completed to required town standards the roads accessing these developments shall be offered to the Town as town roads. It shall be the sole decision of the Town to accept any roads.

3) Maximum building coverage - No building, group of buildings or other construction activity that results in impervious surfaces in a multi-family development shall cover more than twenty-five (25) percent of the developable land.

300.002.003 Professional Office District

The purpose of this article is to provide opportunity for the development of professional office facilities together with necessary landscaping and off-street parking in locations served by primary access yet inappropriate for commercial development because of close proximity to purely residential uses. It is intended that the professional office uses established in this district shall be designed and landscaped so as to be in harmony with such adjacent residential uses.

300.002.003.001 Standards and Regulations

Professional office facilities shall be permitted in the Professional Office/Multi-Family District and in the Commercial District within the Town of Brentwood. In both districts such developments must conform to all regulations mandated by the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division, and shall be subject to the Town of Brentwood Site Plan Review Regulations. However the following more stringent development standards shall apply for professional office developments in the Professional Office/Multi-family District:

A. Minimum Lot Size. The minimum lot size for a professional office facility is three (3) acres. Unit density is determined by the soil type lot size calculations for commercial uses found in the subdivision regulations of this book.

B. Lot Coverage. Buildings within foundation lines are not to exceed forty (40%) percent of the lot area.

C. Setbacks.

1) Front yard setback shall be seventy-five (75) feet, measured from the centerline of road, **(3/11/2003)** no portion of which shall be used for required off-street parking.

2) Side and rear yard setbacks shall be forty (40) feet.

3) Off-street parking shall be equal to one space for each three hundred (300) square feet of building area. **(3/12/2002)**

4) Landscaping shall be as provided for in the Town of Brentwood Site Plan Review Standards.

5) Special Exception for the Conversion of Existing Residential Structures. A special exception shall be granted by the Board of Adjustment to allow for the conversion of existing residential structures to professional office facilities within the Professional Office/Multi-family District. (See Article VIII, Section 800.013.002.003.C)

300.002.004 Town Center Zone District 1

The intent of this district is to provide limited commercial, institutional, professional, and personal service uses in the center of Brentwood in a way that does not create land use conflicts with established residential uses. The district is intended to enhance the Town of Brentwood by providing an area of town which encourages new and existing residential uses as well as enterprises providing community services and to preserve and enhance elements of the cultural and architectural history of the Town. The intent also is to encourage uses suitable to a pedestrian scale. **(3/2004)**

The Minimum lot size in the Town Center Zone District 1 is two (2) acres. **(3/14/2006)**

300.002.004.001 District Uses

The list of uses below specifies those uses that are permitted by right, are permitted by special exception, or are prohibited. Permitted uses are designated with a P; uses which require the granting of a special exception by the Board of Adjustment are designated with an S; and prohibited uses are designated with an X. Special Exceptions shall follow the standards found in the Brentwood Zoning Ordinance in Article VIII, Section 800.013.002.001 and 600.013.002.002.

300.002.004.002 For any use not specifically listed below, the Planning Board shall determine whether the proposed use is of the same general character as the uses indicated. If the Board determines it is of the same general character, then the use will be allowed. If the Board determines that it is not of the same general character, then it shall not be permitted.

300.002.004.003 All uses illustrated in the following table shall be subject to the limitations delineated in other Sections of this Ordinance. In cases of conflict, the more restrictive interpretation shall apply.

A. Any and all structures shall be setback a distance of 75 feet from the centerline of Crawley Falls Road, Dalton Road, and Middle Road (NH Route 111-A) and 125 feet from the edge of pavement from NH Route 125.

B. The extent of outdoor storage permitted will be determined at the Site Plan Review phase by the Planning Board.(3/13).

Use table for the Town Center Zone District 1

USES	Designation of Permit Status
A. RESIDENTIAL USES (3/14/2006)	
1. Single family dwelling	P
2. Cluster developments in accordance with the standards found in the Brentwood Zoning Ordinance.	P
3. Manufactured housing; Mobile homes.	P P
4. Home occupations in accordance with Brentwood Zoning Ordinance.	P
5. Accessory apartments in accordance with the Brentwood Zoning Ordinance.	S
6. Senior Housing in accordance with the Brentwood Zoning Ordinance.	P
B. TEMPORARY RESIDENTIAL USES	
1. Overnight and day camps, cottage colonies, vacation resorts, and similar recreational facilities.	X
2. Bed and Breakfast Inns.	P
3. Hotels, motels and hostels.	X
C. OUTDOOR/RECREATIONAL USES	
1. Forestry, wildlife, timber preserves, reservoirs, and nature study areas.	P
2. Public parks and playgrounds.	P
3. Commercial riding stables and riding trails.	X
4. Historic building or site open to public.	P
5. Recreational camping parks, recreational areas, residential tenting and recreational vehicles.	X
D. AGRICULTURAL/FORESTRY USES	
1. Commercial farming including dairying, livestock, animal and poultry raising, crop production including customary accessory uses.	X
2. Tree farming, commercial timbering, non-commercial harvesting of forest products.	P
3. Landscaping operations.	S

USES	Designation of Permit Status
E. INSTITUTIONAL USES	
1. Private Schools	S
2. Day care facilities as defined and permitted by the Brentwood Zoning Ordinance.	P
3. Senior citizens centers.	P
4. Non –profit lodges and fraternal organizations.	S
5. Hospitals, clinics, nursing homes and rehabilitation centers.	S
6. Funeral home and parlors.	P
7. Place of worship plus customary ancillary facilities.	S
8. Cemetery.	S
9. Public utilities.	S
10. Governmental buildings.	P
F. COMMERCIAL USES	
1. Retail sales/services (3/13)	P
2. Business/Professional office.	
3. Banks & lending institutions.	P
4. Restaurants.	P
5. Filling stations, service stations.	P
6. Motor vehicle dealerships, repair garages, body shops, paint shops.	X X
7. Kennels.	
8. Air ports, runways, control towers, administrative buildings, hangers.	X X
9. Adult Uses.	
10. Self Storage or Warehousing.	X X

300.002.005 Criteria for Special Exceptions

300.002.005.001 Special Exceptions shall meet the following standards:

A. Site Plan Review by the Planning Board is required in conjunction with this special exception.

B. Standards provided by this Ordinance for the particular use permitted by special exception.

C. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

D. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

E. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

F. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

G. No significant increase of storm water runoff onto adjacent property or streets.

300.002.005.002 Special exception approvals may be subject to appropriate conditions including the following:

A. Front, side, or rear yards in excess of the minimum requirements of this Ordinance.

B. Screening of the premises from the street or adjacent property by walls, fences, or other devices.

C. Modification of the exterior features of buildings or other structures.

D. Reasonable limitations on the number of occupants and methods and times of operation.

E. Grading of the premises for proper drainage.

F. Regulation of design of access drives, sidewalks, and other traffic features.

G. Regulation of the number, size, and lighting of signs more stringent than the requirements of this Ordinance.

H. Regulation of lighting more stringent than requirements of this Ordinance.

300.002.006 Residential / Agricultural District

It shall be mainly a district of farms and residences. No other uses than those specified here will be permitted.

300.002.006.001 Boarding horses and riding lessons shall be permitted. Such activities shall be done in conformance with RSA 431:33-35.

300.002.006.002 Home produce and home products may be bought and sold and exposed for sale in this district.

300.002.006.003 One single family dwelling may be located anywhere in this district provided it meets all lot area and yard requirements, and the Sanitary Protection requirements of this Ordinance.

300.002.006.004 Signs not over twenty (20) square feet in area shall be permitted in this district. Said signs shall not be located within fifty (50) feet of any other sign.

300.002.006.005 Lot Area Requirements

A. Lot size shall be determined as provided in the lot size by soil type regulation found in the subdivision regulations for the Town of Brentwood, but in no instance will the lot size be less than two (2) acres in size. **(3/13/2001)** Each lot shall have a minimum

continuous lot frontage of two hundred (200) feet provided that where lots are located on the exterior of a curving street, a shorter front dimension may be permitted provided the average width of the lot measured across its center shall be two hundred (200) feet and have a minimum of seventy-five (75) feet of road frontage on the exterior curve. **(3/1996)** This reduction in frontage shall be permitted only on newly developed subdivision roads and only when the curvature is located on a cul-de-sac bulb. **(3/13/2001)**

B. As part of the Subdivision approval, the Planning Board may approve lots not meeting minimum requirements for use as open space, buffer zone reserve space, parks, recreation areas, or similar uses, subject to such reasonable terms and conditions as the Planning Board may require.

300.002.006.006 Front Yard and Front and Side Yards or Corner Lots

A. No building shall be located within seventy-five (75) feet of the centerline of the abutting road within the Town exclusive of the new Route 125 and Route 101. **(3/11/2003)**

300.002.006.007 Side and Rear Yards

A. No building shall be located nearer than twenty-five (25) feet of the property lines of any abutter.

300.002.006.008 Uses Not Allowed in the Residential/ Agricultural Area:

A. Retail stores, restaurants, and other retail businesses unless these uses are home occupations meeting the standards and operational criteria established in Article V, Section 500.001.002.001-500.001.002.010 of the Brentwood Zoning Ordinance. **(3/11/2003)**

B. Warehousing for sale on the premises.

C. Commercial garages and filling stations.

D. Commercial recreational uses.

300.002.006.009 Special Exceptions:

A. Special exceptions to this ordinance may be granted by the Zoning Board of Adjustment under certain conditions. Refer to Article VIII, Section 800.013.002.001 and 800.013.002.002 to determine requirements for the granting of special exceptions.

B. Churches may be located in the Residential/Agricultural zone by Special Exception of the Zoning Board of Adjustment. Such special exception shall meet the standards reflected in Article VIII, 800.013.002.001.

300.002.007 Cluster Residential District (Example design shown on page 125)

300.002.007.001 The purpose of this Article is to provide:

A. a flexible policy for quality Cluster Development consistent with the rural character, health, safety and welfare of the Town of Brentwood;

B. and encourage and permit a more economical provision of street and utility networks;

C. and encourage ingenuity and originality in total subdivision and individual site design;

D. and preserve open space to serve recreational, scenic, conservation, and other related purposes within the densities established for the gross tract.

300.002.007.002 Standards and Regulations

A. Common land area and facilities within the Cluster Residential Development tract will be established and maintained in accordance with the following requirements:

1) The applicant or developer shall provide for and establish a "Mandatory Home Owners' Association" as a legal entity under the laws of the State of New Hampshire for the ownership, care, and maintenance of all such land and improvements. Its articles shall be approved in writing by the Planning Board after review by the Town Attorney, prior to development. The cost of such legal review shall be borne by the applicant or the developer. Any changes in such articles of association or incorporation shall require the prior written approval of the Planning Board.

2) Such association shall be created by a covenant. Such association shall be composed of all persons having ownership within the development and shall be responsible for the perpetuation, maintenance, and uses and functions of all common lands and facilities.

3) All common lands and improvements shall be described and identified as to location, size, use and control in the covenant. Such covenant shall set forth the method of assessment for the maintenance of such land. The covenant shall be written so as to run with the land and become part of the deed to each lot or dwelling unit within the development.

4) Such covenant and association shall continue in effect so as: to control the availability of facilities and land thereby provided; to maintain the land and facilities for their intended function; and to protect the development from additional and unplanned densities. Such association shall not be dissolved, nor shall such association dispose of any common area by sale or otherwise except to an organization conceived and organized to own and maintain

such areas without the prior written consent of the Board of Selectmen. A note on the Cluster Development plat shall state that no lot shown on a plan for which a permit is granted under this ordinance may be further subdivided.

5) The responsibility for maintenance, operation, replacement and protection of the water supply, sewage disposal systems and any other facilities, shall be clearly established as that of the developer and/or Home Owner's Association. The deed to each lot shall contain these restrictions which shall run with the land. In no event shall the Town have any obligation for maintenance, operation, replacement or protection of the water supply, sewage disposal systems and any other facilities.

6) Cluster Residential Development. A single family, residential subdivision of a parcel of not less than twenty (20) acres where, rather than subdividing the parcel into house lots which meet the minimum requirements of Section 300.002.006.005, of Article III, no more than the same number of dwelling units may be clustered on lots of reduced dimensions. The common land area for all cluster developments shall not be less than fifty (50) percent of the gross land area of the development. No more than fifty (50) percent of the common land area shall contain wetland soils as defined by the Town of Brentwood.

B. Permitted Uses. Cluster Residential Development shall be restricted to single-family detached dwellings and accessory structures.

C. Permitted Density. The overall density of a Cluster Residential Development shall be determined by Town of Brentwood soil type lot size regulations. (Document titled, '***Model Subdivision Regulations for Soil Based Lot Size'***, 1994) **(3/14/2001)** The final determination of developable land used for density calculations must incorporate a ten (10) percent reduction for roads and utilities. The minimum lot size for a cluster development is twenty (20) acres. **(3/14/2006)**

300.002.007.003 General Provisions

The following provisions shall apply to all Cluster Residential Development:

A. Subdivision Regulations. All pertinent provisions of the Town of Brentwood Subdivision Regulations shall be complied with, including but not limited to: street design and construction specifications; the posting of bonds to cover required improvement; and the plat preparation and submission requirements.

B. Approval of Water and Septic Systems. The development may be served by a community water and/or community septic system, design and construction of which must be approved by the state and local authorities. However, no individual waste water

treatment system is to exceed a capacity of 2,500 gallons per day. Individual, on-site, septic systems as provided by the Requirements for Siting Septic Systems Ordinance of the Town of Brentwood Zoning ordinance are also permitted.

C. Ownership of Common Land Areas. Common land areas, and improvements thereon, shall be held managed and maintained by the developer until sale, at which time such areas will be owned in undivided interest by the lot owners and managed by the "Mandatory Home Owners' Association" as defined herein.

D. Fees. The applicant shall be responsible for all costs incurred by the Town of Brentwood, its Planning Board, and its officials and representatives in the review of any plans. The Planning Board may require a deposit of estimated sufficient funds from the applicant for Cluster Residential Development plan review.

E. Special Studies. The Planning Board may require special studies and/or additional information that it deems necessary to carry out the purposes of the Cluster Residential Development provision. Such studies shall be undertaken at the expense of the applicant. The firm, individual, or agency selected by the applicant to prepare such studies shall have the prior approval of the Planning Board.

F. Public Hearings. No Cluster Residential Development shall be approved or disapproved without first affording the applicant and abutters the public hearings provided for in the Subdivision Regulations.

G. The Planning Board shall approve, approve with modifications or disapprove the plans as provided by this ordinance.

300.002.007.004 Design Requirements

In addition to the requirements of the Subdivision Regulations, Cluster Residential Developments shall comply with the following design requirements:

A. The developer is expected to understand and design according to the natural features of the land. Originality in lot layout will be encouraged to achieve the best possible relationship between the development and the land.

B. A High Intensity Soil Survey of the site shall be prepared identifying wetlands. Topographic survey of the whole or part of the property shall be required for subdivision. All topographic contours must conform to 2' intervals.

C. Individual lots, buildings, streets, and parking areas shall be designed and situated to:

1) minimize alteration of the site features to be preserved;

2) lessen the area devoted to motor vehicle access;

3) avoid adverse effects of noise, shadows, and traffic;

4) maintain rural character.

D. Common land areas shall include irreplaceable natural features located in the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, rock outcroppings, and marshes). Each common area shall consist of contiguous land areas of no less than 20% of the total tract area.

E. Natural surface drainage channels shall be either incorporated into the overall site design or shall be preserved as part of the required open space.

F. The entire development shall be designed to lessen the impact upon surrounding properties.

300.002.007.005 External and Internal Design Standards.

A. Requirements applicable to the external boundaries of the development:

1) There shall be reserved a minimum frontage to serve as the access to the cluster development. This shall be no less than fifty feet and must be located on a road with a Class V designation or better.

2) A perimeter buffer zone having a minimum depth of one hundred (100) feet shall be provided between any structure, septic system or service road, and the perimeter lot line of the tract. Said buffer zone shall be comprised of vegetation, either natural or planted. If internal lot lines exist, these lot lines shall not infringe upon the buffer area. **(3/14/2006)**

3) No construction shall be permitted within the buffer zone, other than a primary access road which shall be allowed to cross the buffer zone at the point of access to the pre-existing class V or better road servicing the development. Along both sides of this primary access road reserve strips of twenty-five (25) feet must be maintained for the first one hundred feet of said primary access road.

300.002.007.006 Requirements applicable to Internal Building Lots:

A. In addition to the minimum lot area requirements specified herein, the following minimum standards shall apply:

1) Frontage - 75 feet for a single family house;

2) Building setbacks - 40 feet from edge of right-of-way in front, 20 feet from side and rear property lines; **(3/11/2003)**

3) Maximum building height - 35 feet

4) The overall density of lots or dwelling units for development within the parcel shall be determined by using the appropriate table (Table 1A) and computing a soil carrying capacity of all allowed soils found in the parcel proposed

for subdivision. Wetland soils (type B hydric) will be given credit up to the density computed for the non-wetland portion of the property. The overall computed density may then be increased by two (2%) per cent. **(3/13/2001)**

5) Internal streets shall be designed and constructed in accordance with the standards specified in the Subdivision Regulations and Brentwood Street Construction Specifications.

300.002.008 Senior Housing **(3/12/2002)**

300.002.008.001 Purpose: The regulations in this section have been established for the purpose of encouraging the construction of housing units, suitable for occupancy by senior persons, while ensuring compliance with local planning standards, land use policies, good building design and the requirements for the health, safety, and general welfare of the inhabitants of Brentwood.

300.002.008.002 Definition:

A. Senior housing is units intended for and occupied by persons 55 years of age and older as such housing is permitted regulated by federal law. Nothing in these regulations shall prohibit caregivers from accessory occupancy; or in the case of housing units financed wholly or partially with Federal funds, housing units occupied by senior persons as defined in the funding program. Such programs must have the approval of the United State Department of Housing and Urban Development as one designed and operated to assist elderly persons.

B. Senior Housing Development: Housing contained in a development featuring predominately small single family units, apartments and/or condominiums.

C. A housing unit is an autonomous unit providing the necessary requirements for independent living, containing not more than two bedrooms.

D. Bedroom: A room with an interior door, exterior windows and a built-in closet.

300.002.008.003 General Standards: All housing for seniors shall conform to the following standards:

A. Senior housing units shall be permitted in all zoning districts.

B. Housing units for the seniors shall be exempted from Article III, 300.002.006.003, of the Brentwood zoning ordinance which restrict building lots to one housing unit each.

C. Senior housing created under this ordinance shall be exempt from Brentwood's Educational Impact Fee.

D. The minimum lot area shall be ten (10) acres or, subject to a conditional use permit granted by the Planning Board, may be less than ten (10) acres, but under no circumstances shall be less than

five (5) acres. A conditional use permit may be granted only after written findings of fact are made that all the following conditions are met:

1) The specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.

2) The proposed development will have no detrimental impact upon abutting property values.

3) The proposed use complies with all other applicable sections of this article.

E. A senior housing development shall be allowed on a parcel which has a minimum of 50 feet of frontage on a Class V road or greater.

F. Every senior housing proposal shall incorporate an appropriately sized community structure that will enable community gatherings. Community/accessory structures shall not be considered housing units. **(3/14/2006)**

G. The maximum number of bedrooms allowed on a site is four per acre of developable land, and shall be calculated as follows:

1) Subtract very poorly and poorly drained soils, alluvial soils, and soils with slopes greater than twenty-five (25) % from the total parcel acreage.

2) Subtract 10% of the remaining land for roads and utilities.

3) Multiply the resultant acreage by four bedrooms to get the maximum number of bedrooms allowed on the site.

The allowed number of units may be grouped or dispersed over the parcel in any fashion within the limits imposed by this ordinance and existing septic system siting requirements. **(3/2005)**

H. Housing units shall have a maximum of 2 bedrooms and shall be specifically designed for occupancy by seniors.

I . The maximum number of attached units shall not exceed eight. Where housing units are under a common roof, the following standards shall apply:

1) All units shall comply with BOCA codes and Life Safety Codes of the State of New Hampshire. Fire Detection systems, shall meet all applicable NFPA codes and require the approval of the Brentwood Fire Chief.

2) Fire suppression systems, designed to standards approved by the Chief of the Brentwood Fire Department, are required in all attached units.

3) All construction must comply with the Architectural Barrier Free design code for the State of New Hampshire and New Hampshire fire safety codes.

J. All primary buildings must be separated by a minimum of 50' from all other buildings.

K. Each housing unit shall have at least 600 gross square feet of living area.

L. Building types and styles, including exterior aesthetics and unit arrangements, shall be suitable and appropriate for their intended purpose, in light of the size and scale of the project.

M. All accessory structures and uses associated with the senior housing project shall comply with all setback requirements.

N. Any dwelling units on a second floor shall have ground level or elevator access.

O. Building height shall not exceed 35 feet.

P. The design and site layout of the proposal emphasize the rural character of the Town, maximize the privacy of the housing units, preserve the natural character of the land, and consider such factors as orientation, energy usage, views and recreational opportunities. The design shall make provision for pedestrian access throughout the site.

Q. The property shall be landscaped to enhance its compatibility with the Town, with emphasis given to the use of existing and natural features where possible.

R. A minimum of two designated parking spaces shall be provided for each residential unit and adequate visitor parking.

S. Walkways and low lighting shall be installed so as to provide easy and safe access to all units and the attendant parking areas and facilities.

T. All construction for bathroom facilities in every unit shall provide for and support any handicapped accessories, which may need to be added as the residents age in place.

U. Primary roads shall be built to subdivision road standards, except pavement width shall be 32 feet in areas deemed appropriate by the Planning Board. Whether such primary roads are to become Town roads or remain private roads shall be determined by the Planning Board at the time of Site Plan review. All interior roadways shall be privately owned and maintained.

1) The Planning Board shall review all condominium, homeowner association; maintenance agreements and operational documents through legal counsel to ensure that both the Town and the residents are guaranteed adequate and appropriate services. The expense of such review shall be borne by the applicant.

2) The Planning Board shall review all senior housing developments using the standards set forth herein as well as site plan review regulations before approval of any senior housing. Where they conflict this ordinance shall govern.

V. Each senior housing development design shall incorporate a fifty foot property line setback. Within this setback no buildings can be established. In addition, each senior housing development design will ensure that twenty-five feet of this setback will remain as a "no disturb" zone with existing vegetation being untouched. **(3/14/2006)**

W. A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction of buildings in areas designated as buffer areas to wetlands closer than the standards found in Article VII, Section 700.002.006, but in no case closer than 25 feet from Hydric B soils or 50 feet from Hydric A soils, provided that all of the following conditions are found to exist: **(3/14/2006)**

1) The proposed construction is essential to the productive use of land not within the Wetlands Conservation District.

2) Design and construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.

3) Building placement and landscaping incorporates mitigating design features and usage restrictions that serve to minimize detrimental impact on the wetland.

4) Wetland boundary markers of a type approved by the Planning Board will be set in order to visually delineate the furthest extent of the wetland.

300.002.009 Workforce Housing **(March 9, 2010) removed by Town Vote March 2013**.

ARTICLE IV: GENERAL REGULATIONS

400.001 Height Regulations

Maximum height shall be thirty-five (35) feet above grade, grade to be determined by the average ground level around structure. Chimneys, cooling towers, elevators, bulkheads, fire towers, ornamental towers or spires, communications, radio or television towers or necessary mechanical appurtenances may be erected as to their structural design in accordance with existing, or hereafter adopted ordinances, of the Town of Brentwood, providing they do not exceed height regulations by more than forty (40) percent and structural specifications comply with National Building Codes.

400.002 Off-Street Parking and Loading Requirements

If any proposed use is such as to attract vehicles, ample space shall be provided on the property to accommodate all such vehicles attracted to the business as determined at the Site Plan Review.

400.003 Sign Regulations

Exterior Signs

400.003.001 Purpose

The purpose and intent of this section is to provide controls of the erection, installation and maintenance of signs for the purpose of uniformity with aesthetic values and for the convenience, comfort, propriety and the general welfare.

400.003.002 Definitions

400.003.002.001 Area: The area of one side of a not-more-than two-sided sign, or one-half of the total area of a sign of more than two sides.

400.003.002.002 Free-standing: Unattached to any building.

400.003.002.003 Sign: Any surface, fabric, device, or display which bears lettered, pictorial, or sculptured matter designed to convey information visually and which is exposed to public view.

400.003.002.004 Temporary Sign: a free-standing sign, greater than 6 square feet, intended to be displayed for no more than 60 days per year and without permanent frost-resistant anchoring to the ground.

400.003.003 General Provisions

400.003.003.001 Wall Signs: No wall-mounted sign shall exceed an area of ½ square foot of sign for every linear foot of building facing the street. In no event shall a wall sign exceed 120 square feet.

400.003.003.002 The maximum height of all free standing signs shall be twenty (20) feet above grade, grade to be determined by the average ground level around the sign. The Planning Board may allow 25 feet in the case of multiple tenants in a commercial or industrial park.

400.003.003.003 There shall be permitted in the following zones no permanent free-standing signs of combined total area larger than:

A. 12 square feet in the Commercial District along Crawley Falls Road, Route 111A, and Dalton Road.

B. 75 square feet in the Commercial District along Rte 125, Rte 101 & Rte 27.

C. 75 square feet in the Industrial District along Pine Road.

400.003.003.004 Every sign shall be constructed of durable material and shall be maintained in good condition and repair at all times. Whereby reason of neglect a sign becomes hazardous, or otherwise tends to depreciate its surroundings, the same shall constitute a public nuisance.

400.003.003.005 Residential Development Signs: Only materials requiring no maintenance shall be utilized for the sign and structure. The sign shall be located outside of the road right-of way.

Where a residential development has more than one entrance road intersecting with established roadways, the Board may permit more than one sign meeting the criteria contained herein. Priority shall be given where new entrance roads intersect with existing collector or arterial streets and to larger developments such as those in excess of 20 lots.

There shall be no lighting of a residential development sign whatsoever.

400.003.003.006 Permitted Signs in the Residential/Agricultural and Multi-family/Professional Office Zones: Identification Sign – one wall or detached sign not exceeding 4 square feet may be displayed. No illuminated signs are allowed.

400.003.003.007 Off premises signs: Off premises signs are prohibited except seasonal signs relating to agricultural activities.

400.003.004 Placement

400.003.004.001 All signs shall be prohibited within the public rights-of-way except as provided and except traffic control devices and directional signs deemed essential for the public welfare and safety authorized by municipal and state agencies.

400.003.004.002 No sign shall be so designed or so placed as to endanger, obscure, or confuse or otherwise create a hazardous condition to motor vehicles.

400.003.004.003 No sign shall project above the roof or parapet line of a building.

400.003.004.004 Each property shall be allowed a maximum of 1 wall sign per tenant, and 1 free-standing or monument sign. Total area of wall signs shall not exceed the provisions of section 400.003.003.001 above. Signs shall only be placed on a wall, free-standing on a pole, or a monument type sign and no other place. **(3/14/2006)** A second free standing sign may be granted through this conditional use permit if the following conditions are met:

1. The site must have an approved site plan for all activity occurring on the property.

2. The subject parcel must have frontage of three hundred and fifty (350) feet or more to qualify for a second free standing sign.

3. The design and placement of all signs must be designated on a site plan or the location must be described in a recordable instrument.

4. The free standing signs must be separated by at least seventy five (75) feet to insure that they are viewable from the abutting roadway.

5. Both signs must comply with all other requirements of the Town of Brentwood sign ordinance.(3/12)

400.003.005 Illumination

400.003.005.001 Signs may be illuminated only by light sources so placed that they will not constitute a hazard to street or highway driving by glare.

400.003.005.002 Prohibited Signs and Materials: Animated, moving, flashing, intensely lighted signs and signs that emit audible sound, or visible matter. This includes scrolling, flashing or repeating messages, images or displays. Electronic reader-boards and electronic changeable copy signs are prohibited. **(3/14/2006)**

400.003.005.003 Signs may be externally illuminated provided that the source of light is shielded from the road and adjacent properties.

400.003.006 Temporary Signs

400.003.006.001 The use of temporary signs within the front yard setback area is not allowed except by permit.

A. Temporary sign permits may be issued for a period of thirty (30) days. No more than two 30-day permits shall be issued for temporary signs on any lot in any calendar year. Temporary signs shall pertain to the business conducted on the premises upon which they are to be located. Temporary signs shall be no larger than thirty (30) square feet.

B. Permit can be obtained from the Selectmen's office during normal work hours.

C. Temporary off-site signs for non-profit, charitable or civic groups or events do not require a sign permit but must be located in a safe manner. The maximum size for any off-site sign is 32 square feet. Off-site signs shall be allowed for no more than thirty (30) days before an event and must be removed no more than seven (7) days after the event. (3/07)

400.003.007 Construction Permit

Application for a construction permit shall be made in writing to the Building Inspector for all signs 4 square feet or larger of total exposed surface area and such application shall contain the following information:

400.003.007.001 Name, address and telephone number of applicant.

400.003.007.002 Location and position of sign or structure.

400.003.007.003 Plans or drawings with specifications.

400.003.007.004 Written consent of owner of building or land.

400.003.007.005 No construction permit required for temporary signs.

400.003.008 Notification and Removal

It shall be the duty of the Selectmen to notify the violator and/or building owner of such condition in writing and if such condition is not corrected in ten (10) days from the date of notification, the Selectmen shall take legal action to have removed immediately the sign or structure. The owner shall be liable for any costs incurred for such removal. Any such use in violation hereof, after such notice duly given, is hereby declared to be a public nuisance, and the Selectmen are authorized to abate the violation by application for injunction or other lawful means. Selectmen may impose fines for such violation, either as supplemental or alternative corrective action.

The following provisions shall apply to all signs:

400.003.008.001 No sign shall be placed in such a position as to endanger traffic on a street or highway by obstructing a clear view or by confusion with official street signs or signals.

400.003.008.002 Every sign permitted shall be constructed of durable materials and shall be maintained in good condition and repair at all times.

400.003.009 Appeal

Any person aggrieved by a decision taken under this Article shall have the right to appeal the making of said decision to the Zoning Board of Adjustment. **(3/2004)**

400.004 Performance Standards

All uses shall comply with the following:

400.004.001 Noise. It shall be unlawful for the owner, occupant and any person causing or permitting, continuing or causing to be made, any noise which either injures or endangers the comfort, health, peace or safety of others within the limits of Town, that exceed those standards for noise level limits for permitted land use activities that are detailed in Section 9.13, regulating noise, of the Brentwood site plan review regulations.

400.004.002 Odor. No emission of odorous gas or other odorous matter in such quantity as to be readily detectable without use of instruments at any point along lot lines or beyond shall be permitted.

400.004.003 Toxic or Noxious Matter. No discharge to the air, water, or soil or soil of any toxic or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business, shall be permitted.

400.004.004 Dust and Fly Ash. No solid or liquid particles shall be emitted in such quantity as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond lot lines.

400.004.005 Radioactivity. No operation shall be permitted which causes radioactivity detectable at the lot lines or beyond.

400.004.006 Heat and Glare. No heat or glare shall be caused to the extent that they are detrimental to adjacent properties or the traveling public.

400.004.007 Smoke. No smoke shall be emitted in such quantity as to become a nuisance or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.

400.005 Requirement for Siting Septic Systems (Other than those located in the Aquifer Protection District)

No building permit will be issued for a lot that will not meet the minimum standards imposed by the State of New Hampshire Water Supply & Pollution Control Division and the requirements listed below. Test pits and percolation teats shall be scheduled at the convenience of the Septic System Inspector/Test Pit Witness (SSI/TPW) and the fee shall be paid in advance. The SSI/TPW shall determine whether the proposed wastewater disposal facility is in the Aquifer Protection District.

The final plan shall include a note listing all waivers or variances to Town Regulations/ordinances granted in relation to the plan. In those situations where no waivers or variances are granted the note should read “No Town waivers or variances required”. **(3/07)**

400.005.001 The bottom of the proposed leaching bed or trench and the floor of a leaching cesspool or leaching pit shall be a minimum of six (6) feet above the top of any bedrock or impermeable sub stratum.* For sites with municipal or state approved community water supply the distance shall be a minimum of four feet.

400.005.002 Any soil with a seasonal high water table at the natural ground surface or within one foot of the natural ground surface shall not be used for the disposal of septic tank effluent. Refer to Wetlands Ordinance.

400.005.003 The bottom of the proposed wastewater treatment facility shall be a minimum of four feet above any seasonal high water table. **

400.005.004 Any soil with a percolation rate of over 60 minutes per inch shall not be used for the disposal of septic tank effluent.

400.005.005 Any land area having a natural slope of 15% or greater shall not be used for wastewater disposal facilities. The requirements of ENV-WS 1014.06 for sloping sites are incorporated. (3/08)

400.005.006 All wastewater disposal systems must be designed and constructed to meet the minimum standards as set forth in the regulations of the New Hampshire Water Supply & Pollution Control Division. These regulations are set forth in the manual, "Subdivision and Individual sewage Disposal System Design Rules’, January 1995 as amended.

400.005.007 Each lot shall contain at least 4,000 square feet of contiguous land area which will meet all of the requirements set forth above. Such land shall not be built on but reserved for subsurface disposal systems.

400.005.008 Not less than two (2) test pits and one (1) percolation test shall be required within said 4,000 contiguous square feet.

400.005.009 The Septic System Inspector / Test Pit Witness shall witness all percolation tests and test pits and sign the plan certifying that said person was present during the tests. An hourly fee set by Selectmen will be paid to the Town of Brentwood.

400.005.010 The Septic System Inspector/Test Pit Witness, shall review and sign five copies of the wastewater disposal system plans, three (3) for the State, one (1) for the Town, and one (1) for the SSI/TPW. The approved plans shall then be sent to NHWSPCD for state review. A fee set by Selectmen shall be charged for each review needed.

400.005.011 All sewage disposal systems shall be inspected and approved by the Septic System Inspector per the following schedule:

400.005.011.001 Bed bottom inspection.

400.005.011.002 After the system has been backfilled and the area graded as required by the plans.

400.005.012 Replacement systems with no expansion in original design capacity shall be reviewed and permitted by the Septic System Inspector / Test Pit Witness in conjunction with the Town's Health Officer and Board of Selectmen. Upon application to the Septic System Inspector/Test Pit Witness, where a design fails to meet the requirements of this section, the Septic System Inspector / Test Pit Witness (in cooperation with the Health Officer and the Board of Selectmen) has the authority to waive the general requirements of this section and may grant a special permit to construct a sewage disposal system provided the following provisions are met.

** Fill may be added to meet the standards imposed by paragraphs 1 and 3 above, but may not be added to correct for any of the other listed conditions.

400.005.012.001 The proposed system entails no expansion of use and is a replacement of the system previously occupying the lot.

400.005.012.002 The previous system shall be discontinued. Only the proposed system shall be used once initial function is established.

400.005.012.003 The design of the system shall comply with New Hampshire State WSPCD rules in effect at the time of approval, including waiver of these rules by the State permitting authority. **(3/14/2000)**

Please refer to Article VIII, Section 8.2 Wetlands Protection; and Article X, Section 10.2. B, of the Building Ordinance.

400.006 Miscellaneous Provisions

The following provisions though disparate in nature shall apply to all districts:

400.006.001 Creation of a Nuisance

400.006.001.001 No owner or occupancy of land in any district shall permit fire or other ruins to be left, but within one year shall remove or refill the same to clear ground level or shall, within the time limits provided for new construction, repair, rebuild or replace the structure.

400.006.001.002 Any use of land and building that may become or is obnoxious or injurious by reason of production, emission of odor, dust, smoke, refuse matter, fumes, noise, vibration or similar conditions or that are dangerous to the comfort, peace, enjoyment, health or safety of the community or lending to its disturbance or annoyance, is prohibited.

400.006.002 Excavation of Earth Materials

The removal of clay, sod, loam, sand, gravel, and stone may be permitted, but only subject to the issuance of a permit by the Planning Board of and subject to the provisions of the "Excavations Regulations for the Town of Brentwood" adopted by said Planning Board, pursuant to RSA 155-E or such successor regulations as may be passed by the State of New Hampshire and adopted by the Planning Board.

400.006.002.001 The removal of clay, sod, loam, sand, gravel and stone for the purpose of building and road foundation excavation or non-commercial personal use shall not fall under the terms of this provision.

400.006.003 Sanitary Protection

400.006.003.001 No cesspool, septic tank or sewage disposal area shall be constructed or maintained less than seventy-five (75) feet from a well or from a dwelling other than that to which is appurtenant and all sewage disposal systems shall comply with N.H. RSA 149-E, as amended, which states that, "Plans and specifications shall be submitted to the Water Supply & Pollution Control Commission for approval at least thirty days in advance of construction of any sewage or waste disposal system."

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

400.006.003.003 All dwellings and sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the N.H. State Department of Health and the N.H. Water Pollution Commission.

400.006.004 Transportation of Water

400.006.004.001 No water shall be conveyed by any means or allowed to be piped for use outside of the Town of Brentwood except by an annual permit issued by the Board of Selectmen; provided, however, that on a case by case basis Selectmen may issue such permit for a period of longer than one year provided that the applicant shall prove to the Selectmen's reasonable satisfaction that in such case the water use will not exceed the maximum safe yield of the water source, that the water source will not be depleted and that no aquifer, wetland or other environmental interest will be harmed. In evaluating such proposals, the Selectmen shall engage an independent engineering consultant to verify or confirm the applicant's proof and data, such engineer to be paid by the applicant.

400.006.005 Solid and Hazardous Waste

400.006.005.001 No garbage or other waste material originating outside of the Town of Brentwood shall be allowed to be brought in or dumped or processed or stored in the Town of Brentwood, except by agreement with other towns, by special exception in accordance with Article VIII, Board of Adjustment, Section 800.013.002.003.G, of this ordinance or in the case of biosolid materials which are regulated in Sewage Sludge and Residential Septage Application below. **(3/14/2000)**

400.006.005.002 Temporary or permanent storage or burial, or dumping of industrial chemical or radioactive waste shall not be permitted. Waste material as used in this Section means refuse, solid or liquid waste, ashes, rubbish, industrial and commercial waste, building debris, and all other refuse of every description, whether loose, in containers, compacted, bailed, bundled or otherwise. Waste does not refer to biosolid materials as they are regulated separately in Sewage Sludge and Residential Septage Application below.

400.006.006 Sewage Sludge and Residential Septage Application

400.006.006.001 Purpose and Intent

The purpose of this Section is to promote and insure the public health and safety of the citizens of the Town of Brentwood by imposing additional requirements for the land application and surface disposal of sewage sludge and residential septage as well as requirements which are more stringent than the requirements set forth in 40 CFR 503.1 et seq. See 40 CFR 503.5(b). Furthermore, it is the intent of this section to promote the continued use and viability of agricultural farm land and protect aquifer areas and their recharge areas while simultaneously promoting the economic and responsible management, handling and disposal of biosolids and residential septage via land applications. If at any time the Federal Government and or the State of New Hampshire, adopts more stringent requirements than the corresponding requirements of this Ordinance, the more stringent requirements shall control.

400.006.006.002 Definitions

The words and terms of this Section shall be defined as set forth in the 1994 edition of 40 CFR 503.1 et seq. The following additional terms shall be incorporated into this ordinance:

A. Class B: refers to a specific classification and level of pathogen reduction in sewage sludge and residential septage.

B. Land Application: means the application of septage or sludge directly to the ground surface, whether or not the material is incorporated into the surface soil.

C. Owner: means the owner of land on which septage and/or sludge is placed.

D. Priority Pollutant Scan: means an analysis performed in accordance with test method 8240 of "Test Methods for Evaluating Solid Waste", Volume IB, Laboratory Manual, Physical/Chemical Methods, identified as EPA SW846, dated November 1986.

E. Stockpiling: means the placement of sludge on land for storage prior to land application.

400.006.006.003 Uses

A. Prohibited

The use and disposal of sewage sludge and residential septage, including, but not limited to, the stockpiling, treatment, and land application of sewage sludge, biosolids and/or septage is hereby prohibited in Aquifer/Water Supply Districts within the of the Town of Brentwood, except as otherwise noted in this ordinance.

B. Exemptions

The following operations or activities shall be exempt from this Section:

1) the hauling and/or transportation of sewage sludge and residential septage over municipal roads;

2) the use of composted materials for residential lawn and garden applications. For the purposes of this ordinance sewage sludge, residential septage and/or "biosolids" shall not be used for residential lawn and garden applications.

3) Municipal septage lagoons, as permitted under RSA 485-A.

C. Allowed

Within all other zoned districts except those listed in section 400.006.006.003, A, above, Class B sewage sludge and residential septage may be stored, stockpiled, treated, applied and/or transported to a specific site. This permitted use is subject to site plan review and meeting the requirements which are set forth in this Section, as well as any and all State and Federal standards or requirements, including the applicable requirements of 40 CFR 503.1 et seq.

In order to safeguard against adverse water quality and public health effects, all sludge and residential septage transported into, stockpiled within, or land applied must meet the Class B pathogen requirements of 40 CFR 503.32(a) and the vector control requirements of 40 CFR 503.33(a)(1) before it is transported into the Town of Brentwood.

D. Uses by Conditional Permit

Within permitted zoned districts Class B sewage sludge and residential septage may to stored, stockpiled, treated, applied and transported to a specific site, which was formerly used or is presently being operated for the excavation of gravel, as permitted under RSA 155:E. The application shall be completed in accordance with the Best Management Practices, dated June 1995, as written by the University of New Hampshire Cooperative Extension. Said uses shall be subject to a conditional use permit and site plan approval from the Town of Brentwood Planning Board.

400.006.006.004 Application, Notification and Reporting Requirements

In addition to complying with all record keeping and reporting requirements imposed by the State and Federal Government, any person planning to transport to, stockpile on, treat, or land apply sewage sludge or residential septage shall submit all of the following information to the Planning Board for Site Plan Review.

The applicant shall receive Planning Board approval, with any conditions as the Planning Board deems necessary, and shall, at a minimum, wait until the appeal period has lapsed prior to the receipt of the sewage sludge and/or residential septage. The following information shall be supplemental information required in conjunction with the Site Plan Review requirements for Planning Board review of proposed use, transport, stockpiling and/or land application of sewage sludge and/or residential septage:

A. Site Plan Requirements:

A site plan which illustrates the following with respect to any area in which sludge/septage is to be stockpiled, treated or applied to land:

1) A plan, prepared at a scale not to exceed the scale of 1"=100', with 2' topographic contours and all relative property boundaries;

2) A plan, prepared at a scale not to exceed the scale of 1"=100' which includes Order One Soil Survey information for the land application area and for the areas within 100' of the land application area;

3) The location and size of the stockpiling area(s);

4) The location, limits, and acreage of the land application area;

5) The quantities of sewage sludge to be land applied and/or stockpiled and a stormwater management plan for the stockpile area. Stockpiles are not to be located less than 500' from a property boundary/line;

6) All areas of hydric soils, streams and open bodies of water within 100 feet of the stockpiling, treatment and land application area(s);

7) All adjacent wells, including the wells of all abutters, within 300 feet of the stockpiling, treatment and land application area(s);

8) All roads within the Town of Brentwood to be used for the transport of septage/sewage sludge, the frequency of use of these roads and the maximum quantities to be hauled on a daily/weekly/monthly basis;

9) An on-the-ground delineation of the application area.

B. Written Reports for Site Plan Review Application

1) The name, address, telephone number, and NPDES permit number of the Sludge Generating Facility;

2) The name, address, telephone number, and NPDES permit number of any and all Sewage Sludge Treatment Facilities, if different from the Generating Facility;

3) The name, address, telephone number, date of birth and license number of the Sewage Sludge and/or Septage Hauler;

4) The name, address, date of birth and telephone number of the land owner;

5) The name, address, date of birth, mailing address, business and telephone number of the person stockpiling and applying the sewage sludge and/or residential septage to the land;

6) The name, address, date of birth and telephone number of the applicant;

7) Laboratory Reports of all test results in accordance with the Best Management Practices as written by the University of New Hampshire Cooperative Extension;

8) The planned delivery date, or delivery dates;

9) The planned stockpiling time period (s), the location of said stockpiles and the management measures proposed to minimize stormwater run-off and odor.

10) A narrative description of the treatment method used to meet Class B Sewage Sludge and/or Residential Septage requirements;

11) The total surface area of the planned application;

12) The total sludge volume to be applied;

13) Previous land application data, including the cumulative site loading to date, and the site loading from the previous 2 years;

14) The number of land applications that can be performed without exceeding the cumulative pollutant loading rate set forth in Table Two (2) of 40 CFR 503.13;

15) A description of the intended capacity and life of the site and whether septage, sludge or both will be applied;

16) A certification prepared by a licensed soil scientist, that the soil limits shall not exceed standards as stated in the Best Management Practices as written by the University of New Hampshire Cooperative Extension as applicable;

17) Written permission and/or executed contracts that any owner of land in a residentially-zoned district consents to the stockpiling and/or application of sewage sludge and/or residential septage to their land by the applicant.

18) A list of all local and state permits or approvals which are required and whether the permits/approvals have been obtained or are pending.

19) A history of the site use covering 20 years immediately prior to submission of the application;

20) Site or facility design plans and specifications in accordance with Part Env-Ws 806.

21) Operating plans in accordance with Part Env-Ws 806;

22) Whether the applicant or any person participating in the septage/sludge generation or application process has been convicted on a criminal misdemeanor charge under any statute implemented by the State of New Hampshire Department of Environmental Services within five years prior to the date of application or on a criminal felony charge under any statute implemented by the Department of Environmental Services within ten years prior to the date of application; and

23) If the above information raises questions relative to the adequacy of protection of the environment and public health or safety, such other information as the Planning Board determines necessary to assure compliance with these rules and to protect the public health and safety of the environment.

24) If the applicant is not the owner, the application shall be accompanied by a written statement signed by the owner that the owner is aware that the application is being filed and has given permission to the applicant to file the application and to enter upon the land for the purposes of site investigation and construction and operation of the septage/sludge disposal site in the event that the Town of Brentwood issues the permit.

25) Each application shall be submitted in quadruplicate and shall be accompanied by a fee, the amount to be set by the Board and included in the Site Plan Review Regulations.

C. Site Plan Review Approval Conditions

At a minimum the following conditions shall be imposed under the Planning Board's Site Plan Review process:

1) Written Approval. No applicant shall take delivery of any sewage sludge and/or residential septage until such time as the Planning Board or their duly authorized representative has provided the applicant with approval in writing. Such approval shall not be automatically given by the Board, but rather shall only be given once the Board has been fully satisfied that the applicant has met and will continue to meet the reporting requirements of this section, and has demonstrated to the Board that the proposed application will not present a threat to the health or public safety risk to the applicant, the property owner, the abutters of the land receiving sewage sludge and/or residential septage and any parcels which will be subject to or adjacent to land application.

2) Stockpiling. The stockpiling of all Class B sewage sludge and/or residential septage shall be done in conformance with all State and Federal requirements, including the requirements of 40 CFR 503.1 et seq and Best Management Practices for Biosolids, except as noted

below. In addition, Class B sewage sludge and/or residential septage may only be stockpiled on site if it is properly secured to limit airborne dispersal of sludge and/or residential septage from the pile, storm water transportation of the sludge and/or residential septage and infiltration of leachate from the sewage sludge and/or residential septage into the ground water. Sewage sludge and/or residential septage shall not be stockpiled for more than ninety (90) days from the first date of receipt. Storage of the sewage sludge and/or residential septage shall comply with the Best Management Practices. No stockpiling shall occur within 500 feet from any property line and 300 feet from on-site dwellings and private water supplies.

3) Minimum Level of Materials. Any and all sewage sludge and/or residential septage must arrive on site in a Class B condition. No treatment will be permitted on the site, except for that treatment which has been pre-approved by the Planning Board or their duly authorized representative.

4) Best Management Practices. The land application of all sewage sludge and/or residential septage shall be done in accordance with the general requirements and management practices set forth in 40 CFR 503.12 and 503.14 respectively and the Best Management Practices for Biosolids. In addition to meeting State and Federal Vector Attraction Reduction Requirements (VARRS), including those set forth in 40 CFR 503.33, (including at least one of the VARRS in Section 503.33(b)(1) through 503.33(b)(8) which must have been conducted at the generation site), all sewage sludge applied to the land must be incorporated into the soil within twenty-four hours of the application, unless a specific exemption has been granted by the Planning Board.

5) Testing. All testing shall be conducted in accordance with the Best Management Practices, State requirements 40 CFR 503.1 et seq. and local requirements (Including the total recoverable analysis of the metals listed in Table 3, Section 503.13). These test results shall be completed by a certified laboratory and submitted to the Board of Selectmen with a certification from the applicant that the applications have not exceeded the above noted standards. Test results shall be submitted on a per load basis and before the applicant takes delivery of any sewage sludge in the Town of Brentwood. These tests shall be conducted for each and every generation site and any and all testing costs shall be borne by the applicant.

6) Record Keeping.

a) Every hauler permit holder shall maintain records of each load of septage hauled, including identification of the date hauled, the name and

address of the client, the source of the septage hauled, and the disposal site or wastewater treatment facility at which the load was discharged.

b) Every septage/sludge disposal site permit holder shall maintain records of each load of septage or sludge received at the site, including identification of:

i) The date received;
ii) The hauler delivering the load;
iii) The source of the material;
iv) The volume received; and
v) The town municipality(ies) from which the material originates.

c) Every person who land applies or stockpiles sludge shall maintain records of each load of sludge received at each site, including identification of:

i) The date received;
ii) The hauler delivering the load;
iii) The source of the material;
iv) The sludge quality certification number, if applicable;
v) The volume received;
vi) The municipality(ies) from which the material originates.

d) Records shall be maintained by the permit holder or the person undertaking the activity, as applicable, and shall be provided to the local municipality for review on an on-going basis.

e) Records shall be maintained for a minimum of three years. Prior to disposing of any records, the permit holder or the person undertaking the activity, as applicable, shall submit a written request to the Board of Selectmen for permission to dispose of the records. If the Boards determine that no enforcement actions are pending or contemplated for which the records are or would be necessary, the Board of Selectmen and the Planning Board shall authorize the applicant to dispose of the records.

7) Site and Management Plan Requirements

a) Each operating plan for a land application site shall include the following:

i) Normal hours of operation of the site;
ii) Proposed route(s) of access to the site;
iii) Method of application and incorporation;
iv) Storage or stockpiling provisions;
v) Anticipated source of material and anticipated service area;

vi) Quantity of material expected on a periodic basis, such as daily, weekly or monthly, and quantity of material expected over the entire life expectancy of the site, if applicable;

vii) The type of treatment required by 40 CFP 503 before application;

viii) Record keeping procedures;

ix) Measures to be taken to control vectors;

x) A detailed odor control plan explaining the type of odors that will be generated by the activity and the procedures that will be used to address and resolve any odor complaints;

xi) Procedures for monitoring soil ph by UNH Analytical Services or by a method which produces results comparable to UNH Analytical Services' results and analysis of the sludge by a laboratory certified by the New Hampshire Department of Environmental Services or other appropriate agency, to analyze wastewater for VOCs and metals;

xii) If to be applied to an agricultural field, the applicant shall provide the following: a list of crops to be grown; the agronomic uptake rate calculations prepared in accordance with Best Management Practices (BMPs), the disposition of crops grown and the annual nitrogen loading and annual and lifetime heavy metals loading calculations; and any other specific management practices designed to ensure compliance with this ordinance.

8. Minimum Operating Standards for Land Application

a) The operation of all facilities which manage septage and/or sludge through land application shall comply with federal regulations as specified in 40 CFR 503, in accordance with an operating plan per ENV-Ws 806.02 and in accordance with the requirements specified in this ordinance.

b) spreading shall be done on frozen or snow covered ground or when the ground is wet due to precipitation or flooding.

c) No spreading shall be done on land which has a slope greater than 8 percent, that is, an 8 foot rise in 100 feet.

d) No spreading shall be done on any hydric soils as defined in Env-Ws 1014.02 or in areas exhibiting seasonal ponding.

e) Stockpiling shall not be permitted on the 100-year flood plain.

f) No person shall land apply septage or sludge in the following areas:

i) Within 500 feet of any off-site dwelling, off-site well or any surface drinking water supply;
ii) Within 300 feet of any on-site dwelling or on-site well;
iii) Within 100 feet of any public road or property boundary; or
iv) In areas where stockpiling of manure or keeping of farm animals is prohibited.
v) No sewage sludge or residential septage shall be placed within 150 feet of streams, tributaries, ponds, lakes, seeps or wetland areas.
vi) Sludge shall be incorporated into the soil within 24 hours of spreading unless an exemption is granted by the Planning Board under 400.006.006.003 of this section.

9) Sludge Management Requirements

a) Transportation.

i) Any person transporting sludge shall ensure that all vehicles are covered so as to not create odors or a public health hazard.
ii) Sludge being transported to a land application or stockpiling site shall meet Class B pathogen requirements prior to being transported.

b) Stockpiling.

i) No person shall stockpile sludge which has not met Class B pathogen reduction requirements.
ii) No person shall stockpile sludge at a land application site for longer than ninety (90) days.
iii) Any person stockpiling sludge for longer than 7 days shall cover the stockpile with an odor control material, such as lime, wood ash or cement kiln dust, to minimize odors.
iv) Sludge shall be stockpiled as far as possible from any dwelling or well, but in no case closer than 500 feet.

c) Sludge Quality Certification

i) Prior to stockpiling or land application of any sludge, the person proposing to undertake the activity shall obtain a sludge quality certification as specified in this section.

ii) To apply for a sludge quality certification, the person shall submit the following to the appropriate State or Federal Agency as applicable:

A) Name and address of the treatment facility which has generated or will generate the sludge;

B) Name, title, and telephone number of the person who is responsible for the operation of the treatment facility;

C) Description of all wastewater contributors and the chemical constituents of their wastewater;

D) The volume of sludge generated monthly by the treatment facility for the last two years;

E) The discharge monitoring reports from the treatment facility for the last two years;

F) A description of the process to achieve Class A and B pathogen reduction requirements;

G) A priority pollutant scan of the sludge from the treatment facility taken within the last six months;

H) An analysis of at least three representative samples of sludge from the treatment facility, taken at least 30 days apart within the last 6 months, for the following:

1) Arsenic, measured as mg/kg;
2) Cadmium, measured as 25mg/kg;
3) Chromium, measured as mg/kg;
4) Copper, measured as mg/kg;
5) Percent dry solids;
6) pH;
7) Lead, measured as mg/kg;
8) Mercury, measured as mg/kg;
9) Molybdenum, measured as mg/kg;
10) Nickel, measured as mg/kg;

11) Percent ammonia nitrogen;
12) Percent nitrate-nitrite;
13) Percent total kjeldahl nitrogen;
14) Percent organic nitrogen;
15) Selenium, measured as mg/kg; and
16) Zinc. measured as mg/kg.
17) PCDD/PCDF

l) Each application shall be submitted in compliance with applicable State and Federal regulations. The concentrations of PCDD and PCDF must be less than or equal to 250 ug/kg (total 2378 TCDD equivalent dry weight)

10) Testing. The Town of Brentwood reserves the right to require security in accordance with RSA 674:44 to insure the proper management and application of septage and sludge. In the event that the Planning Board and/or the Board of Selectmen question the accuracy and authenticity of the materials being stockpiled and/or applied, they shall have the authority to have an independent consultant review any or all aspects of the septage and/or sludge operation at the owner's sole expense.

400.006.007 Site Plan Review

400.006.007.001 In accordance with RSA 674:43 (Supp 1983) the Planning Board has been empowered to review and approve or disapprove site plans for the development or change or expansion of use of tracts for non-residential uses, or for multi-family dwelling units whether or not such development includes the subdivision or re-subdivision of the site.

400.006.007.002 It shall constitute a violation of this Ordinance to commence any development requiring such a site plan review as described in the regulations of the Town of Brentwood Planning Board without first having obtained said approval from the Board.

400.006.008 Impact Fee Ordinance for Capital Facilities

400.006.008.001 Authority and Applicability

The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development. These regulations are authorized by RSA 674:21, and other pertinent state law, as an innovative land use control. The purpose of this ordinance is to insure that new development in the Town of Brentwood shall be assessed impact fees in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town and its School District.

400.006.008.002 Findings

In review of the impact of growth relative to the existing and planned capital facility capacity available to the Town of Brentwood for its municipal and school needs, the Town of Brentwood hereby finds that:

A. As documented by the Master Plan and the Capital Improvements Program of the Town of Brentwood, recent and anticipated growth rates in the community will require the expenditure of public funds in order to maintain adequate municipal and school facility standards and to promote and protect the public health, safety, and welfare.

B. The imposition of impact fees is one of the methods available to ensure that public expenditures are not excessive and that new development will bear a proportionate share of the capital costs necessary to accommodate such development.

C. The impact fee methodology entitled Methodology for the Calculation of Impact Fees in the Town of Brentwood (dated 2001 and adopted buy the Brentwood Planning Board on April 26, 2001, as it may subsequently be amended) represents a reasonable, rational and proportional method for the assessment of growth-related facility costs to new development.

D. An impact fee ordinance for public capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Brentwood.

400.006.008.003 Definitions

A. School Districts. The Brentwood School District and the Exeter Region Cooperative School District (of which the town of Brentwood is a member municipality).

B. Fee Payer**.** The applicant for the issuance of a building permit which could create new development.

C. New Development**.** An activity which results in:

1. The creation of a new dwelling unit or units; or
2. The conversion of a lawfully existing use which would result in a net increase in the number of dwelling units; or
3. A non-residential development or conversion of property that results in a net increase in the gross floor area of a non-residential use.
4. The conversion of an existing use to another use if such change creates a net increase in the demand for additional capital facilities as defined by this ordinance.

Notwithstanding the foregoing, <u>New Development</u> does not include an activity that results in:

a) The reconstruction of a structure that has been destroyed by fire or natural disaster, provided there is no change in the size or density of the structure.
b) The replacement of a mobile home.

D. Impact fee means a fee or assessment imposed on development including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers, storm water drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities, solid waste collection, transfer, recycling, processing and disposal facilities, public library facilities; and public recreational facilities not including public open space.

E. Public Recreation Facilities**.** Land and facilities owned or operated by the Town of Brentwood or the School District, other than public open space, which are designed for the conduct of recreational sports or other active uses of an organized nature, and which include equipment or improvements to the land to support indoor or outdoor public recreation programs and activities.

F. Public Open Space. An unimproved or minimally improved parcel of land or water available to the public for passive recreational uses such as walking, sitting, or picnicking which does not include "public recreation facilities".

400.006.008.004 Imposition of Impact Fees

A. Impact fees shall be assessed to new development to compensate the Town of Brentwood and the School District for the proportional share of capital facilities generated by new development in the Town of Brentwood, including municipal and public school facilities to be constructed, or which were constructed in anticipation of new development.

B. Any person who seeks a building permit for new development is hereby required to pay an impact fee for the capital facilities of the Town and its School District in the manner set forth herein. Impact fees are imposed hereunder without regard to whether the new development is proposed to be located upon a lot or site forming all or part of a plat or application approved or formally accepted by the Planning Board pursuant to RSA 676:4,I(b) prior to the first legal notice of this impact fee ordinance.

C. A person may request a full or partial waiver or school facility impact fees for that number of residential units that are lawfully restricted to occupancy by senior citizens age 62 or over, or to households with at least one person age 55 and over, as applicable, where such units are maintained in compliance with the provisions of RSA 354-A:15, Housing for Older Persons. The Planning Board may waive school impact fees for such units within complying developments where units are restricted by age for a period of at least twenty (20) years.

D. The Planning Board may consider requests for full or partial waivers for impact fees based on one or more of the following criteria:

1. The subject property has previously been assessed for its proportionate share of public capital facility impacts, and has contributed payments or constructed capital facility capacity improvement equivalent to same; or

2. The Planning Board, with the Board of Selectmen consent, agrees to accept, in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this section the Planning Board shall submit a copy of the waiver request to Board of Selectmen for its consent on the acceptance of the proposed contribution of real property or facility improvements of equivalent value and utility to the public; or

3. Due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the Planning Board finds that the development will not increase the demand on the capacity of the capital facility or system for which an impact fee is assessed.

4. Any claim for waiver must be made before the Planning Board vote on subdivision/site plan approval or disapproval unless the lot in question was created prior to the adoption of this ordinance.

5. Unless otherwise determined by the Planning Board for good cause shown:

   a) Waivers shall not be transferable, and run only with a specific subdivision or site plan approval.
   b) Waivers shall not be transferable from one type of the public capital facility impact fee to any other impact fee type.

6. The provisions of this Ordinance shall not apply to any charge or fee imposed by the Planning Board or any other municipal body of the Town of Brentwood pursuant to any statute or case law, other than RSA 674:21,I(m).

7. An impact fee waiver, cannot be granted for the value of on, or off site improvements required by the Planning Board as a result of subdivision or site plan review if said improvements could have been required of the developer by the Planning Board under applicable statutory, or case law, independent of the existence of this impact fee ordinance.

E. Computation of Impact Fee

1. The amount of each impact fee shall be set forth in the Impact Fee Schedules prepared and updated in accordance with a report entitled Methodology for the Calculation of Impact Fees in the Town of Brentwood (dated 2001, and adopted by the Brentwood Planning Board on April 26, 2001, as it may subsequently be amended) prepared and adopted by the Planning Board for the purposes of impact fee assessment.

2. In case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee assessed for the new use as compared to the highest impact fee that was or would have been assessed for the previous use in existence on or after the effective date of this Ordinance.

F. Payment of Impact Fee

No building permit shall be issued for new development until the impact fee has been assessed by the building official, and paid to the Town of Brentwood, or until the fee payer has established a mutually acceptable schedule for payment with the Planning Board, or has deposited an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Brentwood. Impact fees shall ordinarily be paid in full prior to the issuance of a certificate of occupancy for the new development for which the fee was assessed.

G. Appeals

1. Appeals from the decision of the Planning Board may be taken to the Superior Court as provided by RSA 677:15, or in the proper case to the Zoning Board of Adjustment under RSA 676:5,III.

2. If a fee payer believes the Board of Selectmen or other Town officials, including the Building Inspector, have incorrectly administered this ordinance, then appeal shall be to the Brentwood Zoning Board of Adjustment as an appeal of an administrative decision pursuant to RSA 676:5.

H. Administration of Funds Collected

1. All funds collected shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each of the capital facility categories for which impact fees have been assessed. These impact fee accounts shall be non-lapsing special revenue fund accounts and under no circumstances shall revenues accrue to the General Fund. The Town Treasurer shall have custody of all accounts, and shall pay out the same upon approved vouchers.

2. The Town Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which fees have been paid under this ordinance, for each building permit so affected for a period of six (6) years from the date of receipt of the impact fee payment associated with the issuance of each permit.

3. Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town and the School District for the cost of public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or District in anticipation of the needs for which the impact fee was collected.

4. In the event that bonds or similar debt instruments have been, or will be, issued by the Town or the District for the funding of capacity-related facility improvements, impact fees may be transferred to pay debt service on such bonds or similar debt instruments.

5. At the end of each fiscal year, the Town Treasurer shall make a report to the Board of Selectmen, giving a particular account of all impact fee transactions during the year.

I. Use of Funds

1. Funds withdrawn from the impact fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvement of public capital facilities, which result in an increase in capacity.

2. Effective upon passage of this ordinance the annual updates of the Town's Capital Improvement Program may contain a methodology for assigning funds, including any accrued interest, from all of the public capital facilities impact fee accounts for specific public capital facility improvement projects and related expenses.

   Monies, including any accrued interest not assigned in any fiscal period, shall be retained in the same public capital facilities impact fee account until the next fiscal period, except as provided by the refund provisions of this ordinance.

3. Funds may be used to provide refunds as described in the ordinance.

J. Refund of Fees Paid

1. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest, where:

   a) The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
   b) The Town, or in the case of school facilities, the School District, has failed within the period of six (6) years from the date of the full and final payment of such fee, to appropriate any of the non-impact fee share of related capital improvement costs, thereby permitting the capital improvement or capital improvement plan for which the impact fee was collected to be commenced. If any capital improvement or capital improvement plan for which an impact fee is collected has been commenced either prior to, or within six years from, the date of final collection of an impact fee, that impact fee payment shall be deemed to be encumbered and legally bound to be spent for said capital improvement or capital improvement program and shall not be refunded, even if it is not fully expended within the six year period.

2. The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

K. Additional Assessments

Payment of the impact fee under this article does not restrict the Town or the Planning Board from requiring other payments from the fee payer, including such payments relating to the cost of the extensions of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

L. Premature and Scattered Development

Nothing in this article shall be construed so as to limit the existing authority of the Planning Board to deny new proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Brentwood Zoning Ordinance, or the Brentwood Planning Board Site Plan Review Regulations or Subdivision Regulations, or which may otherwise by lawfully denied.

M. Review

The Impact Fee Assessment Schedule shall be reviewed and updated as necessary by the Planning Board, according to the methodologies established within the report entitled Methodology for the Calculation of Impact Fees in the Town of Brentwood (dated 2001, and adopted by the Brentwood Planning Board on April 26, 2001, as it may subsequently be amended). Such review may result in recommended adjustments in one or more of the fees based on the most recent data as may be available including, but not limited to, current construction cost information or capital improvement plans or programs, property assessment data, demographic data, U.S. Census information, and other sources. Based on its review, the Board may consider the adoption of an updated or amended impact fee methodology, or may modify the schedule to correct errors or inconsistencies identified in the review process. No change in the methodology or the impact fee schedules shall become effective until it shall have been the subject of a public hearing before the Planning Board, noticed in accordance with RSA 675:7, and approved by the Board of Selectmen. **(3/13/2001)**

N. Severability

If any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of this ordinance.

400.006.009 Phasing of Developments

The Planning Board may require the phasing of a development for a period of up to five (5) years for a project which is proposed to have thirty (30) dwelling units (lots) or less. For a project larger than thirty (30) units (lots) the Planning Board may require a longer period of phasing based upon the size of the project and the potential impact of the number or type of units on the municipal services of the Town. The Planning Board shall make appropriate findings of fact to substantiate the need for required phasing. The phasing plan shall be agreed upon between the applicant and the Planning Board prior to final approval of the Planning Board's review process. The phasing agreement shall be recorded with the approved plan at the Rockingham County Registry of Deeds. **(3/13/2001)**

400.006.010 Mandatory Preliminary Subdivision Review

In accordance with RSA 674:35, I, the Planning Board is authorized to require preliminary subdivision review. The subdivision regulations regarding the requirements of such review are to be prepared and adopted by the Planning Board. **(3/2005)**

400.006.011 Construction of small wind energy systems shall be done in compliance with RSA 674:62-66, as amended. **(3/10/09)**

400.007 - Stormwater Management **(MARCH 9, 2010)**

400.007.001 Purpose

Pursuant to RSA 674:16 -21, the Town of Brentwood hereby adopts this Stormwater Management Ordinance and accompanying regulations to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse affects of increased post-development stormwater runoff, decreased groundwater recharge, and non-point source pollution associated with new development and redevelopment activities**.**

It is intended that this Article shall:

A. Prevent and reduce the potential for increased flooding and property damage due to increased peak runoff rates generated from new impervious surfaces and other land disturbances.

B. Prevent channel scour, stream bank erosion and habitat modifications within the local streams and rivers due to increased peak runoff rates from new impervious surfaces and other land disturbances.

C. Increase groundwater recharge to maintain existing groundwater levels and minimize changes in base flow conditions in area streams.

D. Protect, maintain and enhance the water quality in area streams rivers and ponds as well as groundwater resources.

E. Encourage the capture and reuse of stormwater runoff for other non-potable uses of water such as irrigation and fire protection.

F. Encourage and promote the use of Low Impact Development (LID) measures and practices to reduce impervious cover, minimize disturbances, protect nearby natural resources and the aesthetic value of the natural features within the Town of Brentwood.

G. Protect existing and potential surface and groundwater water resources by promoting groundwater recharge and water quality treatment of stormwater runoff.

H. Preventing unnecessary expense to the Town as it relates to the future maintenance of stormwater structures created by new development and by requiring such maintenance to be performed by the property owners of the new development.

400.007.002 Authority

The Provisions of this Article are adopted pursuant to RSA 674:16, Grant of Power, RSA 674:17, Purposes of Zoning Ordinance, and RSA 674:21, Innovative Land Use Controls

400.007.003 Applicability

The requirements of this Article shall apply to any development, redevelopment or other land disturbance activity within all zoning districts that will result in either more than 40,000 square feet of disturbance area or creating more than 5,000 square feet of impervious area (excluding singe family/duplex residential roof area), unless such activities are exempted as specified in Section 5.0 of this Ordinance.

For residential subdivisions, or any other phased development, the anticipated total area of disturbance and impervious area associated with the future construction activity on each of the lots created by the subdivision must be included in meeting the applicability thresholds and performance standards of this Ordinance.

400.007.004 Definitions

Alteration of Terrain Regulations: Pursuant to RSA 485 A:17, an Alteration of Terrain Permit is required by NHDES whenever a project proposes to disturb more than 100,000 square feet of terrain or 50,000 square feet if any of the disturbance is within the protected shoreline as defined by RSA 483-B) or if the project disturbs any area having a 25% or steeper land slope and is within 50 feet of any surface water, then a permit is also required. The program applies to both earth moving operations, such as gravel pits, as well as industrial, commercial and residential developments.

Best Management Practice (BMP): Structural, non-structural and managerial techniques that are recognized to be an effective and practical means to prevent and/or reduce increases in stormwater volumes and flows, reduce point source and non-point source pollution, and promote stormwater quality and protection of the environment and include but are not limited to those contained in the NHDES Stormwater Manual Vols. 2 and 3 **(Dec. 2008).**

Better Site Design: Site design approaches and techniques that can reduce the footprint of the proposed development or the development's potential impact on the downstream watershed or other natural features which may include conserving and protecting natural areas and green space, reducing impervious cover and using natural features to stormwater management.

Curve Number (CN): A numerical representation used to describe the stormwater runoff potential for a given drainage area based on land use, soil group, and soil moisture, derived as specified by the U.S. Department of Agriculture, Natural Resources Conservation Service (USDA/NRCS).

Developer: A person who undertakes or proposes to undertake land disturbance activities.

Development: For the purposes of this article, development refers to alterations to the landscape that create, expand or change the location of impervious surfaces or alters the natural drainage of a site.

Disconnected Impervious Cover: Impervious cover that does not contribute stormwater directly from a site, but directs stormwater runoff to an on-site LID practice to infiltrate into the soil or as overland flow to onsite pervious area such that the net rate and volume of stormwater runoff from the disconnected impervious cover is no greater than the estimated rate and volume from undisturbed cover of equal area.

Drainage Area: Means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

Connected Impervious Cover: Impervious cover that is connected to a storm drain system and/or will discharge stormwater runoff offsite and does not qualify as disconnected impervious cover.

Erosion: The detachment and movement of soil, rock, or rock fragments by water, wind, ice or gravity.

Impervious Cover: A structure or land surface with a low capacity for infiltration, including but not limited to pavement, roofs, roadways, and compacted soils, that has a Curve Number of 98 or greater.

Infiltration: The process by which water enters the soil profile (seeps into the soil).

Land Disturbance or Land Disturbing Activity: For the purposes of this Article, refers to any exposed soil resulting from activities such as clearing and grubbing, grading, blasting, excavation and the placement of fill material.

Low Impact Development (LID) Practice - A development plan or practice that minimizes the alteration of land, minimizes changes to the natural hydrology and preserves vegetation and other natural features to the maximum extent of practicable relative to conventional site design.

Owner: A person with a legal or equitable interest in a property.

Pervious Cover: A land surface with a high capacity for infiltration.

Recharge: The amount of water from precipitation that infiltrates into the ground and is not evaporated or transpired.

Redevelopment: Any change to a previously developed property including but not limited to the demolition of buildings or structures, filling, grading, excavating or paving new areas but excluding ordinary maintenance activities, remodeling of buildings on the existing footprint, resurfacing of paved areas, and exterior changes or improvements that do not materially increase or concentrate stormwater runoff and/or cause additional nonpoint source pollution.

Regulated Substance: A “regulated substance” as defined in Env-Ws 421.03(f) or successor rule, Env-Wq 401.03(h).

Sediment: Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

Sensitive Area: For the purpose this Article include lakes, ponds, perennial and intermittent streams, vernal pools, wetlands, and highly erodible soils.

Sheet flow: Runoff that flows or is directed to flow across a relatively broad area at a depth of less than 0.1 feet for a maximum distance of 100 feet in such a way that velocity is minimized.

Site: The lot or lots on upon which development is to occur or has occurred.

Stormwater: Water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other drainage facility.

Stormwater Runoff: Water flow on the surface of the ground or in storm sewers, resulting from precipitation.

Total Impervious Cover: The sum of Disconnected Impervious Cover plus Effective Impervious Cover.

Undisturbed Cover: A natural land surface whose permeability has not been altered by human activity.

Vegetation: Is defined to include a tree, plant, shrub, vine or other form of plant growth.

Wellhead Protection Area: As defined in RSA 485-C:2, XVIII, the surface and subsurface area surrounding a water well or well field that contributes to a public water system, through which contaminants are reasonably likely to move toward and reach such well or well field.

400.007.005 Exemptions

The following activities will be considered exempt from meeting the requirements of this ordinance:

a. Work performed that is exclusively for the sole purpose of agricultural or forestry uses:
b. Existing residential lots:
c. The installation and repair of utilities (gas, water, electric, telephone, etc) other than drainage, which will not alter terrain, permanent ground cover or drainage patterns.
d. Any work and projects for which all necessary approvals and permits have been issued before the effective date of this Ordinance.

400.007.006 Authorization to Issue a Special Use Permit

A. Authority is hereby granted to the planning board, as allowed under RSA 674:21 II, to issue a special use permit to allow variations from the requirements and restrictions set forth in this section upon the request of the applicant provided the development design and proposed stormwater management approach satisfy the following conditions:

1. Such modifications are consistent with the general purpose and standards of this section and shall not be detrimental to public health, safety or welfare;
2. The modified design plan and stormwater management approach shall meet the performance standards under sections X.8.A -X.8.H of this ordinance; and
3. The modified design plan and stormwater management approach shall satisfy all state and/or federal permit requirements, as applicable.

<u>400.007.007 Stormwater Management Plan</u>

All land disturbing activities subject to approval under this Article shall submit a permanent (post-construction) Stormwater Management Plan (SMP) with an application for subdivision or site plan review. The permanent SMP, which shall be prepared by a licensed New Hampshire, professional engineer, shall address and comply with the requirements set forth herein and as specified by the planning board.

A. Plan Contents

The Stormwater Management Plan shall fully describe existing conditions and the proposed project conditions in drawings, narrative and calculations including but not limited to the following:

1. Contact Information: Name, address and telephone number of all persons shaving legal interest in the property and the tax parcel number of the property or properties affected;

2. Locus Map and property map showing tax map parcels, existing zoning boundaries of the site, easements and any applicable buffer setbacks for wetlands, shoreland protection and water supply;

3. Site Map showing existing topography with 2-foot contours, soil types (based on HISS mapping), sub-drainage areas, discharge locations, any existing disturbed areas, impervious surfaces and utilities;

4. Description and map showing existing perennial and intermittent streams, wetland areas and other downstream water resources, floodplain limits and any existing nearby private and public wells;

5. Narrative description of soil types; hydrologic soil group rating, vegetative cover, assigned curve number for drainage analysis and estimated infiltration/recharge potential based on field measurements or reported information in the NHDES Stormwater Manual;

6. Site Map showing proposed site layout, topography, vegetation clearing, surface cover, drainage conveyances, discharge locations, stormwater management BMPs, and related groundwater recharge measures;

7. Setback limits shall be drawn on all lots consistent with the various local and state regulations concerning protection of water supply wells, wetlands, surface water bodies as well as those for building lot design (i.e., front, side, rear and perimeter buffers from external lot lines as specified in Brentwood's Site Plan and Subdivision Regulations;

8. Description of the modeling procedures, assumptions and results for peak runoff rate and volume calculations for existing and proposed conditions as well as impervious area calculations by subwatershed area for existing and proposed conditions**;**

9. Description of innovative site design, layout and Low Impact Development measures used to minimize the potential impacts and footprint of the proposed development;

10. For any phased projects and projects seeking subdivision approval must account for the estimated future disturbance area and impervious area that will occur on the subdivided lots, to the extent practicable, in meeting the requirements of this stormwater management plan as well as other provisions of this ordinance;

11. Information pertaining to the estimated seasonal high groundwater elevation in areas used to be used for stormwater detention or infiltration;

12. Calculations of Groundwater Recharge Volumes used to comply with the requirements of Subsection H of this Article;

13. Description of the Stormwater BMP sizing and design specifications based on the design guidance and sizing methodology contained in the NHDES Stormwater Manual and rationale for selection;

14. Description of the long-term stormwater maintenance program in accordance with the requirements described in Section N of this Article;

15. An Erosion and Sediment Control section that describes the construction sequencing, timing, measures that will be used to minimize disturbances, temporary and permanent erosion control measures, inspection schedules and frequency, contingency measures to respond to extreme weather conditions and contact information for responsible parties.(in accordance with Sec. 9.8.4.2.B in Site Plan Regs)

400.007.008 Minimum Performance Standards

Any development activity, subject to the provisions of this Ordinance, must comply with the following Performance Standards to minimize the potential adverse impacts and properly manage stormwater from newly disturbed areas and impervious cover:

A. **Maximum Connected Impervious Cover:** No more than 10 % of a residentially-zoned lot and 30 % of a commercially-zoned lot shall consist of "connected" impervious cover. Any impervious cover that qualifies as disconnected impervious cover shall not be included in the maximum connected impervious cover threshold. Disconnected impervious cover directs stormwater runoff to an on-site LID "disconnection" practice (i.e. green roof, rain barrel or cistern) or LID "Treatment Practice (i.e., rain gardens, naturally vegetated areas and other pervious areas to allow infiltration) so as to result in a no net increase in the estimated peak runoff rate and volumes that would be otherwise be produced by undisturbed cover of equal area. See Impervious Disconnection Criteria as described in Section 6.2 of the NHDES Stormwater Management Manual, Volume 1 (Dec. 2008 or as amended).

B. **Innovative BMP Techniques and Low Impact Development (LID) Practices:** LID site planning and design practices shall be used to the maximum extent practicable to meet the conditions below for control of peak flow, total volume of runoff, water quality protection and maintenance of on-site groundwater recharge (See Section 4.0 of the NHDES Stormwater Management Manual, Volume 2). **(Dec. 2008 or as amended).**

1. Stormwater management practices shall be selected to accommodate the unique hydrologic and geologic conditions of the site.

2. The use of nontraditional and/or nonstructural stormwater management measures, including better site design approaches to reduce runoff rates, volumes, and pollutant loads, are preferred and shall be implemented to the maximum extent practical. Such techniques include, but are not limited to, minimization and/or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and use of practices that intercept, treat, and infiltrate runoff from developed areas distributed throughout the site (e.g. bioretention, infiltration dividers or islands, or planters and rain gardens). Applicants shall demonstrate why the use of nontraditional and/or nonstructural approaches are not possible before proposing to use traditional, structural stormwater management measures (e.g., detention ponds, vegetated swales).

3. The applicant shall demonstrate how the proposed control(s) will comply with the requirements of this ordinance, including the control of peak flow and total volume of runoff, protection of water quality, and recharge of stormwater to groundwater. The applicant must provide design calculations and other back-up materials necessary.

C. **Protection of Natural Hydrologic Features and Functions.**

1. Site disturbance shall be minimized to maintain and protect as much of the existing mature and native vegetation as possible. The existing vegetation and

proposed project disturbance area shall be depicted on site plans submitted as part of the site plan and subdivision review process. The project disturbance area shall include only the area necessary to reasonably accommodate construction activities. The applicant may be required to install construction fencing around the perimeter of the proposed project disturbance area prior to commencing land disturbance activities.

2. Soil compaction on site shall be minimized by using the smallest (lightest) equipment possible and minimizing travel over areas that will be revegetated (e.g., lawn areas) or used to infiltrate stormwater (e.g., bioretention areas). In no case shall excavation equipment be placed in the base of an infiltration area during construction.

3. Development shall follow the natural contours of the landscape to the maximum extent possible. A grading plan shall be submitted as part of the site plan review process showing both existing and finished grade for the proposed development.

4. Cut and fill shall be minimized. The maximum height of any fill or depth of any cut area, as measured from the natural grade, shall not be greater than 10 feet.

5. No ground disturbed as a result of site construction and development shall be left as exposed bare soil at project completion. All areas exposed by construction, with the exception of finished building, structure, and pavement footprints, shall be de-compacted (aerated) and covered with **a <u>minimum thickness of six inches</u>** of non-compacted topsoil, and shall be subsequently planted with a combination of living vegetation such as grass, groundcovers, trees, and shrubs, and other landscaping materials (mulch, loose rock, gravel, stone).

6. Priority shall be given to maintaining existing surface waters and systems, including, but not limited to, perennial and intermittent streams, wetlands, vernal pools, and natural swales.

    a. Existing site hydrology shall not be modified so as to disrupt on-site and adjacent surface water drainage patterns. The applicant must provide evidence that this standard can be achieved and maintained over time.
    b. Existing surface waters, including lakes, ponds, rivers, perennial and intermittent streams, wetlands, vernal pools, and natural swales, shall be protected by a 50 foot no disturbance, vegetated buffer.
    c. Where roadway or driveway crossings of surface waters cannot be eliminated, disturbance to the surface water shall be minimized, hydrologic flows shall be maintained, there shall be no direct discharge of runoff from the roadway to the surface water, and the area shall be re-vegetated post-construction.
    d. Stream and wetland crossings shall be avoided whenever possible. When necessary, stream and wetland crossings shall comply with state recommended design standards to minimize impacts to flow and animal passage. For guidance on stream crossing design standards refer to the New Hampshire Stream Crossing Guidelines. May 2009, as amended, (http:www.unh.edu/erg/stream_restoration).

D. Natural Stream Channel Protection

In order to protect natural downstream channels from increased bank scour and under-cutting due increased peak flow rates during the more frequent storm events, the applicant shall meet one of the following criteria;

1. If the 2 year, 24-hour post-development runoff volume is not expected to increase over the pre-development runoff volume (either because there is no increase in impervious area or the post-development volume will be reduced via groundwater recharge measures), then the post-development peak flow rate should be no greater than the pre-development peak flow rate for the 2 year, 24 hour storm event.

2. If the 2-year, 24-hour post-development runoff volume is expected to increase over the pre-development runoff volume, then the 2-year, 24-hour post development peak flow rate must be controlled to be no greater than 50 percent of the 2-year, 24-hour pre-development peak flow rate or no greater than the estimated 1-year, 24-hour pre-development peak flow rate.

E. Peak Flow Control for Downstream Flood Protection.

1. The applicant shall provide estimates of pre- and post-development peak flow rates. Any site that was wooded in the last five years must be considered undisturbed woods for the purposes of calculating pre-development peak flow rates.

2. The 10-year, 24-hour post-development peak flow rate shall not exceed the 10-year, 24-hour pre-development peak flow rate for all flows off-site.

3. The 50-year, 24-hour post-development peak flow rate shall not exceed the 50-year, 24-hour pre-development peak flow rate for all flows off-site.

4. Measurement of peak discharge rates shall be calculated using point of discharge on the down-gradient property boundary. The topography of the site may require evaluation at more than one location if flow leaves the property in more than one direction. Calculations shall include runoff from adjacent up-gradient properties.

5. An applicant may demonstrate that a feature beyond the property boundary is more appropriate as a design point.

6. The applicant shall provide pre- and post-development total runoff volumes. Any site that was wooded in the last five years shall be considered undisturbed woods for the purposes of calculating pre-development total runoff volumes.

7. The post-development total runoff volume shall be equal to 90 to 110 percent of the pre-development total runoff volume (based on a two-year, 10-year, 25-year, and 50-year, 24-hour storms). Calculations shall include runoff from adjacent up-gradient properties.

8. At the discretion of the planning board, stormwater management systems shall incorporate designs that allow for shutdown and containment of flow in the drainage system in the event of an emergency spill or other unexpected contamination event.

9. BMPs shall be designed to safely pass a minimum design storm event, as described in the table below, without overtopping or causing damage to the stormwater management facility.

Treatment Practice	Design Storm Event
Stormwater Pond*	100-year, 24-hour storm*
Stormwater Wetland	50-year, 24-hour storm
Infiltration Practices	10-year, 24-hour storm
Filtering Practices	10-year, 24-hour storm
Flow through Treatment Swales	10-year, 24-hour storm

NOTE: * Brentwood's current site plan and subdivision regs require that all ponds be designed to safely pass the 100-year storm.

F. Buffer Setbacks for Structural BMPs Used for Stormwater Detention and Water Quality Treatment

1. Stormwater detention basins and other structural treatment measures shall not be located within the buffer setback requirements established in Sec 700.002.006.001, 700.002.006.002 or 700.004.003.003-005 of the Brentwood Wetland and Shoreline Protection Zoning Ordinances unless such activity is specifically exempted by such ordinances or is approved under the Special Use Permit provisions included in this Article.

2. Stormwater management systems shall not discharge within the setback area for a water supply well as specified in the following table:

Well Type	Well Production Volume (gallons per day)	Setback from Well (feet)
Private Water Supply Well	Any Volume	75
Non-Community Public Water Supply Well	0 to 750	75
	751 to 1,440	100
	1,441 to 4,320	125
	4,321 to 14,400	150
Community Public Water Supply Well	0 to 14,400	150
Non-Community and Community Public Water Supply Well	14,401 to 28,800	175
	28,801 to 57,600	200
	57,601 to 86,400	250
	86,401 to 115,200	300
	115,201 to 144,000	350
	Greater than 144,000	400

G. Water Quality Treatment

1. All stormwater runoff that will be discharged offsite (excluding runoff from disconnected impervious areas) will need to meet the following treatment standards utilizing one or more of the stormwater treatment devices as presented in NHDES Stormwater Management Manual; Volume 2:

   a. Remove 80 percent of the average annual load of total suspended solids (TSS), floatables, greases, and oils after the site is developed.
   b. Remove 40 percent of phosphorus and total nitrogen.

2. Compliance with the recharge requirements under Section H, complete with the pre-treatment and design requirements of Sections H.2 and H.3, shall be considered adequate to meet the water quality treatment standards specified in G.1 above.

3. Applicants not able to employ recharge measures must provide suitable documentation, including a pollutant loading analysis from an approved model, that the treatment standards specified in G.1 will be met.

H. Recharge to Groundwater

Except where prohibited (See item 4 below), stormwater management designs shall demonstrate that the annual average pre-development groundwater recharge volume (GRV) for the major hydrologic soil groups found on-site are maintained.

1. For all areas covered by impervious cover, the total volume of recharge that must be maintained shall be calculated as follows:

   a. REQUIRED GRV = (Total Impervious Cover) x (Groundwater Recharge Depth)
   Where:

   Total Impervious Cover is the area of proposed impervious cover that will exist on the site after development, and the required Groundwater Recharge Depth is expressed as follows:

SDA/NRCS Hydrologic Soil Group (HSG)	Groundwater Recharge Depth (inches)
A	0.40
B	0.25
C	0.10
D	not required

Example: Applicant proposes 30,000 square foot parking lot over C soils.
REQUIRED GRV = 30,000 x 0.10-inch x (1-foot/12-inch) = 250 ft3

   b. Where more than one hydrologic soil group is present, a weighted soil recharge factor shall be computed.

2. Pre-Treatment Requirements

a. All runoff must be pretreated prior to its entrance into the groundwater recharge device to remove materials that would clog the soils receiving the recharge water, unless the BMP will receive only roof runoff.
b. Pretreatment devices shall be provided for each recharge BMP receiving runoff from areas other building roofs and shall be designed to accommodate a minimum of one-year's worth of sediment, shall be designed to capture anticipated pollutants, and be designed and located to be easily accessible to facilitate inspection and maintenance.

3. Additional Stormwater BMP Sizing and Design Standards for Recharge Basins

a. All units shall be designed to drain within 72 hours from the end of the storm.
b. The floor of the recharge device shall be at least three feet above the seasonal high water table and bedrock.
c. Soils under BMPs shall be scarified or tilled to improve infiltration.
d. Infiltration BMPs shall not be located in areas with materials or soils containing regulated or hazardous substances or in areas known to DES to have contaminants in groundwater above ambient groundwater quality standards or in soil above site-specific soil standards.

4. Infiltration may be prohibited or subject to additional pre-treatment requirements under the following circumstances:

a. The facility is located in a well-head protection area or water supply intake protection area; or
b. The facility is located in an area where groundwater has been reclassified to GAA, GA1 or GA2 pursuant to RSA 485-C and Env-Dw 901; or
c. Stormwater is generated from a "high-load area," as described under Section I.

I. Land Uses with Higher Potential Pollutant Loads

1. The following uses or activities are considered "high-load areas," with the potential to contribute higher pollutant loads to stormwater, and must comply with the requirements set forth in subsections below:

a. Areas where regulated substances are exposed to rainfall or runoff; or
b. Areas that typically generate higher concentrations of hydrocarbons, metals, or suspended solids than are found in typical stormwater runoff, including but not limited to the following:

1. Industrial facilities subject to the NPDES Multi-Sector General Permit (MSGP); not including areas where industrial activities do not occur, such as at office buildings and their associated parking facilities or in drainage areas at the facility where a certification of no exposure will always be possible [see 40 CFR 122.26(g)].

2. Petroleum storage facilities.
3. Petroleum dispensing facilities.
4. Vehicle fueling facilities.
5. Vehicle service, maintenance and equipment cleaning facilities.
6. Fleet storage areas.
7. Public works storage areas.
8. Road salt storage and loading facilities.
9. Commercial nurseries.
10. Non-residential facilities having uncoated metal roofs with a slope flatter than 20 percent.
11. Facilities with outdoor storage, loading, or unloading of hazardous substances, regardless of the primary use of the facility.
12. Facilities subject to chemical inventory under Section 312 of the Superfund Amendments and Reauthorization Act of 1986 (SARA).
13. Commercial parking areas with over 1,000 trips per day.

c. If a high-load area demonstrates, through its source control plan, the use of best management practices that result in no exposure of regulated substances to precipitation or runoff or release of regulated substances, it shall no longer be considered a high-load area.

2. Infiltration of stormwater from high-load areas, except commercial parking areas, is prohibited. Infiltration, with appropriate pre-treatment (e.g., oil/water separation) and subject to the conditions of the EPA Industrial MSGP SWPPP, is allowed in commercial parking areas and others areas of a site that do not involve potential “high-load” uses or activities (e.g., where a certification of “no exposure” under the MSGP will always be possible).

3. For high-load areas, except commercial parking areas, filtering and infiltration practices, including but not limited to, sand filters, detention basins, wet ponds, gravel wetlands, constructed wetlands, swales or ditches, may be used only if sealed or lined.

J. Snow Storage

1. Snow storage space shall be provided for commercial facilities consistent with the Town’s Site Plan Regulations and shall be located such that plowed snow will not be dumped or otherwise stored within 15 feet of a wetland or waterbody, except for snow that naturally falls into this area. Snow storage areas shall be shown on the site plan to comply with these requirements.

2. At the discretion of the planning board, pervious surfaces (i.e. grass, pervious asphalt, pervious pavers) may be encouraged, suggested or required for portions of proposed parking areas especially overflow or secondary parking areas to limit the deicer application needs.

3. Infrequently used emergency access points or routes shall be constructed with pervious surfaces (i.e. grass, pervious asphalt, pervious pavers).

K. Redevelopment or Reuse

1. Redevelopment or reuse of previously developed sites must meet the stormwater management standards set forth herein to the maximum extent possible as determined by the planning board. To make this determination the planning board shall consider the benefits of redevelopment as compared to development of raw land with respect to stormwater.

2. Redevelopment or reuse activities shall not infiltrate stormwater through materials or soils containing regulated or hazardous substances.

3. Redevelopment or reuse of a site shall not involve uses or activities considered "high-load areas" unless the requirements under **Section I** are met.

L. Easements

1. Where a site is traversed by or requires construction of a watercourse or drainage way, an easement of adequate width may be required for such purpose.

2. There shall be at least a ten foot wide maintenance easement path on each side of any stormwater management system element. For systems using underground pipes, the maintenance easement may need to be wider, depending on the depth of the pipe.

M. Performance Bond

1. To ensure that proposed stormwater management controls are installed as approved, a performance bond shall be provided as a condition of approval in an amount determined by the planning board.

2. To ensure that stormwater management controls function properly, a performance bond shall be required, as a condition of approval, which may be held after final certificate of occupancy is issued.

N. Operation and Maintenance Plan

1. All stormwater management systems shall have an operations and maintenance (O&M) plan to ensure that systems function as designed. This plan shall be reviewed and approved as part of the Planning Board review of the proposed permanent (post-construction) stormwater management system and incorporated in the Permanent Stormwater Management Plan, if applicable. Execution of the O&M plan shall be considered a condition of approval of a subdivision or site plan. If the stormwater management system is not dedicated to the city/town pursuant to a perpetual offer of dedication, the planning board may require an applicant to establish a homeowners association or similar entity to maintain the stormwater management system. For uses and activities under Section I, the O&M plan shall include implementation of the Stormwater Pollution Prevention Plan (SWPPP).

2. The stormwater management system owner is generally considered to be the landowner of the property, unless other legally binding agreements are established.

3. The O&M plan shall, at a minimum, identify the following:

   a. Stormwater management system owner(s), (For subdivisions, the owner listed on the O&M plan shall be the owner of record, and responsibilities of the O&M plan shall be conveyed to the party ultimately responsible for the road maintenance, i.e. the Town should the road be accepted by the Town, or a homeowners association or other entity as determined/required under Section N.1 above.)
   b. The party or parties responsible for operation and maintenance and, if applicable, implementation of the Stormwater Pollution Prevention Plan (SWPPP).
   c. A schedule for inspection and maintenance.
   d. A checklist to be used during each inspection.
   e. The description of routine and non-routine maintenance tasks to be undertaken.
   f. A plan showing the location of all stormwater management facilities covered by the O&M plan.
   g. A certification signed by the owner(s) attesting to their commitment to comply with the O&M plan.

4. Recording:

   a. The owner shall provide covenants for filing with the registry of deeds in a form satisfactory to the planning board, which provide that the obligations of the maintenance plan run with the land.
   b. The owner shall file with the registry of deeds such legal instruments as are necessary to allow the city/town or its designee to inspect or maintain the stormwater management systems for compliance with the O&M plan.

5. Modifications:

   a. The owner shall keep the O&M plan current, including making modifications to the O&M plan as necessary to ensure that BMPs continue to operate as designed and approved.
   b. Proposed modifications of O&M plans including, but not limited to, changes in inspection frequency, maintenance schedule, or maintenance activity along with appropriate documentation, shall be submitted to the planning board for review and approval within thirty days of change.
   c. The owner must notify the planning board within 30 days of a change in owner or party responsible for implementing the plan.
   d. The planning board may, in its discretion, require increased or approve decreased frequency of inspection or maintenance or a change in maintenance activity. For a reduced frequency of inspection or maintenance, the owner shall demonstrate that such changes will not compromise the long-term function of the stormwater management system.

e. The planning board shall notify the owner of acceptance of the modified plan or request additional information within 60 days of receipt of proposed modifications. No notification from the planning board at the end of 60 days shall constitute acceptance of the plan modification. The currently approved plan shall remain in effect until notification of approval has been issued, or the 60 day period has lapsed.

P. Record Keeping

1. Parties responsible for the operation and maintenance of a stormwater management system shall keep records of the installation, maintenance and repairs to the system, and shall retain records for at least five years.

2. Parties responsible for the operation and maintenance of a stormwater management system shall provide records of all maintenance and repairs to the Town's Designated Agent during inspections and/or upon request.

Q. Enforcement

When the responsible party fails to implement the O&M plan, included, where applicable, in the Stormwater Management Plan, as determined by the Board of Selectmen, the municipality is authorized to assume responsibility for their implementation and to secure reimbursement for associated expenses from the responsible party, including, if necessary, placing a lien on the subject property.

400.007.009 Engineering Review

A. The applicant shall submit a fee, as determined by the planning board, with their application for subdivision or site plan review to cover the cost of engineering review of their proposed permanent post-construction stormwater management system(s), and the separate Permanent Post-Construction Stormwater Management Plan (SMP) and Erosion and Sediment Control Plan, if applicable.

B. Additional copies of all plans, engineering studies, and additional information as requested by the planning board describing the proposed permanent post-construction stormwater management system shall be provided as necessary to allow for a thorough outside engineering review.

ARTICLE V: SPECIAL USE REGULATIONS

500.001 Home Occupations

500.001.001 Purpose

The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:

500.001.001.001 ensure the compatibility of home occupations with the uses permitted in the Residential-Agricultural district;

500.001.001.002 maintain and preserve the character of residential neighborhoods;

500.001.001.003 promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial use.

500.001.002 Where Permitted

Home occupations are allowed in any dwelling unit provided the provisions of this section are met.

500.001.002.001 Home occupation must be located within a dwelling unit.

500.001.002.002 Exterior of the building must not create or display any evidence of the home occupation, except a permitted sign. Variation from the residential character and appearance is prohibited.

500.001.002.003 Home occupation use of the dwelling must not utilize more than 25% of the gross floor area (including basement and accessory structures) of the dwelling.

500.001.002.004 No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials that are improperly used or stored onsite.

500.001.002.005 Not more than one commercial vehicle may be kept overnight at the premises.

500.001.002.006 Adequate off-street parking must be provided and used.

500.001.002.007 Home occupation must be conducted by the resident of the premises.

500.001.002.008 There shall be no outside operations, storage, or display of materials or goods.

500.001.002.009 No process shall be utilized which is hazardous to public health, welfare, or safety.

500.001.002.010 This home occupation must not offend by emitting smoke, dust, odor, noise, gas, fumes, lights, or refuse matter.

500.001.003 Permitted Uses

No more than one home occupation (per property) is permitted. Such use shall be clearly incidental and secondary to the residential use of the dwelling unit.

500.001.004 Enforcement

This section shall be administered and enforced by the Board of Selectmen. Any person who violates the provisions of this section may be fined one hundred dollars ($100) for each offense. Each day that a violation is continued may constitute a separate offense. No action may be brought about under this provision unless the alleged offender has been given at least 10 (10) days notice from the Selectmen by certified mail, return receipt requested, that a violation exists.

500.002 Condominium Conversion

500.002.001 Purpose

The purpose of this article is to provide regulations for the conversion of any existing structure to condominium ownership in any zoning district in the Town of Brentwood. Such conversion shall require Planning Board approval of a special use permit in accordance with RSA 356B:5 following a public hearing noticed per RSA 675:5. Approval shall be granted only if all the following conditions are met:

500.002.001.001 A complete set of site plans and floor plans, as well as a complete set of all condominium documents must be filed with the Planning Board. The plan shall show the location of all utilities on the site, and shall indicate the location of all water connections and the shutoff valve for each unit. The Planning Board shall establish a schedule of fees for its review and may promulgate regulations related to carrying out its authority under this ordinance.

500.002.001.002 The septic system standards of the NH Water Supply and Pollution Control Division existing as of the date of the request for condominium conversion must be met or exceeded by all systems used by the units associated with the condominium conversion, and a certificate to that effect must be filed with the Planning Board based on review of Town records by the Building Inspector and onsite inspection of systems by a professional engineer, and, a soil scientist if the existing system is undersized under current WSPCD standards.

500.002.001.003 Drinking water supplies from groundwater shall be protected by restricting land use and prohibiting all activity, including but not limited to the maintenance of any sewer, sewage or waste disposal system, detrimental to water quality and quantity, within the protective radii based upon the average daily demand on the system as follows:

System Demand (gallons per day)	Protective Radius (in feet from source of supply)
400	85
800	125
1200	150
1600	175
2000	200

500.002.001.004 The responsibility for maintenance, operation, replacement and protection of the water supply and sewage disposal systems shall be clearly established as that of the Declarant or Association of unit owners or, in default of such obligation by the Declarant or Association, then by the individual owners subject to reimbursement from the Association or the Declarant as the case may be, and a statement to this effect shall appear in

the condominium Declaration. The deed to each condominium unit shall be subject to the declaration containing these restrictions. In the case of an Association of land owners, a copy of the Articles of Association shall be submitted to the Board. The Declaration and the Articles of Association shall specify that in no event shall the Town have any obligation for maintenance, operation, replacement or protection of the water supply and sewage disposal systems. If for any reason the Town is required to undertake any such obligation, it shall be held harmless and fully and completely indemnified for all cost and expense, including reasonable attorney's fees incurred. The obligations to hold harmless and indemnify shall be joint and several on the part of each unit owner not the Association. The Town shall be entitled to a lien for its protection which shall attach and may be enforced in the manner of the lien for condominium assessments described in RSA 356-B or its successors.

500.002.001.005 The off-street parking requirements of the Town of Brentwood existing as of the date of the request for condominium conversion must be met.

500.002.001.006 The proposed conversion to condominium ownership shall not adversely affect surrounding properties.

500.002.001.007 The proposed conversion to condominium ownership must be found to be in the public interest.

500.002.001.008 The individual commercial or residential units which are the subject of an application for a special permit for condominium must, at the time of the application for condominium conversion, exist as legal units pursuant to the land use and building ordinances of the Town of Brentwood. The burden shall be on the petitioner to demonstrate that the units sough to be converted conformed to said ordinance now or in the case of a valid nonconforming use at the time of their construction.

500.003 Child Day Care Facilities

500.003.001 Purpose

In order to provide affordable, good quality and licensed child day care within the Town of Brentwood the following standards in accordance with NH RSA 107-E: 1-22 are hereby incorporated into the Town zoning ordinance to insure the health, safety, and welfare of its residents.

500.003.002 Definitions

Child day care for this ordinance means the provision of supplemental parental care and supervision:

500.003.002.001 for a non-related child or children;

500.003.002.002 on a regular basis;

500.003.002.003 under license by the New Hampshire Division of Public Health Services, Bureau of Child Care Standards and Licensing.

As used in this ordinance, the term is not intended to include babysitting services of a casual non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocative child care by a group of parents in their respective domiciles.

Child day care facility means a building or structure wherein an agency, person, or persons regularly provides care for a group of children.

500.003.002.004 Family Day Care Home as defined in RSA 170-E, X(a). Family Day Care Homes shall be permitted in all zoning districts in Town. A Family Day Care facility shall be reviewed by the Planning Board at a duly noticed public meeting. **(3/11/2003)**

500.003.002.005 Family Group Day Care Home as defined by RSA 170-E, X(b). Family Group Day Care Homes shall be allowed in all zoning districts in Town and shall require a site plan review.

500.003.002.006 Group Pre-School Center as defined in RSA 170-E, X(d). Group Pre-School Centers shall be allowed in the commercial-industrial zone and professional-office zoning districts only and shall require a site plan review.

500.003.002.007 Day Care Nursery as defined in RSA 170-E, X(d). Day care Nurseries shall be allowed in the commercial-industrial zone and the professional-office zoning districts only and shall require a site plan review.

500.003.002.008 Pre-School Program as defined in RSA 170-E, X(i). Pre-School Programs shall be allowed in the commercial-industrial zone and the professional-office zoning districts only and require site plan review.

500.003.003 Permits

All state permits and licenses must be in-hand before applying to the Planning Board for review of the child care proposal. Permits for the operation of Family Day Care Home, Family Group Day Care Home, Group Pre-School Center, Day Care Nursery, or Pre-School Program are under the purview of the Planning Board. For all categories of child care facilities that require a site plan review (500.003.002.005-500.003.002.008 above), the following, in addition to existing site plan review standards must be met:

500.003.003.001 One (1) parking space must be provided for each staff person and one space must be provided for each five (5) licensed capacity slots.

500.003.003.002 Loading and unloading of children from vehicles shall be permitted only on facility property in approved parking areas. No vehicles shall be allowed to back-up on to the travel lane or shoulder of a public right of way.

500.003.003.003 The exterior play area (fifty square feet per child as per State of NH requirements) shall be fenced.

500.003.003.004 All signage shall conform to the Town regulations for the underlying zone.

500.003.003.005 No portion of a day care facility may be located within three hundred (300) feet of commercial gasoline pumps, commercial underground gasoline storage tanks or any other commercial storage of explosive materials.

500.004 Motor Vehicle and Machinery Junk Yards

500.004.001 No motor vehicle and/or machinery junk yard may continue in use for more than one year after the effective date of this Ordinance, except that a motor vehicle and/or machinery junk yard may continue in use if within that period it is maintained in accordance with NH RSA 236:111 et. seq. and any subsequent amendments thereto, along with any regulations contained in any Ordinances adopted by the Town as provided by RSA 236:124.

500.004.002 Permits for motor vehicle and/or machinery junk yards shall be issued by the Board of Selectmen. No permit shall be granted until the applicant has obtained a Special Exception from the Board of Adjustment and unless said site is more than 250 feet from any residential or business building. Prior to issuing said permit, the Board of Selectmen shall be satisfied that all state statutes and local standards will be observed. No accumulation of motor vehicles or any other junk will be allowed within sight of any road whereby the value of any other property is lowered. The Selectmen upon receipt of a written complaint shall investigate, and if the complaint is found valid, will notify the offender in writing to clean up within three weeks. If not complied with, the Selectmen shall take action in accordance with Article VII of this Ordinance.

500.004.003 No junk yard or place of storage of discarded machinery, vehicles, or other scrap material shall be maintained in any district except the Commercial/Industrial District upon Special Exception granted by the Board of Adjustment and in accordance with the provisions of Article VI hereof.

500.005 Campground Regulations

In order to safeguard the public health, safety, and welfare, to avoid undue concentration of population and in accordance with the other purposes stated in RSA 31:62 (now RSA 674:17), all campgrounds shall be subject to the following regulations and standards:

500.005.001 They shall not be occupied or used for residential or domicile purposes. Registration to vote, registration of children in the Town's school system, stating residence in a campground, or other indicia of an intent to claim Brentwood as a residence or domicile by any person occupying a campground shall be PRIMA FACIE evidence of use of a campground for residential or domicile purposes.

500.005.002 During the camping off-season from October 15 to May 1 each year, the stay of any camper (that is a person using a tent and/or recreational vehicle as hereinafter described) shall not exceed one month duration.

500.005.003 Camping shall be restricted to tents and recreational vehicles consisting of pick-up truck campers, travel trailers (designed for recreational use, but not including mobile homes) and self-propelled motor homes. A "mobile home" is a trailer exceeding 40 feet in length.

500.005.004 Campgrounds shall meet all State and Town standards and requirements for sewage disposal, water and utility systems.

500.005.005 These rules will apply to new campgrounds or expansion of use or area of any campground which may exist as a valid pre-existing use.

500.006 Adult Entertainment / Business **(3/19/95)**

500.006.001 Purpose and Intent

It is the purpose of this article to establish reasonable and uniform regulations to prevent the secondary effects and the concentration of sexually oriented businesses within the Town of Brentwood; to promote the health, safety and general welfare of the citizens of the Town of Brentwood; and, to prevent problems of blight and deterioration which statistics and studies have shown accompany and are brought about by the concentration of sexually oriented businesses. The provisions of this amendment have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials; and, it is

not the intent nor effect of this article to restrict or deny access by adults to sexually oriented material protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

500.006.002 Definitions

Definitions for this section are found in Article II of the Brentwood Zoning Ordinance.

500.006.003 Procedure

Prior to application to the Planning Board for site review, the applicant shall acquire any and all necessary licenses and permits as may be required by the Town of Brentwood, State of New Hampshire or United States Government. In the event such licenses or permits are not available until after Planning Board approval is obtained, such approval shall be conditional upon the final acquisition of the permits and or licenses required.

500.006.004 Site Requirements

A. No sexually oriented businesses use shall be located within 750 feet from any property line of the following uses:

1) A public or private school.

2) A day care facility.

3) A public park, public recreational field or similar publicly owned facility.

4) A religious institution or place of worship.

5) Any residential district or use.

6) A Mixed Residential Office District.

7) A Mixed Residential Business District.

B. There shall be a minimum of 1,000 feet between each sexually oriented business.

1) The hours or operation shall only be between 10 am and 1 am Monday through Saturday and 12 noon to 10 pm on Sundays.

2) Parking shall be one space per patron based on the occupancy load as established by local and state fire, building, or health codes, whichever is greater, plus on space per employee on the largest shift.

3) The site shall be regularly maintained in a condition that is free and clear of any sexual paraphernalia or packaging.

4) Signs shall not visually depict any person in a “State of Nudity”, “Semi-Nudity” or reference any other “Sexually Oriented Business” use.

500.006.005 Additional Provisions

The Planning Board is empowered hereunder to review and approve permit applications for sexually oriented businesses and in addition to the site requirements of Site Plan Regulations, to impose reasonable restrictions for buffering, outdoor lighting, parking, adequate ingress and egress from the site off of and on to public roads, pedestrian movement, and to provide for appropriate landscaping and building aesthetics in the "Site Plan Review Regulations of the Town of Brentwood, New Hampshire," and to avoid site development layout which may result in negative environmental impacts.

500.006.006 Enforcement

See Article X Section 1000.003. Administration, 1000.003.002 Enforcement.

500.006.007 Severability

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

ARTICLE VI: NON-CONFORMING LOTS AND USES

600.001 Reconstruction of:

In the event of the damage, destruction or demolition of any building not conforming to the regulations of this ordinance, said building may be rebuilt or refurbished for its former non-conforming use in the same manner and extent, provided such construction is started within one year of its damage or destruction and is completed within two years. The provisions of the Town of Brentwood Building Code, as amended, shall apply to any reconstruction.

600.002 Expansion of:

Expansion of non-conforming uses or structures is prohibited except by Special Exception granted by the Board of Adjustment.

600.003 Discontinuance of:

In the event a non-conforming use or structure is discontinued for a period of more than two years, it shall not be permitted to recommence: thereafter, the property shall only be used in conformity with this ordinance. The marketing of a building or premises for the continuation of an existing non-conforming use shall be deemed as evidence of intent to continue the use.

600.004 Continuance of:

A non-conforming use shall be allowed to continue as long as its purpose, manner, or extent does not substantially change. If a change in a non-conforming use is proposed, it shall be within the discretion of the Brentwood Planning Board, upon written application, to determine whether the proposed change involves a substantially different purpose, manner, or extent of use. In exercising their discretion, the Planning Board shall consider:

600.004.001 The nature of the prior non-conforming use.

600.004.002 The nature of the proposed non-conforming use.

600.004.003 Impact on traffic, parking and the site.

600.004.004 Impact on abutting properties.

600.004.005 Other criteria applicable to the particular uses involved.

A substantial change in the purpose, manner, or extent of a non-conforming use is permitted only by special Exception.

Any action taken by the Planning Board under this provision shall be in writing and shall include detailed findings as to the above factors.

600.005 Existing Lots of Record:

Any building lot of record existing at the time of passage of this ordinance shall be grandfathered.

ARTICLE VII: NATURAL RESOURCE PROTECTION DISTRICTS

700.001 Flood Plain District Regulations

700.001.001 Flood Plain District: The Flood Plain District is herein established as an overlay district. The underlying permitted uses are allowed provided they meet the following additional requirements. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Brentwood Flood Insurance Rate Maps (FIRM), and the Flood Boundary and Floodway Maps, adopted May 17, 2005, on file with the Town Clerk, Planning Board, and Building Inspector. These maps as well as the accompanying Brentwood Flood Insurance Study are incorporated herein by reference.

700.001.002 Development Regulations: In the floodway, designated on the Flood Boundary and Floodway Map, the Following provisions shall apply:

700.001.002.001 Encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood.

700.001.002.002 Construction within the flood hazard District is regulated according to Article IX, 900.003, of the Brentwood Building Ordinance.

700.001.002.003 A variance from the requirements of the Flood Plain District regulations may be granted by the Zoning Board of Adjustment in accordance with Article VIII, Section 800.013.003.

700.002 Wetlands Protection

700.002.001 Purpose and Intent

The purpose of this Article is to protect the public health, safety and general welfare by controlling and guiding the use of land areas which have been found to contain naturally occurring wetland areas.

It is intended that this Article shall:

700.002.001.001 Prevent the development of structures and land uses on naturally occurring wetlands and/or their designated buffers which will contribute to pollution of surface and groundwater by contaminants or sedimentation;

700.002.001.002 Encourage those low intensity uses that can be harmoniously, appropriately and safely located in wetlands;

700.002.001.003 Prevent the destruction of, or significant changes to, natural wetlands which provide flood protection; provide filtration of water flowing into ponds and streams, augment stream flow during dry periods and are connected to groundwater or surface water resources;

700.002.001.004 Protect unique and unusual natural areas;

700.002.001.005 Protect wildlife habitats, maintain ecological balance and enhance ecological values such as those cited in RSA482-A:1;

700.002.001.006 Preserve and enhance the aesthetic values associated with wetlands in the town of Brentwood;

700.002.001.007 Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;

700.002.001.008 Prevent unnecessary or excessive expense to the Town for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands;

700.002.001.009 Prevent damage to structures and properties caused by inappropriate development in wetlands.

700.002.001.010 Incorporate standards to preserve the viability of the protective wetlands buffer

areas. (3/13/2001)

700.002.002 Definitions **(3/2016)**

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

Aquifer recharge area: The area in which water is absorbed that eventually reaches the zone of saturation in one or more aquifers.

Buffer: the protected upland areas adjacent to all systems within the Wetlands Conservation District. This area acts as essential maintenance and protection of wetland value and function

Disturbance: activities which involve the cutting or clearing of native vegetation, compaction, recontouring or grading the natural surface of the land or alteration of water flow

Hydric Soils: soils which are permanently or seasonally saturated by water, resulting in anaerobic conditions, as found in wetlands

Hydrophytic vegetation: plants that are adapted to life in water or waterlogged soils

Poorly drained soil: any soil type having a soil drainage classification of poorly drained when classified in accordance with most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

Sedimentation: the action or process of depositing sediment

Very poorly drained soil: any soil type having a soil drainage classification of very poorly drained when classified in accordance with most recent definitions, standards, and procedures of the Society of Soil Scientists of Northern New England.

Wetland: areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to promote the development of characteristic wetland soils (also known as hydric soils) and support a prevalence of vegetation typically adapted for life in saturated soil conditions. They include, but are not limited to, swamps, bogs, marshes, vernal pools, ponds and lakes.

Wetland delineation: determining the furthest extent of a wetland based on the presence of hydrophytic vegetation, hydric soils, and wetlands hydrology, in accordance with the techniques outlines in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989)

Prime wetland: a wetland of exceptional quality as designated in accordance with RSA 482-A:15 and the NH Code of Administrative Rules Env-Wt 700.

Regulated Substance: petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40 CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or waste water at department approved facilities.

Vernal pool: A body of water, typically seasonal, that provides essential breeding habitat for certain amphibians and invertebrates, does not support viable fish population, and meets the criteria established by the New Hampshire Fish and Game Department, Nongame and Endangered Wildlife Program, Identification and Documentation of Vernal Pools in New Hampshire, rev 2004. In accordance with the NH Code of Administrative Rules Env Wt-101.99, this does not include areas that contain these characteristics but are the result of on-going anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to: (1) Gravel pit operations in a pit that has been mined at least every other year; and (2) Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules.

700.002.003 District Boundaries

700.002.003.001 Establishment of the District: The limits of the Wetlands Conservation District are hereby determined to be the following **(modified 3/2016)**:

A. All wetlands with very poorly drained soils;
B. Wetlands with poorly drained soils that are 1/4 acre or more in size;
C. Wetlands with poorly drained soils of any size if contiguous to surface waters such as lakes, ponds and streams; and
D. All vernal pools.

700.002.003.002 Location of the District:

The District as herein defined is shown on a map designated as the "Town of Brentwood Wetlands Conservation District Map" and is a part of the zoning map of the Town of Brentwood. This map is considered as a guide only. Any questions as to the precise location of a wetland boundary in any particular case must be determined by on-site inspection of soil types and vegetation. This data will be prepared by a certified

soil or wetland scientist using the standards of high intensity Soils Maps for New Hampshire and the evaluative criteria for wetlands delineation as determined in the publication entitled Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January, 1989. **(modified 3/2016)**

Prime wetlands have been delineated in accordance with RSA 482-A:15 for the town in a study entitled, "Town of Brentwood Prime Wetlands Study and Mapping by West Environmental, Inc and dated December, 2007. (3/08)

700.002.003.003 Boundary Appeals

In the event that the Building Inspector, Planning Board, or Conservation Commission questions the validity of the boundaries of a wetland area on a specific parcel of land, or upon the written petition of the owner or any abutter of the said property to the Planning Board, the Board may call upon the services of a certified soil or wetland scientist to examine said area and report the findings to the Planning Board for their determination of the boundary. **(3/2016)**

Any necessary wetland delineation or soil testing procedures shall be conducted at the expense of the landowner or developer.

700.002.004 Relation to Other Districts

Where the Wetlands Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

700.002.005 Permitted Uses

700.002.005.001 The following uses, to the extent permitted in the underlying zoning district, shall be permitted in the Wetlands Conservation District as specified in 700.002.003.001, provided that the proposed use will not cause a degradation of the wetland. **(modifield 3/2016)**

A. Any use otherwise permitted by the zoning ordinance and state and federal laws that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or by dredging.

B. Agriculture, including grazing, hay production, truck gardening and silage production provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other Regulated Substances and that such use will not cause or contribute to soil erosion. Activities shall be conducted in accordance with Best Management Practices as set forth in "Manual of Best Management Practices for Agriculture" (New Hampshire Department of Agriculture, most recent version) and "Best Management Wetlands Practices for Agriculture" (New Hampshire Department of Agriculture, most recent version).

. C. Forest Management, including tree farming and the construction of temporary access ways for said purpose and all harvests of woody vegetation for conversion of land to non-forest management or agricultural purposes. Any forestry management within 25 feet of the Wetland Conservation District shall be in accordance with the Basal Area Law RSA 227-J:9 and shall use as guidance for best forest management practices the "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire" Department of Resources and Economic Development (DRED) 2004 as amended, Best Management Practices for Forestry: Protecting New Hampshire's Water Quality 2005 as amended, "Good Forestry in the Granite State" (DRED). Salvage necessitated by the acts of God shall exempt property owners from the conditions of this section.

D. Wildlife habitat development and management.

E. Recreational uses consistent with the purpose and intent of this Article.

F. Conservation areas and nature trails.

G. Water impoundment and the installation of wells for water supplies. **(modified 3/2016)**

H. Drainage ways to include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.

I. The construction of fences, footbridges, catwalks and wharves only, provided: (1) said structures are constructed on posts or pilings so as to permit unobstructed flow of water; (2) the natural contour of the wetland is preserved.

700.002.005.002 Lot Size Determination. Areas designated as having poorly drained soils may be used to fulfill the minimum lot size as determined by Table 1A of the Brentwood Lot Size by Soil Type regulation found in the Brentwood subdivision regulations.

No part of areas designated as having very poorly drained soils, or bodies of water, may be used to satisfy minimum lot size. **(modified 3/2016)**

700.002.006 Buffer Provisions

700.002.006.001 The following buffers will apply to 700.002.006.001 A- E except as provided in the Conditional Use section: **(modified 3/2016)**

100 feet from the edge of wetlands mapped with very poorly drained soils or mapped as a Prime Wetland **(3/2016)**

50 feet from the edge of wetlands mapped with poorly drained soil areas defined in the Wetland Conservation District **(3/2016)**

25 feet from the edge of vernal pools in non-commercial zones **(3/2016)**

A. The construction or placement of any structure, addition, improvement or swimming pool is prohibited. (3/13/2001)

B. The storage of any motor vehicle, including but not limited to, autos and trucks, snow mobiles, recreational vehicles, motorcycles or motorized boats is prohibited. (3/13/2001)

C. The dumping or placing of trash, waste, unsightly or offensive material, other than non-commercial composting under control by the homeowner is prohibited. (3/13/2001)

D. Lower impact fertilizers, pesticides and herbicides shall be used in the buffer. For this section lower impact fertilizers means slow release or pesticides and herbicides are those with a short active life. Use of these products should be guided by the most recent recommendations of UNH Cooperative Extension including Landscaping at the Water's Edge. All pesticide applications shall be conducted in strict accordance with the requirements set forth in N.H.RSA 430:28 et seq. **(3/2016)**

E. Landscaping of the buffer shall be limited to native species. (3/13/2001)

700.002.006.002 No subsurface wastewater disposal system, shall be constructed within a 75 feet of the Wetland Conservation District.

700.002.006.003 No sewage sludge or residential septage shall be placed within 150 feet of the Wetland Conservation District. **(3/2016)**

700.002.006.005 No removal of vegetation or disturbance of soil within 50 feet of prime wetlands, or wetlands with very poorly drained soils. No removal of vegetation or disturbance of soil within 25 feet of wetlands with poorly drained soils or vernal pools. The vernal pool restriction shall not apply to land within the commercial zone. **(3/2016)**

700.002.006.006 All construction, forestry and agriculture activities within 100 feet of any wetland, including those within the Wetland Conservation District, shall be undertaken with special care to avoid erosion and siltation into the wetlands. The Planning Board, pursuant to its subdivision and site plan review authority, may require an erosion control plan approved by the Rockingham County Conservation District for any project undertaken upgrade of a wetland. (see Section 700.002.005.001 for further restrictions)

Where required, permits from the New Hampshire Department of Environmental Services, under RSA 485-A:17 and the Wetlands Bureau under RSA 483-A shall be obtained.

700.002.006.007 Where an existing building within the building setback (refer to 700.002.006.001-A) is destroyed or in need of extensive repair, it may be rebuilt provided that such re-building is completed within two years of the event causing destruction, the new or rebuilt structure shall not extend further into the wetland building setback area than the original foundation.

The grading in the building setback incidental to construction activities on the lots to the extent feasible shall be designed to minimize erosion or siltation into the buffer. All stockpiled material adjacent to the buffer shall be contained by appropriate siltation controls. **(modified 3/2016)**

700.002.007 Filled Lands and Pre-existing Uses

700.002.007.001 Lands, which may have been wetlands but were filled under properly issued State and Town permits granted prior to the adoption of this Ordinance shall be judged according to the soils and flora existing at the site at the time application for building permit or subdivision is made.

700.002.007.002 Structures and uses existing at the time of the adoption of this Ordinance may be continued provided that such use shall not be expanded to further encroach upon the wetlands or designated buffer areas.

700.002.008 Exemption for Residential Structures

Notwithstanding other provisions of this Article, the construction of additions and extensions to one and two-family dwellings shall be permitted within the Wetlands Conservation District provided that:(1)the dwelling lawfully existed prior to the effective date of this Article; and (2) that the proposed construction conforms with all other applicable ordinances and regulations of the Town of Brentwood.

700.002.009 Conditional Uses

700.002.009.001 A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction, in areas within the Wetland Conservation District and associated setbacks and buffers, (3/12/2002) of roads and other access ways, and for pipelines, power lines, other transmission lines, and buildings for senior housing, but in no case closer than 25 feet of wetlands with poorly drained soils or vernal pools and 50 feet of wetlands with very poorly drained soils or prime wetlands, provided that all of the following conditions are found to exist: **(3/2016)**

A. The proposed construction is essential to the productive use of land not within the Wetlands Conservation District.

B. Design and construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.

C. No alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible.

D. Stream and wetland crossings shall be avoided whenever possible. When necessary, no wetland crossing shall exceed a length of 250 lineal feet and crossings shall comply with state recommended design standards to minimize impacts to flow and animal passage (UNH Stream Crossing Guidelines; Env-Wt 900). **(3/2016)**

E. Wetland boundary markers of a type approved by the Planning Board will be set in order to visually delineate the furthest extent of the wetland. **(3/2016)**

700.002.009.002 Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to ensure that all construction is carried out in accordance with an approved design. The security shall be submitted in a form and amount, with surety and conditions satisfactory to 1) the Planning Board for site plan and subdivision application and 2) the Board of Selectmen in all other cases. The security shall be submitted and

approved prior to issuance of any permit authorizing construction.

700.002.009.003 The Planning Board, after consultation with the Conservation Commission, may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

700.002.010 Exemption for Residential Structures

Notwithstanding other provisions of this Article, the construction of additions and extensions to one and two-family dwellings shall be permitted within the Wetlands Conservation District provided that:(1)the dwelling lawfully existed prior to the effective date of this Article; and (2) that the proposed construction conforms with all other applicable ordinances and regulations of the Town of Brentwood.

700.002.011 Special Exceptions

700.002.011.001 Water impoundments for the enhancement of a wetland area with a permit from N.H. Resources Board. Where required, permits shall be obtained from the New Hampshire Department of Environmental Services, under RSA 485-A:17, the Wetlands Bureau under RSA 483-A, and the United States Army Corps of Engineers.

700.002.011.002 Special Exceptions for Non-Conforming Lots. Special exceptions to this Ordinance to permit the erection of a structure within the Wetlands Conservation District on vacant lots shall be permitted only upon authorization by the Board of Adjustment. See Article IX, Section 9.13.2 (c), 4.

700.002.011.003 The Board of Adjustment may grant a special exception for construction of those uses that constitute common treatment associated with a permitted use, e.g., drainage within a farm field, other farm uses, etc., provided these meet with the following provisions: **(3/2016)**

1) That the use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District.
2) That due to the provisions of the wetlands Conservation District, no reasonable and economically viable use of the land can be made without the exception.
3) That the design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Article.
4) That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater, or other reason.

700.002.012 Filled Lands and Pre-existing Uses

700.002.012.001 Lands, which may have been wetlands but were filled under properly issued State and Town permits granted prior to the adoption of this Ordinance shall be judged according to the soils and flora existing at the site at the time application for building permit or subdivision is made.

700.002.012.002 Structures and uses existing at the time of the adoption of this Ordinance may be continued provided that such use shall not be expanded to further encroach upon the wetlands or designated buffer areas.

700.002.013 Other Provisions

700.002.013.001 Any wetlands altered in violation of this Ordinance shall be restored at the expense of the violator(s) as provided by RSA 483-A:5.

700.002.013.002 No more than fifty (50) percent of the common land area of a Cluster Residential Development shall contain wetland soils and a High Intensity Soil Survey of the potential Cluster Residential Development site shall be prepared identifying wetlands. **(3/2016)**

700.003 Aquifer Protection

700.003.001 Authority and Purpose

Pursuant to RSA 674:16-21, the Town of Brentwood hereby adopts an Aquifer Protection District 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 United States Geological Survey. The objectives of the aquifer protection district are:

- to protect the public health, safety and general welfare of the citizens of Brentwood
- to preserve, maintain and protect from contamination existing and potential groundwater supply areas
- to prevent development and land use practices that would contaminate or reduce recharge to the stratified drift aquifer and underlying bedrock groundwater resources; **(3/2016)**
- 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;
- to encourage uses that can appropriately and safely be located in the aquifer recharge areas.
- to acknowledge that groundwater is a natural resource which must not be wasted or contaminated and that groundwater resources are necessary to promote health and general welfare and economic development of land; **(3/1998)**
- to protect surface waters that are fed by groundwater **(3/2016)**
- to protect animal and plant habitats and wetland ecosystems that are fed by groundwater. **(3/1998)**

700.003.002 Definitions **(3/2016)**

- **Aquifer**: a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.
- **Dry well**: an underground structure that disposes of unwanted water, most commonly stormwater runoff, by allowing it to infiltrate into the ground
- **Groundwate**r: subsurface water that occurs beneath the water table in soils and geologic formations.
- **Gasoline station**: means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.
- **Hydraulic conductivity:** a property that describes the ease with which a fluid (usually water) can move through pore spaces or fractures in the subsurface
- I**mpervious**: not readily permitting the infiltration of water.
- **Impervious surface**: a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen; wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.
- **Junkyard**: an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard.

The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

- **Leachable Waste ("leachables"):** the liquid that drains or 'leaches' from a regulated substance as water percolates through any permeable material

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

- **Petroleum bulk plant or terminal** - means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.

- **Public water system**: a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

- **Recharge:** Water from precipitation or surface application that infiltrates to groundwater and is not evaporated or transpired. **Primary recharge** is recharge that occurs within the aquifer boundaries.

- **Regulated substance**: petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40 CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or waste water at department approved facilities.

- **Sanitary protective radius**: The area around a public water supply well which must be maintained in its natural state as required by Env- Dw 301 or 302 (for community water systems); Env-Dw 405.14 and 406.12 (for other public water systems).

- **Seasonal high water table**: The depth from the mineral soil surface to the upper most soil horizon that contains 2 percent or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Civil or Environmental Engineer or other qualified professional approved by the Planning Board or the shallowest depth measured from ground surface to free water that stands in an unlined or screened borehole for at least a period of seven consecutive days.

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

- **Septage or Wastewater Lagoon**: a man-made pond used to treat municipal and industrial wastewater and septage (the liquid and solid material pumped from a septic tank, cesspool, or other primary treatment source)

- **Snow dump**: For the purposes of this ordinance, a location where snow of a subject site, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

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

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

- **Transmissivity:** the ability of an aquifer to transmit groundwater throughout its entire saturated thickness. Often expressed in units of feet squared per day (ft2/day)

- **Water budget: an accounting of all the water that flows into and out of a given area**

- **Wellhead protection area:** The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

700.003.003 District Boundaries

700.003.003.001 Location

The Aquifer Protection District is defined as the areas shown on the map entitled, "Saturated Thickness and Transmissivity of Stratified Drift in the Exeter, Lamprey, and Oyster River Basins, Southeastern New Hampshire", that was produced by the U.S. Geological Survey and is included in the report Geohydrology and Water Quality of Stratified-Aquifers in the Exeter, Lamprey, and Oyster River Basins, Southeastern New Hampshire, 1990 and reproduced on the "Stratified Drift Aquifer Map" prepared by Truslow Resource Consulting LLC based on GRANIT Geographic Information Systems (GIS) layer *Aquifers: Transmissivity* generated from a study conducted under a cooperative agreement between the US Geological Survey, Pembroke, NH and the NHDES Water Resources Division, February 2000. **(3/2016)**

The Aquifer Protection District is a zoning overlay district which imposes additional requirements and restrictions to those of the underlying, base district zoning. In all cases, the more restrictive requirement(s) shall apply. Where the Aquifer Protection District is superimposed over another zoning district, the more restrictive regulations shall apply.

700.003.003.002 Recharge Areas

For the purpose of this Ordinance, the primary recharge area for the identified aquifer is considered to be co-terminus with the aquifer boundaries.

700.003.003.003 Appeals

Where the bounds of the identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist registered in the State of New Hampshire to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. The aquifer delineation shall be modified by such determination subject to review and approval by the Planning Board.

700.003.004 Use Regulations **(3/14/2006)**
700.003.004.001 Hydrogeologic Study

Hydrogeologic studies shall be required for conditional uses A, B, and C as listed in Conditional Uses, Section 700.003.003.006

For residential subdivisions of ten (10) lots or less and for non-residential projects with proposed water usage of less than 20,000 gallons per day from a particular property, the Planning Board shall determine, on a case-by-case basis, the need for a hydrogeologic study. Particularly sensitive sites may include areas that have septic systems in close proximity to wells, or may contain excessively drained soils or steep slopes. **(3/98)**

Hydrogeologic studies shall be performed by a qualified hydrogeologist registered in the State of New Hampshire. This study shall be sufficiently detailed to demonstrate to the satisfaction of the Planning Board that the development will not engender adverse short or long-term impacts to water quality and availability for approvable land uses on land drawing upon the same groundwater source; upon adjacent or nearby water wells; upon animal and plant habitat; and upon wetland ecosystems. **(3/98)**

All Hydrogeologic studies shall include at least the following:

A. Soil borings (to evaluate subsurface stratigraphy) and multi-level monitoring wells (to evaluate groundwater flow directions) **(3/98)**;
B. Cumulative impact nitrogen loading analysis employing a project specific build-out model. The analysis shall include verification that the development will not cause the nitrate-nitrogen (NO3-N) concentration in groundwater beyond the site to exceed 5 mg/l;
C. Hydraulic conductivity testing; **(3/2016)**
D. Water quality sampling and analysis;
E. Determination of water table contours and groundwater flow direction.
F. A water budget analysis for the watershed in which development is located that accounts for natural and anthropogenic recharge, discharge and storage capacity. **(3/1998)**
G. Additional analysis/testing required by the Planning Board on a case-by-case basis. **(3/1998)**

700.003.004.002 Maximum Lot Coverage

A. Within the Aquifer Protection District, no more than 20% of the area of a residential lot may be rendered impervious to ground water infiltration.

B. Within the Aquifer Protection District, the portion of the area of a Commercial/Industrial lot that may be rendered impervious to ground water infiltration shall be determined by the transmissivity of that lot (ref. Brentwood Aquifer Protection Zone Map) in accordance with the following:

ALLOWABLE COVERAGE, %, IN COMMERCIAL/INDUSTRIAL ZONE

Transmissivity (ft2/day)	Coverage (% impervious cover)
Less than 500	65
500-1000	55
1000-2000	45
greater than 2000	35

C. For any new or expanded use within the Aquifer Protection District, where impervious surface areas exceed 30% of the total lot, a stormwater management plan shall be prepared which the planning board determines is consistent with the Brentwood Stormwater Management Regulations 400.007 and New Hampshire Stormwater Manuals Volumes 1-3, December 2008, NH Department of Environmental Services. The design of the collection system must ensure that stormwater be infiltrated to recharge ground water. **(3/2016)**

700.003.004.003 Septic System Design Installation

In addition to meeting all local and state septic system siting requirements, all new wastewater disposal systems installed in the Aquifer Protection District shall be designed by a Professional Engineer licensed in New Hampshire with experience in sanitary engineering who is also a New Hampshire licensed designer of subsurface wastewater disposal systems.

The PE shall meet on-site with the installer before construction is begun to review the proposed construction schedule and sequencing, and to insure the installer understands all aspects of the plan.

The Septic System Inspector and Test Pit Witness shall inspect the installation of each new system prior to covering, and shall certify that the system has been installed as designed.

Septic systems are to be constructed in accordance with the requirements of NH Env-Wq-1000. **(3/2016)**

However, the following more stringent requirements shall apply to all septic system construction:

A. At least 24 inches of natural permeable soil above the seasonal high water table.
B. No less than five (5) feet of natural soil above bedrock. **(3/13/2001)**
C. There will be at least three feet of natural permeable soil above any impermeable subsoil.
D. There will be no filling of wetlands allowed to provide the minimum distance of septic to wetlands.
E. The following standards for fill material shall apply: **(modified 3/2016)**

1. Fill material consisting of organic soils or other organic materials such as tree stumps, sawdust, wood chips and bark, even with a soil matrix, shall not be used.
2. The in-place fill should have less than 15% organic soil by volume.
3. The in-place fill should not contain more than 25% by volume of cobbles or larger size material (6 inch diameter or greater).
4. The in-place fill should not have more than 15% by weight of clay size (0.002mm and smaller) particles.
5. The fill should be essentially homogeneous. If layering and other discontinuities are present, detailed analysis is necessary.

F. Replacement systems with no expansion in original design capacity shall be reviewed and permitted by the Septic System Inspector / Test Pit Witness in conjunction with the Town's Health Officer and Board of Selectmen. Upon application to the Septic System Inspector/Test Pit Witness, where a design fails to meet the requirements of this section, the Septic System Inspector/Test Pit Witness (in cooperation with the Health Officer and the Board of Selectmen) has the authority to waive the general requirements of this section and may grant a special permit to construct a sewage disposal system provided the following provisions are met.

1) The proposed system entails no expansion of use and is a replacement of the system previously occupying the lot.
2) The previous system shall be discontinued. Only the proposed system shall be used once initial function is established.
3) The design of the system shall comply with New Hampshire NHDES rules in effect at the time of approval, including waiver of these rules by the State permitting authority.

700.003.004.004 Prohibited Uses

The following uses are prohibited in the Aquifer Protection Zone except where permitted to continue as a non-conforming use or where anyone planning to engage in such activities can demonstrate to the satisfaction of the Planning Board that no degradation of the aquifer will occur. Such uses shall include, but not be limited to:

A. Disposal of solid waste (as defined by NH RSA 149-M) other than brush or stumps generated on the property on which they are to be disposed.
B. Storage and disposal of hazardous waste.
C. Disposal of liquid or leachable wastes except that from one or two-family residential subsurface disposal systems, or as otherwise permitted as a conditional use.
D. Development or operation of a septage or wastewater lagoon. **(3/2016)**
E. Subsurface or aboveground storage of petroleum and other refined petroleum products except in permitted storage tanks designed for residential or commercial heating use. **(3/2016)**
F. Industrial uses which discharge contact type process waters on-site. Non-contact cooling water is permitted.
G. Outdoor storage of road salt or other de-icing chemicals in bulk.
H. No receipt of off-site snow. **(3/2016)**
I. Commercial Animal feedlots.
J. Dry cleaning Establishments except those accepting and returning items dry cleaned in an offsite facility. **(3/2016)**
K. The development or operation of a junkyard. **(3/2016)**
L. Laundry and car wash establishments not served by a central municipal sewer.
M. All on site handling, disposal, storage, processing or recycling of regulated substances except in any business or facility where regulated substances are stored in containers with a capacity of less than five gallons. **(3/2016)**

700.003.004.005 Permitted Uses

The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this Ordinance:

A. Any use permitted by Articles III and IV of the Town of Brentwood Zoning Ordinance, except as prohibited in Section 700.003.003.004 of this article.

B. Activities designed for conservation of soil, water, plants and wildlife.

C. Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.

D. Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.

E. Foot, bicycle, and/or horse paths and bridges.

F. Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section 700.003.003.002. of this Article.

G. Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, herbicides, pesticides, manure and other leachables are used in accordance with published "best management practices" or minimize contaminants at levels that will not cause groundwater contamination.

700.003.004.006 Conditional Uses

700.003.004.006.001 The following uses, if allowed in the underlying zoning district, are permitted only after a Conditional Use Permit is granted by the Brentwood Planning Board:

A. Subdivisions of ten lots or greater

B. Projects where septic systems or a series of septic systems have a combined flow of 2,400 gpd or greater

C. Groundwater supply development projects that withdraw more than 20,000 but less than 57,600 gallons per day from a particular site or property. Withdrawals of 57,600 gallons per day or greater require a Large Groundwater Withdrawal Permit as detailed in Env-Wq 403. **(3/2016)**

D. Industrial and commercial uses not otherwise prohibited in Section 700.003.003.004 of this Article;

E. Sand and gravel excavation and other mining which is proposed to be carried out within eight (8) vertical feet of the seasonal high water table and provided that periodic inspections are made by the Planning Board or its agent to determine compliance.

700.003.004.006.002 The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made that all of the following conditions are met:

A. the proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;

B. the proposed use will not cause a significant reduction in either the short or long-term volume of water contained in the aquifer or in the storage capacity of the aquifer; **(3/1998)**

C. the proposed use will discharge no waste water on site in excess of one thousand (1,000) gallons per day, and will not involve on-site storage or disposal of regulated substances as herein defined;

D. a hydro-geologic study shall be submitted as required in Section 700.003.003.001 of this Article. **(3/1998)**

E. Other site specific conditions as determined by the Planning Board. **(3/2016)**

The Planning Board may require that the applicant provide data or reports prepared by a qualified hydro-geologist to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria.

700.003.005 Special Exception for Lots of Record

The Zoning Board of Adjustment may grant special exceptions to the aquifer protection ordinance for the erection of a structure on nonconforming lots. See Article VIII, Section 800.013.002.003, E.

700.003.006 Performance Standards

Where applicable the following design and operation guidelines shall be observed within the Aquifer Protection District:

700.003.006.001 Nitrate loading. In those portions of the Aquifer Protection District where the aquifer has a transmissivity greater than 1000 feet squared per day, no development shall cause the nitrate-nitrogen (NO3-N) concentration to exceed 5 mg/l in the groundwater beyond the site. **(3/1994)**

700.003.006.002 SPCC Plans **(3/2016)**

Conditional uses, as described under 700.003.003.006 --- using regulated substances shall submit a spill control and countermeasure (SPCC) plan to the Planning Board and its agent who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of *regulated substances*.

A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas. It shall include:

1. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
2. Contact list and phone numbers for the current facility response coordinator(s), cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
3. A list of all regulated substances in use and locations of use and storage;
4. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure.
5. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.
6. List of positions within the facility that require training to respond to spills of regulated substances.

700.003.006.003 – Agricultural BMPs - Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, (June 2011) and any subsequent revisions; **(3/2016)**

700.003.006.004 Regulated Substances **(3/2016)**

- All regulated substances stored in containers with a capacity of five gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;

- Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner;

- Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;

- Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s);

- Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;

700.003.006.005 Well Abandonment

Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules. **(3/2016)**

700.003.006.006 Blasting **(3/2016)**

Blasting activities shall be planned and conducted to minimize groundwater contamination. Excavation activities should be planned and conducted to minimize adverse impacts to hydrology and the dewatering of nearby drinking water supply wells.

700.003.006.007 Location.

Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the Zone to the extent feasible.

700.003.006.008 Stormwater Management and Drainage. All runoff from impervious surfaces shall be recharged on the site, and diverted toward areas covered with vegetation for surface infiltration as per Brentwood Stormwater Management Regulations – 400.007 Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants. **(3/2016)**

700.003.006.009 Inspection.

- For uses requiring planning board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Rockingham County. The description so prepared shall comply with the requirements of RSA 478:4-a. **(3/2016)**
- All conditional uses granted under Section 700.003.004.006 of this Article shall be subject to twice-annual inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted. A fee for inspection shall be charged to the owner according to a fee schedule determined by the Selectmen.

700.003.007

Existing Non-Conforming Uses:

Existing non-conforming uses may continue without expanding or changing to another non-conforming use unless such use is determined to be an imminent hazard to public health and safety, but must be in compliance with all applicable state and federal requirements including Env-Wq 401, Best Management Practices Rules. No non-conforming use may be renewed after it has been discontinued for a period of two years or more. **(modified 3/2016)**

700.004 Shoreland and Riparian Buffer Protection

700.004.001 Purpose

Pursuant to RSA 674:16-21 the Town of Brentwood hereby adopts the Shoreland and Riparian Buffer Protection District and accompanying regulations in order to protect and promote public health, water quality, resource conservation and the general welfare and to:

- Protect, maintain and enhance the water quality of major rivers and their tributaries as defined in 700.004.002.001 in the Town of Brentwood, and to ensure their continued availability as a resource and potential use as a public water supply;
- Conserve and protect aquatic and terrestrial habitat associated with river areas;
- Discourage development in flood hazard areas;
- Preserve and enhance those recreational and aesthetic values associated with the natural shoreline and river environment;
- Encourage those uses that can be appropriately located adjacent to shorelines.

700.004.002 District Boundaries

The Shoreland and Riparian Buffer Protection District in the Town of Brentwood is defined as:

700.004.002.001

The areas of land within 300 feet horizontal distance of the seasonal high water level of major rivers and their tributaries. Major rivers within the Town of Brentwood are defined to be the following: the Exeter River, Dudley Brook, Little River, Piscassic River and the Fresh River. In the case of Dudley Brook the district boundaries include the portions of the brook that are depicted as intermittent on the USGS quadrangle map of Brentwood to the point where the intermittent flow intersects with North Road to the north and Prescott Road to the west.

700.004.002.002

In addition, the areas of land within 150 feet horizontal distance of the seasonal high water level of all perennial brooks and streams which appear on USGS quadrangle maps (7.5" scale 1":24,000) depicting the Town of Brentwood, as revised.

700.004.002.003

For all projects submitted to the planning board all intermittent and perennial streams and river banks that represents bankfull or the seasonal high water level will be identified in the field and marked on project plans. **(3/2016)**

700.004.003 Definitions **(3/2016)**

Bankfull: elevation on the bank of a stream where the water just fills the channel to the top of its banks and begins to overflow onto a floodplain

Basal Area: The cross sectional area of a tree measured at a height of 4-1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees. "Total basal area" is the sum of the "basal areas" of all vegetation in the zone.

Flood hazard area (special flood hazard area): land in the floodplain within the Town of Brentwood subject to a one-percent or greater possibility of flooding in any given year

Impervious surface: a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Earthen; wooden, or gravel surfaces; or other surfaces which could react with or dissolve when in contact with the substances stored on them are not

considered impervious surfaces.

Intermittent stream: a stream that flows for sufficient times of the year to develop and maintain defined channels but which may not flow during dry portions of the year

Junkyard: an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automotive recycling yard. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126.

Leachable wastes: the liquid that drains or 'leaches' from a toxic material as water percolates through any permeable material

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

Perennial stream: a stream or river that has continuous flow in parts of its stream bed all year round during years of normal rainfall

Regulated Substance: petroleum, petroleum products, regulated contaminants for which an ambient groundwater quality standard has been established under RSA 485-C:6, and substances listed under 40 CFR 302, 7-1-05 edition, excluding substances used in the treatment of drinking water or waste water in department approved facilities.

Riparian buffer: vegetated areas next to water resources, such as streams, rivers, lakes, wetlands, that protect water resources from nonpoint source pollution and provide bank stabilization and aquatic and wildlife habitat

Seasonal high water level: the average springtime high-water level of a stream

Seasonal high water table: The depth from the mineral soil surface to the upper most soil horizon that contains 2 percent or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Civil or Environmental Engineer or other qualified professional approved by the Planning Board or the shallowest depth measured from ground surface to free water that stands in an unlined or screened borehole for at least a period of seven consecutive days.

Snow dump: For the purposes of this ordinance, a location where snow of a subject site, which is cleared from roadways and/or motor vehicle parking areas, is placed for disposal.

700.004.004 Use Regulations

700.004.004.001

Minimum Lot Size: The minimum lot size within the Shoreland and Riparian Buffer Protection District shall be the same as required in the underlying Zoning District and by applicable subdivision regulations for the Town.

700.004.004.002

Maximum Impervious Surface Coverage: Structures, including pavement, shall not cover more than 20% of any lot or portion thereof within the Shoreland and Riparian Protection District.

700.004.004.003

Building Setbacks: No building, except any residential accessory building permitted as a Conditional Use, septic system or septic system leaching field shall be constructed on or moved to a site within 150 feet from the shoreline of a major river, or its tributaries as herein defined, or within 100 feet from the shoreline of perennial brooks and streams located within the Shoreland and Riparian Buffer Protection District.

700.004.004.004

Surface Alterations: Alteration of the surface configuration of land by the addition of fill or by dredging shall be permitted within 150 feet of the shoreline of a major river or tributaries only to the extent necessitated by a permitted or conditionally permitted use, or for the construction of transmission lines and access ways, including driveways.

700.004.004.005

Vegetative Buffer: Alteration of natural vegetation or managed woodland within 75 feet of the shoreline of a major river or its tributaries shall be permitted only to the extent necessitated by a permitted or conditionally permitted use, or by the construction of transmission lines and access ways, including driveways.

700.004.004.006

Relation to Other Districts: Where the Shoreland and Riparian Buffer Protection District is superimposed over another zoning district, the more restrictive regulations shall apply.

700.004.005 Permitted Uses: The following uses are permitted within the Shoreland and Riparian Protection District provided they are conducted in accordance with the purpose and intent of this Ordinance.

A. Agriculture, including grazing, hay production, truck gardening and silage production, provided that such use will not cause increases in surface or groundwater contamination by pesticides, fertilizers, or other regulated substances and that such use will not cause or contribute to substantial soil erosion and stream sedimentation. However, no clearing of natural vegetation within the vegetated buffer (as defined in Section 700.004.004.005 above) shall be permitted for the purpose of establishing new tilled and cultivated farmland without a Conditional Use Permit (700.004.003.007,B). Activities shall be conducted in accordance with a management plan approved by the Rockingham County Conservation District and demonstrating Best Management Practices as set forth in “Manual of Best Management Practices for Agriculture” (New Hampshire Department of Agriculture, most recent version) and “Best Management Wetlands Practices for Agriculture” (New Hampshire Department of Agriculture, most recent version). All pesticide and herbicide applications shall be conducted in strict accordance with the requirements set forth in N.H.RSA 430:28 et seq. **(3/2016)**

B. Forest Management, including the construction of access ways for said purpose and all harvests of woody vegetation for conversion of land to non-forest management or agricultural purposes. Partial cutting of trees is limited to thirty percent (30%) of the pre-harvest basal area for all live trees measuring six (6) inches diameter, breast height (4.5 feet above ground level), or greater. Partial cuttings shall be done in such a way that a well distributed stand of healthy growing trees remains, and shall use as guidance for best forest management practices the “Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire” Department of Resources and Economic Development (DRED) 2004 as amended, Best Management Practices for Forestry: Protecting New Hampshire’s Water Quality 2005 as amended, “Good Forestry in the Granite State” (DRED). Salvage necessitated by acts of God shall exempt property owners from these conditions. **(3/2016)**

C. Wildlife and Habitat Management

D. Uses permitted in the underlying district of the Zoning Ordinance, except for those listed as conditional uses in Section 700.004.006 and those prohibited in Section 700.004.007.

700.004.006 Conditional Uses:

A. The following uses, if allowed in the underlying zoning district, are permitted only after a Conditional Use Permit is granted by the Brentwood Planning Board.

1) Industrial and commercial uses not otherwise prohibited in Section 700.004.007 of these regulations
2) Multi-family residential development.
3) The clearing of natural vegetation for the creation of new agricultural land not closer than 50 feet to a shoreline, provided that all agricultural activities comply with Best Management Practices as prescribed by the Rockingham County Conservation District. **(3/2016)**

4) Residential accessory buildings, of less than 400 square feet in first floor area, within 150 feet of a major river or its tributaries, or within 100 feet of perennial brooks and streams located within the Shoreland and Riparian Buffer Protection District.
5) Sand and gravel excavation and other mining not closer than 150 feet from the shoreline, which is proposed to be carried out within eight (8) vertical feet of the seasonal high water table and that periodic inspections are made by the Planning Board or its agent to determine compliance. Reclamation of these areas is required after closure. **(3/2016)**

B. The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made that all of the following are true:

1) The proposed use will not detrimentally affect the surface water quality of the adjacent river or tributary, or otherwise result in unhealthful conditions.
2) The proposed use will discharge no waste water on site in excess of one thousand (1,000) gallons per day, and will not involve on-site storage or disposal of Regulated Substances as herein defined. Nitrogen reducing septic systems may be required. **(3/2016)**
3) The proposed use will not result in undue damage to spawning grounds and other terrestrial and aquatic wildlife habitat. **(3/2016)**
4) The proposed use complies with the use regulations identified in Section 700.004.004 and all other applicable sections of this article.
5) The design and construction of the proposed use will be consistent with the intent of the purposes set forth in Section 700.004.001.

700.004.007 Prohibited Uses:
The establishment or expansion of the following uses shall not be permitted within the Shoreland and Riparian Buffer Protection District:

A. Disposal of solid waste (as defined by the N.H.RSA 149-M) other than brush.
B. On site handling, disposal, bulk storage, processing or recycling of Regulated Substances.
C. Disposal of liquid or leachable wastes, except from residential subsurface disposal systems, and approved commercial or industrial systems that are otherwise permitted by this section.
D. Underground or aboveground storage of petroleum fuel and other refined petroleum products. Storage tanks for petroleum products, if contained within basements, are permitted. **(3/2016)**
E. Outdoor unenclosed or uncovered storage of road salt and other de-icing chemicals.
F. Dumping of snow containing road salt or other de-icing chemicals.
G. Commercial animal feedlots.
H. Automotive service and repair shops; junk and salvage yards.
I. Dry cleaning establishments with onsite cleaning facilities. **(3/2016)**
J. Laundry and car wash establishments not served by a central municipal sewer system.

700.004.008 Additional Riparian Buffer Provisions **(3/2016)**

The following restrictions will apply except as provided in the Conditional Use section:

A. No fertilizer/pesticide use is allowed within 75 feet of the shoreline of major rivers or perennial streams
B. Slow release nitrogen use is allowed within 75 to 300 feet of Major Rivers or 75 to 150 from perennial streams
C. Alteration of natural vegetation or managed woodland within 75 feet of the shoreline of a major river or its tributaries shall be permitted only to the extent necessitated by a permitted or conditionally permitted use, or by the construction of transmission lines and access ways, including driveways.

700.004.009

Special Exception for Lots of Record. A special exception may be granted by the Zoning Board of Adjustment for the erection of a structure within the Shoreland and Riparian Buffer Protection District. See Article IX, Section 9.13.2,c.6.

700.004.010

Non-conforming Uses:

1. Non-conforming uses in existence prior to the enactment of this Ordinance may be continued, maintained, repaired and improved, unless and until such use becomes an imminent hazard to public health and safety. Non-conforming uses may not be changed to other non-conforming uses.
2. No non-conforming use may be renewed after being discontinued for a period of two years.

ARTICLE VIII: BOARD OF ADJUSTMENT

800.001 Establishment of the Board of Adjustment

Within thirty days after the adoption of this Ordinance and thereafter as terms expire or vacancies occur, the Board of Selectmen shall make appointments to a Board of Adjustment of five members conforming in duties to the provisions of Chapter 673 of the N.H. Revised Statutes Annotated, 1955, as amended. Thereafter, as terms expire or vacancies occur, the appointing Authority shall be responsible for filling vacancies and maintaining full membership on the Board of Adjustment. The Board of Adjustment here provided shall conform in membership and terms of office to the provisions of RSA 673, N.H. Revised Statutes Annotated, 1955, as amended.

800.002 Powers

The Board of Adjustment shall have the powers and duties specifically granted to it under RSA 674:33 674:33-a.

800.003 Membership

The Board of Adjustment shall consist of five regular members and up to three alternate members who shall be appointed by the Board of Selectmen and be residents of the community as provided by the New Hampshire Revised Statutes Annotated under RSA 673:3 and 673:6.

800.004 Rules

The Board of Adjustment shall adopt rules and regulations governing meetings, hearings, fees, and other matters for the proper functioning of the Board. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote, indicating such fact and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and become a matter of public record.

800.005 Meetings

Meetings of the Board of Adjustment shall be held upon the second Monday of each month or upon the call of the Chairman. All meetings shall be open to the public.

800.006 Applications

Applications appealing an administrative decision, seeking a special exception, or requesting a variance shall be in writing, shall be signed by the property owner/applicant, shall be accompanied by such fees as the Board deems necessary to defray its costs in processing the application, and shall be accompanied by a drawn to scale plan of the property in question. The property plan shall contain such information as the Board determines to be necessary for it to reach a decision. In appropriate cases the Board may require that the plan be prepared by a registered professional engineer or registered land surveyor. The application shall list the name and current mailing addresses of each abutter to the property in question.

800.007 Hearing Notice

The Board of Adjustment shall hold a public hearing on each application. Notice thereof shall be given as follows:

800.007.001 Mail. The applicant and all abutters shall be notified of the public hearing by certified mail, return receipt requested, stating the time and place of the hearing, and such notice shall be given not less than five days nor more than thirty days before the date fixed for the hearing of the appeal.

800.007.002 Public Notice. A public notice of the hearing shall be posted at the Town Hall and one other public place and shall be published in a newspaper with a general circulation in the area, not less than five nor more than thirty days before the date fixed for the hearing of the appeal.

800.007.003 Costs. The cost of advertising and the cost of mailing the notices of hearing shall be payable prior to the hearing by the person making the appeal.

800.008 Hearings

Hearings before the Board shall be conducted by the Chairperson, or, in his/her absence the Acting Chairperson, who may administer oaths and compel the attendance of witnesses. At all hearings before the Board, the burden shall be upon the applicant to establish that the administrative decision appealed from is erroneous; or to show that the applicant has met the conditions established for a special exception; or to show that the applicant has met the criteria for granting a variance. Abutters and residents of the Town shall be permitted to speak on behalf of or against the appeal and to present evidence orally and/or in writing in support of their position.

The Board in accordance with the provisions of this Ordinance may reverse or affirm, wholly or partly, or may modify any such order, requirements, decision or determination made by the Building Inspector. The concurring vote of three members of the Board shall be necessary to reverse or modify any order, requirement, decision or determination of the Building Inspector or to decide in favor of the appellant on any matter upon which it is required to pass or to effect any variance from the strict applications of the provisions of this Ordinance.

800.009 Findings of Fact

The Board of Adjustment shall present findings of fact for all its decisions and shall enter such findings in its records.

800.010 Representations

Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or use which are subject to regulation pursuant to Subsection 9.13.2 or 9.13.3 shall be deemed conditions upon such special exception or variance.

800.011 Time Limitation on Approved Variances and Special Exceptions

For all variances or special exceptions granted by the Zoning Board of Adjustment such variance or special exception shall be acted upon within a two year period from the date of approval by the Zoning Board of Adjustment. If action is not taken by the applicant within two years of the approval date of the variance or special exception, said variance or special exception will become void automatically, without further action by the Zoning Board of Adjustment. The Zoning Board of Adjustment may waive this two year deadline; such a waiver must be made a part of the Board's written decision.

800.012 Additional Powers

In addition to the general powers granted to said Board of Adjustment by said Chapters 674:33 and 674:41,II, it may, in harmony with and subject to its provisions:

800.012.001 Waive the Residential/Agricultural District frontage requirements where there are unusual conditions of street curvature, topography or subsurface conditions. In such cases, however, the average width of the lot shall be equal to or greater than frontage.

800.013 Scope of Review

The Board of Adjustment shall hear and decide appeals de novo from the decisions or orders of the Building Inspector, requests for special exceptions as provided for in this Ordinance, and requests for variances to the terms of this Ordinance in accordance with the provisions delineated herein, and with requests for equitable waivers as provided in RSA 674:33-a. **(3-2015)**

800.013.001 Administrative Appeals. The Board shall hear and decide appeals from the decisions or orders of the Building Inspector concerning administration or enforcement of this Ordinance.

800.013.002 Special Exceptions. The Board shall hear and decide requests for special exceptions provided for in this Ordinance. The Board shall grant requests for special exceptions which are in harmony with the general purpose and intent of this Ordinance and meet the standards of this Subsection. Appropriate conditions as set forth in Subsection 9.13.(2) B may be placed on special exception approvals when necessary. The Board shall deny requests for special exceptions that do not meet the standards of this Section.

800.013.002.001 Special Exceptions shall meet the following standards:

A. Standards provided by this Ordinance for the particular use permitted by special exception.

B. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

C. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

D. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

E. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

F. No significant increase of storm water runoff onto adjacent property or streets.

800.013.002.002 Special exception approvals may be subject to appropriate conditions including the following:

A. Front, side, or rear yards in excess of the minimum requirements of this Ordinance.

B. Screening of the premises from the street or adjacent property by walls, fences, or other devices.

C. Modification of the exterior features or buildings or other structures.

D. Reasonable limitations on the number of occupants and methods and times of operation.

E. Grading of the premises for proper drainage.

F. Regulation of design of access drives, sidewalks, and other traffic features.

G. Regulation of the number, size, and lighting of signs more stringent than the requirements of this Ordinance.

800.013.002.003 The following additional criteria must be satisfied before the Zoning Board of Adjustment will grant a special exception from any of the particular zoning ordinances referenced.

A. Special Exceptions for Light Industrial use within the Residential/Agricultural District.

Light industrial (light commercial to be known also as light industrial) uses may be approved by Special Exception of the Zoning Board of Adjustment subject to the following conditions:

1) The applicant attaches to the application for Special Exception a written statement from the Planning Board that site review is required for the proposed light industrial use.

2) That the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.

3) That no factual evidence is found that property values in the District will be adversely affected by such use.

4) That no undue traffic or no nuisance or unreasonable hazard will result.

5) That adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.

6) That there are no objections from abutting property owners based on demonstrable fact.

7) Will not offend by reason of the production or emission of smoke, dust, gas, noise, vibrations, odor, fumes, refuse matter or similar conditions.

8) Will not be dangerous to or create a disturbance or annoyance to comfort, peace, enjoyment, health, or safety of the community.

9) Any buildings and/or structures shall conform in design and materials to the extent possible, to the type of buildings in the area in which the light industry is to be located.

10) The lot on which such use may be allowed must have a minimum of three hundred (300) feet of frontage. The lot must be five (5) acres or more. If the use is to be located

within the dwelling, the five (5) acre requirement may be waived by the Board of Adjustment. Such use shall not occupy more than twenty-five (25%) percent of the gross floor area of the dwelling.

11) A Special Exception shall be granted only for the specific light industrial use specified in the application. A change in such use shall terminate the Special Exception and re-application must be made to the Board of Adjustment.

12) In granting approval of an application for Special Exception use, the Board of Adjustment may attach all reasonable and necessary conditions to assure that the uses of surrounding properties are adequately safeguarded and that the intent of this Zoning Ordinance is maintained.

13) If a Special Exception is granted, the lot and the proposed use will conform with all other provisions of the Zoning Ordinance and will be conditioned on-site review approval by the Planning Board.

14) The number of employees and commercial vehicles on the premises shall be limited by the Board of Adjustment.

15) The dwelling must maintain the appearance and use of a residence.

16) Light industrial use of the dwelling unit will not utilize more than twenty-five (25) percent of the gross floor area.

17) A sign displayed will not exceed four (4) square feet per side and will not be illuminated.

18) Upon completion of The Zoning Board of Adjustment Review for Special Exception the applicant must go to the Planning Board for Site Plan Review approval.

B. Special Exception for the location of facilities for the collection, processing and distribution of potable water within the Residential / Agricultural District.

1) Facilities for the collection, processing, and distribution of potable water may be approved by Special Exception subject to the following conditions:

a) The applicant attaches to the application for Special Exception a written statement from the Planning Board that site review is approved for the proposed water collection, processing, or distribution facility.

b) The specific site is an appropriate location for the proposed use and the character of adjoining uses will not be affected adversely.

c) No factual evidence is found that property values in the District will be adversely affected by such use.

d) No undue traffic or no nuisance or unreasonable hazard will result.

e) Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.

f) The proposed use will not offend by reason of the production or emission or smoke, dust, gas, noise, vibrations, odor, fumes, refuse matter or similar conditions.

g) The proposed use will not be dangerous to or create a disturbance or annoyance to comfort, peace, enjoyment, health or safety of the community.

h) The lot on which such use may be allowed shall have a minimum of ten (10) acres.

i) In granting approval of an application for special exception, the Board of Adjustment may attach all reasonable and necessary conditions to assure that the use of surrounding properties are adequately safeguarded and that the intent of this Zoning Ordinance is maintained.

j) If a Special Exception is granted, the lot and the proposed use will conform with all other provisions of the Zoning Ordinance.

k) Any sign displayed will not exceed four (4) square feet per side and will not be illuminated.

l) A permit is required. (See Transportation of Water, page 32.)

C. Special Exception for the Conversion of Existing Residential Structures to Professional Office Facilities.

1) A special exception shall be granted by the Board of Adjustment to allow for the conversion of existing residential structures to professional office facilities within the Professional Office / Multifamily District provided that all of the following conditions are found to exist:

a) The septic system standards of the NH Water Supply and Pollution Control Division (WSPCD) existing as of the date of the request for conversion to professional office use must be met or exceeded for the structure concerned. A certificate to this effect must be filed with the Planning Board based on review of Town records

by the Building Inspector and on-site inspection of systems by a professional engineer, and, a soil scientist if the existing system is undersized according to current WSPCD standards.

b) The applicant attaches to the application for special exception a written statement from the Planning Board that a site review is required for the proposed professional office use.

c) The proposed conversion to professional office uses hall not adversely effect surrounding properties.

D. Special Exceptions for Non Conforming Lots within the Wetlands Conservation District.

1) In order to permit the erection of a structure within the Wetlands Conservation District on vacant lots, the Board shall find that such exceptions comply with all requirements of the Wetlands Conservation District as well as the following requirements:

a) That the lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town.

b) That the use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Wetlands Conservation District.

c) That due to the provisions of the Wetlands Conservation District, no reasonable and economically viable use of the lot can be made without the exception.

d) That the design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Article.

e) That the proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of groundwater, or other reason.

The Board of Adjustment may themselves, or upon petition from the Building Inspector, Conservation Commission or abutters, hire a qualified consultant or consultants to prepare such studies as are necessary to determine whether the conditions set forth above have been met. The cost of such studies shall be borne by the applicant. Special Exception shall only be granted by the Board of Adjustment, after due public notice and public hearing for under taking the preceding uses in the Wetlands

Conservation District, after the application has been referred to the Planning Board, the Conservation Commission, and to the Health Officer for review and comment at least twenty (20) days prior to the hearing.

E. Special Exceptions for Erection of Structures on Non-conforming Lots Within the Aquifer Protection District.

1) Upon application to the Board of Adjustment, a special exception shall be granted to permit the erection of a structure on a non-conforming lot within the Aquifer Protection District provided that all of the following conditions are met:

a) The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Register of Deeds, prior to the date on which this amendment was posted and published in the Town.

b) The use for which an exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Aquifer Protection District.

c) Due to the provisions of the Aquifer Protection District, no reasonable and economically viable use of the lot can be made without the exception.

d) The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.

F. Special Exceptions for Erection of a Structure on a Nonconforming Lot within the Shoreland Protection District.

1) A special exception may be granted by the Zoning Board of Adjustment to permit the erection of a structure within the Shoreland Protection District provided that all of the following conditions are found to exist:

a) The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds, prior to the date on which this amendment was posted and published in the Town.

b) The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Shoreland Protection District.

c) Due to the provisions of the Shoreland Protection District, no reasonable and economically viable use of the lot can be made without the exception.

d) The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Section.

G. Special Exception for the use of waste materials as a resource for manufacturing processes in the Commercial-Industrial zone located on Pine Road.

1) The use of waste material as defined by Article IV, Section 4.6 paragraph B may be permitted by Special Exception granted by the ZBA if the material is deemed to be a suitable material for a manufacturing process subject to the following conditions:

a) The applicant attaches to the application for Special Exception a written statement from the Planning Board that site review is required for the proposed light industrial use.

b) The proposed use shall not pose a contamination hazard to the aquifer.

c) That the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.

d) That no factual evidence is found that property values in the District will be adversely affected by such use.

e) That no undue traffic or no nuisance or unreasonable hazard will result.

f) That adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.

g) That there are no objections from abutting property owners based on demonstrable fact.

h) Will not offend by reason of the production or emission of smoke, dust, gas, noise, vibrations, odor, fumes, refuse matter or similar conditions.

i) Will not be dangerous to or create a disturbance or annoyance to comfort, peace, enjoyment, health, or safety of the community.

j) The lot on which such use may be allowed must have a minimum of three hundred (300) feet of frontage. The lot must be five (5) acres or more. If the proposed use is to be undertaken entirely within a building, the five (5) acre requirement may be waived by the Board of Adjustment and the district minimum of three (3) acres will be required.

k) A Special Exception shall be granted only for the specific use specified in the application. A change in such use shall terminate the Special Exception and re-application must be made to the Board of Adjustment.

l) In granting approval of an application for Special Exception use, the Board of Adjustment may attach all reasonable and necessary conditions to assure that the uses of surrounding properties are adequately safeguarded and that the intent of this Zoning Ordinance is maintained.

m) If a Special Exception is granted, the lot and the proposed use will conform with all other provisions of the Zoning Ordinance and will be conditioned on-site review approval by the Planning Board.

n) Upon completion of The Zoning Board of Adjustment Review for Special Exception the applicant must go to the Planning Board for Site Plan Review approval. **(3/14/2000)**

800.013.003 Variances. The Board of Adjustment shall hear and decide requests to vary the terms of this Ordinance. At the hearing on the application, the applicant shall present testimony and other evidence to establish that all five conditions for a variance have been met. The decision of the Board shall be based on the evidence presented at the hearing, not on allegations contained in the application. Abutters and residents shall be entitled to present testimony and other evidence to establish that the applicant either has or has not met all five of the listed conditions below. No variance shall be granted unless all of the following conditions are met.

800.013.003.001 Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The definition of "unnecessary hardship" 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.

800.013.003.002 The spirit of the ordinance is observed;

800.013.003.003 the values of surrounding properties are not diminished;

800.013.003.004 substantial justice is done; and

800.013.003.005 the variance will not be contrary to the public interest;

800.013.003.006 Neither a special exception nor a variance shall be required for a collocation or a modification of a personal wireless service facility, as defined in RSA 12-K:2. **(3-2015)**

800.013.004 Any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises. The zoning board of adjustment shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or rendering its decision. **(3-2015)**

800.013.005 Granting of a Variance from the Flood Plain District.

800.013.005.001 Criteria to be Followed in the Granting of a Variance From the Regulations Set Forth in The Flood Plain District of the Zoning Ordinance or Building Ordinance.

The following procedures will be adhered to:

A. The Board of Adjustment shall only issue a variance upon:

1) showing of good and sufficient cause, and

2) determination that failure to grant the variance would result in exceptional hardship to the applicant, and

3) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws, and

4) determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

B. Variances may be issued for structures to be erected on a lot of one-half acre or less in size, if otherwise permitted by law, contiguous to and surrounded by lots with existing structures constructed below the base flood level.

C. A variance shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. If a variance is granted, the Board of Adjustment shall notify the applicant in writing over their signature that:

1) the issuance of such a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage, and

2) such construction below base flood level increases risks to life and property.

E. The Board of Adjustment will maintain a record of all variance actions, including justification for their issuance and report such variances issued through the Annual Report submitted to the Federal Emergency Management Agency.

F. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or on State Inventory of Historic Places, without regard to the procedures set forth above.

800.013.006 Equitable Waiver Criteria

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

A. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.

B. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.

C. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

D. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of corrector so far outweighs any public benefits to be gained, that it would be inequitable to require the violation to be corrected.**(3/08)**

ARTICLE IX: BUILDING ORDINANCE - ADMINISTRATION AND ENFORCEMENT

900.001 Authority

To promote the health, safety, convenience and general welfare of the community by regulation of the construction of buildings in the Town of Brentwood, the following Ordinance is hereby enacted by the voters of the Town of Brentwood, New Hampshire, in annual Town Meeting convened:

The voters of the Town of Brentwood first adopted a Building Code at Town Meeting on March 14, 1975. The following is a list of subsequent dates of amendment: 3/14/78; 3/13/79; 3/08/83; 3/11/86; 3/10/87; 3/08/88; 3/12/91; 3/10/92; 3/08/94.

All Definitions found in the Zoning Ordinance except where a form or phrase is otherwise explicitly defined in the Building Ordinance shall apply herewith.

900.002 Restrictions

All buildings shall be subject to the following regulations, restrictions and conditions:

900.002.001 No building or mobile home or structure shall be erected, and no exterior alterations will be made, maintenance excluded, without first obtaining a building permit from the Building Inspector to whom adequate plans and specifications of the proposed building or alteration shall be submitted. This permit shall then be signed by the Selectmen in accordance with Article IX, Section 900.007, of the Zoning Laws. (See Article IX for Special Exceptions)

900.002.001.001 The fees for permits shall be according to the Rate and Fee Schedule as adopted by the Board of Selectmen. **(3-2015)**

900.002.001.002 The Board of Selectmen will appoint a building code official in accordance with NHRSA 673:1,V. The code official shall also be governed by NHRSA 31:104 and 31:105. In accordance with RSA 673:1,V, the Brentwood Zoning Board of Adjustment will act as the building code board of appeals. The application for permit and inspection shall be based on a published fee schedule. Fees to be paid to the Town of Brentwood. **(3/8/2016)**

900.002.001.003 All above fees are payable in advance to the Town of Brentwood. Inspectors shall be entitled to 90% compensation for their services.

900.002.002 The Town Building Inspector shall base his approval or rejection of a building permit on the provisions of this Ordinance. The requirements are follows:

900.002.002.001 Chimneys shall be constructed of stone, brick or cement to the ground; each shall be lined with flue lining tile and extended at least two (2) feet above the roof to which it belongs, and shall have a cleanout opening at the base. All entrances to said chimney shall be of fireproof construction.

Chimneys shall not be used to support beams or timbers in any manner. Prefabricated chimneys and fireplaces may also be used provided they have been approved by the Underwriters Laboratories and the N.H. Fire Marshall.

900.002.002.002 No smoke pipe shall be installed or erected so as to be within twelve (12) inches of any combustible floor or ceiling, unless amply protected with noncombustible material. No smoke pipe shall be installed or erected which passes into or through partitions or walls of combustible material, except when guarded by a double collar of metal with airspace of at least five (5) inches, or by at least five (5) inches of brick or other non-combustible material between the pipe and the combustible material. Replacement of existing chimneys will conform to above regulations.

900.002.002.003 Dwelling foundations shall be constructed of concrete or brick or cement block or stone and shall extend four (4) feet below final grade. Accessory buildings may set on piers constructed of brick, stone or concrete.

900.002.002.004 Building must be framed according to good building practices and outside walls to be constructed of wood, or fire resistant shingles, or siding, or clapboards or masonry. All buildings made of material customarily painted shall be painted. Roof surfaces shall be constructed of fire resistant wood shingles or metal or material of fire resistant composition.

900.002.002.005 Any dwelling or apartment or building open to the public shall have a minimum of two readily accessible exits (windows excluded).

900.002.002.006 Every dwelling shall have a minimum ground floor area of seven hundred twenty (720) square feet, outside measurement, to be used by one family unit. Dwelling, for purposes of this provision, shall be defined as any structure, mobile home, trailer of any type or other vehicle, or building being used as a permanent living space or temporarily being used for purposes of establishing a residence in the Town of Brentwood.

900.002.002.007 All plumbing and sewage disposal shall meet all State and local code requirements, including, but not limited to, the regulations of the New Hampshire Water Supply & Pollution Control Commission with respect to on-site septic disposal systems.

900.002.002.008 Septic tanks and disposal systems must be located a minimum of seventy-five (75) feet from any well, seventy-five (75) feet from public waters and seventy-five (75) feet from any dwelling other than that to which they are attached, unless authorized otherwise by the N.H. Water Supply & Pollution Control Division. Replacement of sewage systems shall comply with this Section. (Please refer to Article VIII, 8.2, Wetlands Protection, and Article V, 5.5, Requirements for Siting Septic Systems.)

900.002.002.009 All electrical installations shall be in accordance with the requirements of the latest edition of the National Electric Code, the same being the standard of the National Board of Fire Underwriters for electrical wiring and apparatus.

900.002.002.010 No mobile home or buildings shall be used as a dwelling unit such mobile home or building complies with the New Hampshire Sanitary Regulations RSA 149-E as amended.

900.002.002.011 No building or mobile home shall be moved into the town or from one property to another within the town without a permit, to be issued by the Building Inspector.

900.002.002.012 No building permit shall be denied on the grounds of uncompleted streets or utilities when the construction of such streets or utilities has been secured to the municipality by bond or other security approved by the Planning Board pursuant to RSA 674:36, III or RSA 674:44 IV provided, however, that on land which is part of a subdivision plat of site plan, no building shall be used or occupied prior to completion of required streets and utilities, except upon such terms as the Planning Board may have authorized as part of its decision approving the plat or site plan.

900.002.002.013 All buildings and structures shall be subject to the following regulations, restrictions and conditions established in the following codes:

A. The New Hampshire State Building Code (current edition) in conjunction with RSA 155-A. Sections 1-13.

B. The NH Fire Code , the Life Safety Code, 2009, the Uniform Fire Code – NFPA 2009 and the NEC 2014 produced by the NFPA.

C. Pursuant to RSA 574:52, VI, the adoption of updates or revisions to national or state codes previously adopted as part of this Article shall be allowed after a public hearing held by the Planning Board. **(3/8/2016)**

900.002.002.014 No building permits are to be granted until such time as a driveway access permit for the subject parcel has been received from the Town of Brentwood. **(3/12/2002)**

900.003 Floodplain Development

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the County of Rockingham, NH” dated May 17, 2005 or as amended, together with the associated Flood Insurance Rate Maps dated May 17, 2005 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference. **(3/2005)**

900.003.001 Definition of Terms

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

“Area of Special Flood Hazard” is the land in the floodplain within the Town of Brentwood subject to a one-percent or greater possibility of flooding in any given year. The area is designated on the FIRM as zones A and AE.

“Base Flood” means the flood having a one-percent possibility of being equaled or exceeded in any given year.

“Basement” means any area of a building having its floor subgrade on all sides. “Building” see “structure”.

“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, excavation, or drilling operation or storage of equipment or materials.

“FEMA” means the Federal Emergency Management Agency.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Elevation Study” means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface evaluations, or an examination and determination of mudslide or flood related erosion hazards.

“Flood Insurance Rate Map” (FIRM) means an officials map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Brentwood.

“Flood Insurance Study” see “Flood elevation study”.

“Floodplain” or “Flood-prone Area” means any land susceptible to being inundated by water from any source (see definition of “Flooding”).

“Flood Proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

“Floodway” see “Regulatory Floodway”

“Functionally Dependent Use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking 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.

“Highest Adjacent Grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
“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 states with historic preservation programs that have been certified either:
   1) By an approved state program as determined by the Secretary of the Interior, or

2) Directly by the Secretary of the Interior in states without approved programs.

“Lowest Floor” means the lowest floor of the lowest enclosed are (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access or storage in an areas 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.

“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 days. This includes manufactured homes located in a manufactured home park or subdivision.

“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.

“Means Sea Level” means the Nation Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

“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.

“100-year flood” see “base flood”.

“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.

“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 increasing the water surface elevation.

“Special flood hazard area” means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on FIRM as zone A and AE. (See “Area of Special Flood Hazard”)

“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.

“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 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.

"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.

"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: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which 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 of a "historic structure".

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under Section 900.003.005, Section 900.003.007.002(B)(3), Section 900.003.006.003 or Section 900.003.006.004 of this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

900.003.002 All proposed development in any special flood hazard areas shall require a permit

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

900.003.003.001 be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodrynamic and hydrostatic loads, including the effects of buoyancy;

900.003.003.002 be constructed with materials resistant to flood damage;

900.003.003.003 be constructed by methods and practices that minimize flood damages;

900.003.003.004 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.

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

900.003.005 For all new substantially improved structures located in Zones A or AE, the applicant shall furnish the following information to the building inspector:

900.003.005.001 the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.

900.003.005.002 if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.

900.003.005.003 any certification of floodproofing.

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

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

900.003.006.001 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 Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearing before the Wetlands Bureau.

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

900.003.006.003 Along watercourses with a designated Regulatory Floodway no encroachments including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydralic analysis performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

900.003.006.004 Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the FIRM, unless it is demonstrated by the applicant that

the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within in community.

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

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

900.003.007

900.003.007.001 In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following order of precedence according to the data available.

A. In zone AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.

B. In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any 100 year 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 approvals).

900.003.007.002 The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zones A and AE, that:

A. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;

B. That all new construction of substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood lever; or together with attendant utility and sanitary facilities, shall:

1) be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
2) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

3) 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 level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;

D. All recreational vehicles placed on sites within Zones A and AE shall either:

1) be on the site for fewer than 180 consecutive days;
2) be fully licensed and ready for highway use; or
3) meet all standards of Section 60.3(b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c) (6) of Section 60.3.

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: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) the area 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 on 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.

900.003.008 Exceptions, Variances and Appeals

900.003.008.001 Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

900.003.008.002 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:

A. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

B. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

C. that the variance is the minimum necessary, considering the flood hazard, to afford relief.

900.003.008.003 The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. **(3/13/2001)**

900.003.008.004 The community shall:

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

900.004 Accessory Housing

900.004.001 Authority

This section is enacted in accordance with the provisions of RSA 674:21.

900.004.002 Purpose and Objectives

The purpose of the accessory family apartment provision is to provide increased flexibility with respect to housing alternatives for families in Brentwood while maintaining health, safety, aesthetics and quality of the Town's neighborhoods.

The objectives of this Section are to:

900.004.002.001 Provide for the construction of accessory apartments in, or attached to, existing single-family dwelling units.

900.004.002.002 Add more units to the housing stock to meet the needs of family members and smaller households, both young and old;

900.004.002.003 Protect stability and property values by ensuring that accessory apartments are installed only in owner-occupied houses and under such additional conditions as to protect the health, safety, and welfare of the public.

900.004.003 Requirements

900.004.003.001 The owner of the property shall occupy one of the units as a primary dweller and be landlord of the secondary dwelling unit.

900.004.003.002 The living area of the accessory (or secondary) dwelling unit shall not exceed 1/3 of the assessed square foot area of the living area of the entire dwelling (both units) to a maximum living area of 1500 square feet and shall be limited to a maximum of two bedrooms. No accessory unit shall have less than 525 square feet of living space. This allowance is less than the Town's standard dwelling unit size of 720 square feet because the accessory unit is not a stand alone dwelling unit but instead a secondary unit to the primary residence. **(3-09)**

900.004.003.003 In no case shall there be permitted more than a single family residing within the second dwelling unit. Dormitory-type facilities are expressly prohibited whether seasonal or otherwise.

900.004.003.004 The accessory apartment shall be designed so that the appearance of the building remains that of a one-family dwelling.

900.004.003.005 Parking shall be available for a minimum of four automobiles for the entire dwelling (both units). All parking must be off-street.

900.004.003.006 The accessory dwelling unit shall conform to all applicable structural, water, and sanitary standards for residential buildings.

900.004.003.007 The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling.

900.004.003.008 Prior to any renovations or building the owner shall provide evidence to the town Board of Selectmen or their agent, that septic facilities are adequate for the total number of bedrooms according to the standards of Brentwood. If deemed necessary by the Board of Selectmen or their agent, such evidence shall be in the form of certification by a state of NH licensed septic system designer. Also the owner shall provide evidence that there is adequate potable water according to the standards of the State of New Hampshire. The Board of Selectmen or their agent then shall indicate their approval in writing to the Building Inspector in order to allow any building permit.

900.004.003.009 Once any renovation or construction is complete, or the owner is ready to have a unit occupied, and the impact fee is paid, a request must be made to the Building Inspector for an occupancy permit. There shall be no occupancy of the accessory unit (or either unit if the entire dwelling is new construction) until the Building Inspector has issued said occupancy permit. **(3/2005)**

900.004.004 Exceptions

The restrictions contained in Article IX, Section 900.002.002, Items 900.002.002.001-900.002.002.014 inclusive, shall not apply in the case of small dairy rooms, root cellars, poultry houses, farm storage sheds and other small structures to be so located on the owner's property provided that such structure shall be conforming with all other

provisions of the Brentwood Zoning and Land Use Ordinance and Building Ordinance. However, such structure shall not become the permanent dwelling of any family unit and such building shall not exceed one hundred and fifty (150) square feet of floor area.

900.004.005 Town Building Inspector

900.004.005.001 For the purpose of this Ordinance, the Board of Selectmen shall annually appoint a Town Building Inspector who shall perform the duties pertaining to his office as designated in the provisions of this Ordinance.

900.004.005.002 The Building Inspector shall make known his decision within ten days from the date he receives the application and he shall make inspections of all buildings in a process of construction and report in writing, any or all violations to the Board of Selectmen.

900.004.005.003 The Building Inspector shall certify every five years the maintenance of a use granted by Special Exception. There will be a fee paid at time of certification. Said fee to be set by Selectmen. The fees will be distributed according to Article IX, Section 900.002.001.003 of the Building Ordinance. Uses granted by Special Exception existing at the time of passage of this Ordinance shall have one year from date of passage to certify as a continuing use.

900.005 Administration

900.005.001 Applications and Permits:

900.005.001.001 It shall be the duty of the Board of Selectmen and the Board is hereby given power and authority to enforce the provisions of this Ordinance.

900.005.001.002 The Board of Selectmen shall require that the application for a building permit include a plot plan and contain all necessary information to enable the Building Inspector to ascertain whether the proposed building or structure and its intended use comply with the provisions of these Ordinances.

The information submitted shall include a foundation certification prepared by a licensed land surveyor attesting that the foundation as sited complies with all applicable State and local regulations and ordinances. This certification shall apply to any structure which requires a building permit. The Board of Selectmen may by majority vote determine that a foundation certification is not necessary if the placement of a structure or addition clearly complies with all applicable ordinances and regulations. **(3/2004)**

900.005.001.003 The Building Inspector shall issue and a majority of the Board of Selectmen shall sign in triplicate any and all Building Permits requested when such are in accordance with the provisions of this Ordinance. These Building Permits shall be issued in accordance with Article IX, Section 900.002, of the Building Ordinance. One copy is to be filed in the records of the Building Inspector, one copy to be filed with the Town Clerk, and one copy to be issued to the applicant.

900.005.001.004 No building permit shall be issued until the Building Inspector has certified that the proposed building and its intended use comply with the provisions of these Ordinances.

900.005.001.005 It shall be unlawful for any person to commence any construction work of any kind on a building requiring a permit, or a driveway, without first obtaining such a permit. The permit shall be issued for a period of one (1) year and the Building Inspector and Selectmen collectively shall have the right to extend such time for one additional year and the outside shall be finished within this two-year period.

900.005.001.006 Upon any well-founded information in writing that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance by seeking an injunction in the Superior Court or by any legal action.

900.005.001.007 Building permits are not transferable.

900.005.001.008 The Planning Board, its members, officers, and employees, by direction of the Board and in the performance of their functions are authorized to enter upon any land and make such examinations and surveys as are reasonably necessary and place and maintain necessary monuments and marks, all as provided by RSA 674:1, IV.

900.006 Amendments

900.006.001 The regulations and restrictions, as provided in this Ordinance, may from time to time be amended, supplemented, changed, modified, or repealed by a resolution adopted at a regular or special meeting of the Town, setting forth the proposed amendment. A public hearing shall be held thereon, after notice as required by law, and prior to the Town Meeting at which the amendment is to be proposed. Such amendment shall not become effective except by the favorable vote of the majority of the voting members attending and voting at a regular or special meeting of the Town.

900.006.001.001 Alterations and additions to the rear of a non-conforming, existing dwelling may be approved by the Building Inspector and the Board of Selectmen, at their discretion, if there is a lack in the required 75' from the center of the right-of-way, provided other lot requirements are met.

900.006.001.002 Alterations and additions to the side of a non-conforming, existing dwelling may be approved by the Building Inspector and the Board of Selectmen, at their discretion, if the proposed addition does not extend closer to the right-of-way (street) than the front of the main dwelling and if there is a lack of footage in the required 75' from the center of the right-of-way, provided other lot requirements are met.

900.006.001.003 In the event of an emergency, (fire, flood, etc.,) when the original dwelling cannot be occupied by the owners, the Selectmen and Building Inspector are authorized to grant a permit to allow the temporary placement of a shelter on the property with said dwelling until the original/new structure is able to be occupied.

900.006.001.004 Temporary building permits may be issued for the location of temporary buildings required in the course of construction, for certain promotional activities, or for such other specific temporary purpose that the Board of Selectmen shall authorize by signing the permit after adequate plans and specifications have been submitted to the Building Inspection. Each such permit shall have a specific limited duration not to exceed 6 months; provided however the Board of Selectmen in their discretion may authorize the renewal of said permits for up to two additional 6-month periods.

A fee set by the Selectmen shall be charged for each temporary permit issued.

900.006.002 Should the Board of Adjustment consider a petition for a variance from the regulations set forth in the Flood Plain District of the Zoning Ordinance or Building Code, the criteria to be followed in granting the variance is found in Article IX, Section 900.003.008.

900.007 General Provisions

900.007.001 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare of the Town of Brentwood and its citizens.

900.007.002 Penalty

Any violation of this Ordinance shall be punishable by a fine of One Hundred ($100) Dollars for each day that such violation continues after the conviction date; provided, however, that the total fine imposed for any single violation shall not exceed Five Hundred ($500) Dollars.

Additionally, in the event the Town is required to seek injunctive relief to enforce any provision of this Ordinance, the Town shall seek the imposition of all costs and attorney's fees in pursuing such action from any violator of this Ordinance unless, in the judgment of the Selectmen, the violation was inadvertent or other (wise excusable). Additionally, in the event that any person shall fail to obtain any permit required under this Ordinance, any and all permit or application fees shall be trebled unless the Board of Selectmen shall find that the failure to obtain the permit was inadvertent or otherwise excusable. The purpose of this provision is to insure that the Town recovers the costs associated with the administrative enforcement of its land use regulations.

ARTICLE X: AMENDMENTS, CONFLICTS AND PENALTIES, ADMINISTRATION, SEVERABILITY AND EFFECTIVE DATE

1000.001 Amendments

This Ordinance may be amended by a majority vote of any legal Town Meeting when such amendment has received a preliminary public hearing and a final public hearing by the legislative body, which hearing has been advertised and given a legal fifteen day notice; or when such amendment has received a preliminary public hearing and has been published in its entirety in the warrant calling for the meeting.

1000.002 Conflicts and Penalties

1000.002.001 Conflicting Sections

Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

1000.002.002 Penalties

Any violation of this Ordinance shall be punishable as stated in RSA 676:17, IV, as it may be amended. Additionally in the event the Town is required to seek injunctive relief to enforce any provision of this Ordinance, the Town shall seek the imposition of all costs and attorney's fees in pursuing such action from any violator of this Ordinance unless in the judgment of the Selectmen the violation was inadvertent or otherwise excusable. Additionally, in the event that any person shall fail to obtain any permit required under this Ordinance or any other land use regulation of the Town of Brentwood, including but not limited to, the Town's Building Ordinance, the Planning Board's Site Plan Review, Subdivision, and Excavation Regulations, the Requirements for Siting Septic Systems Ordinance, and the Regulations re: Driveways and other Accesses to Town Roads, any and all permit or application fees shall be trebled unless the appropriate enforcing body shall find that the failure to obtain the permit was inadvertent or otherwise excusable. The purpose of this provision is to insure that the Town recovers the costs associated with the administrative enforcement of its land use regulations.

1000.003 Administration

1000.003.001 General: The provisions of the Brentwood Zoning Ordinance shall be administered by the following:

1000.003.001.001 Building Inspector for building permits;

1000.003.001.002 Planning Board for subdivision, site plan review, and conditional use approval; and

1000.003.001.003 Zoning Board of Adjustment for special exception approval of existing lots and any variances granted from the ordinance.

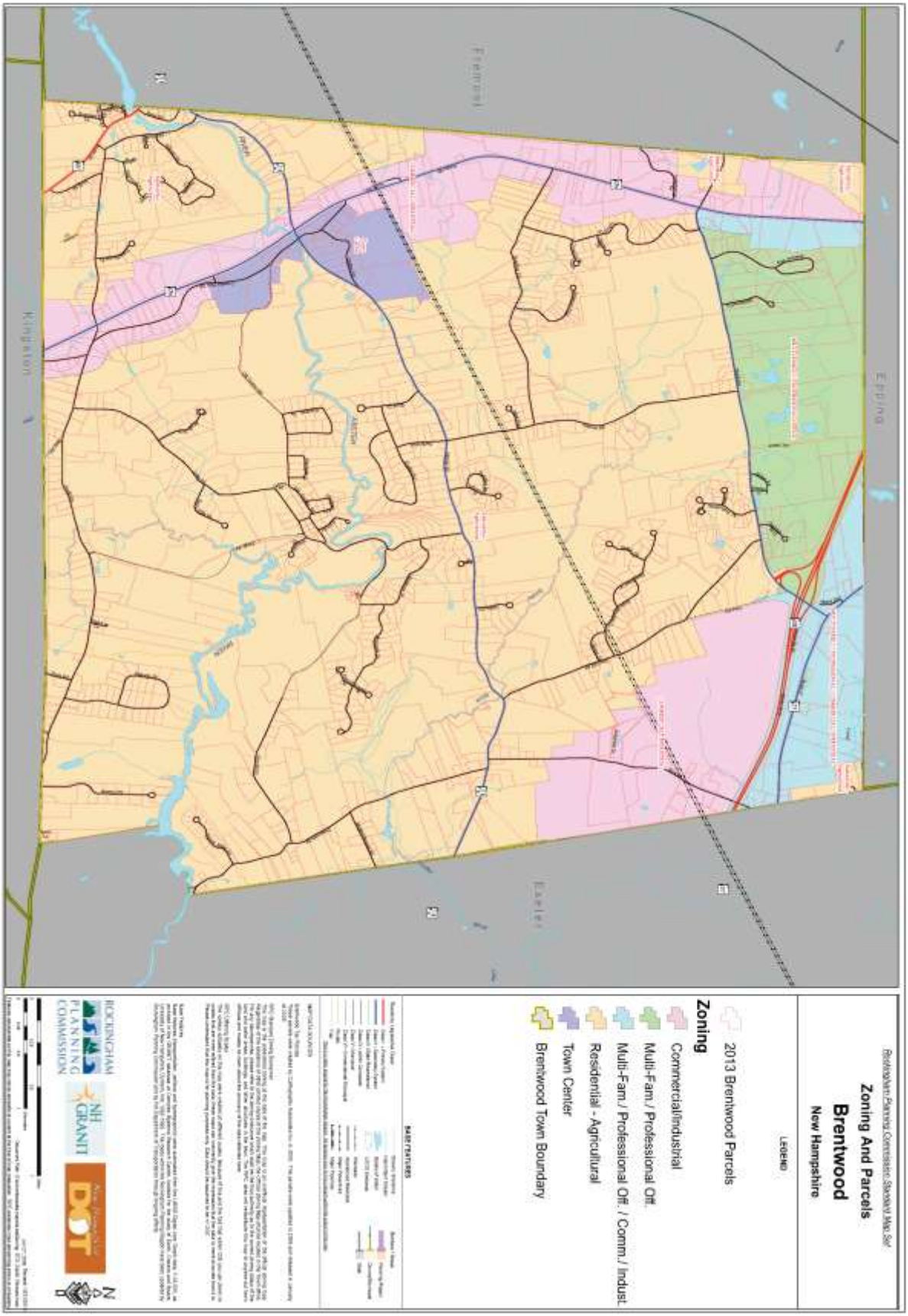
1000.003.002 Enforcement: The Board of Selectmen shall be responsible for the enforcement of the provisions and conditions of the Town of Brentwood Zoning Ordinance.

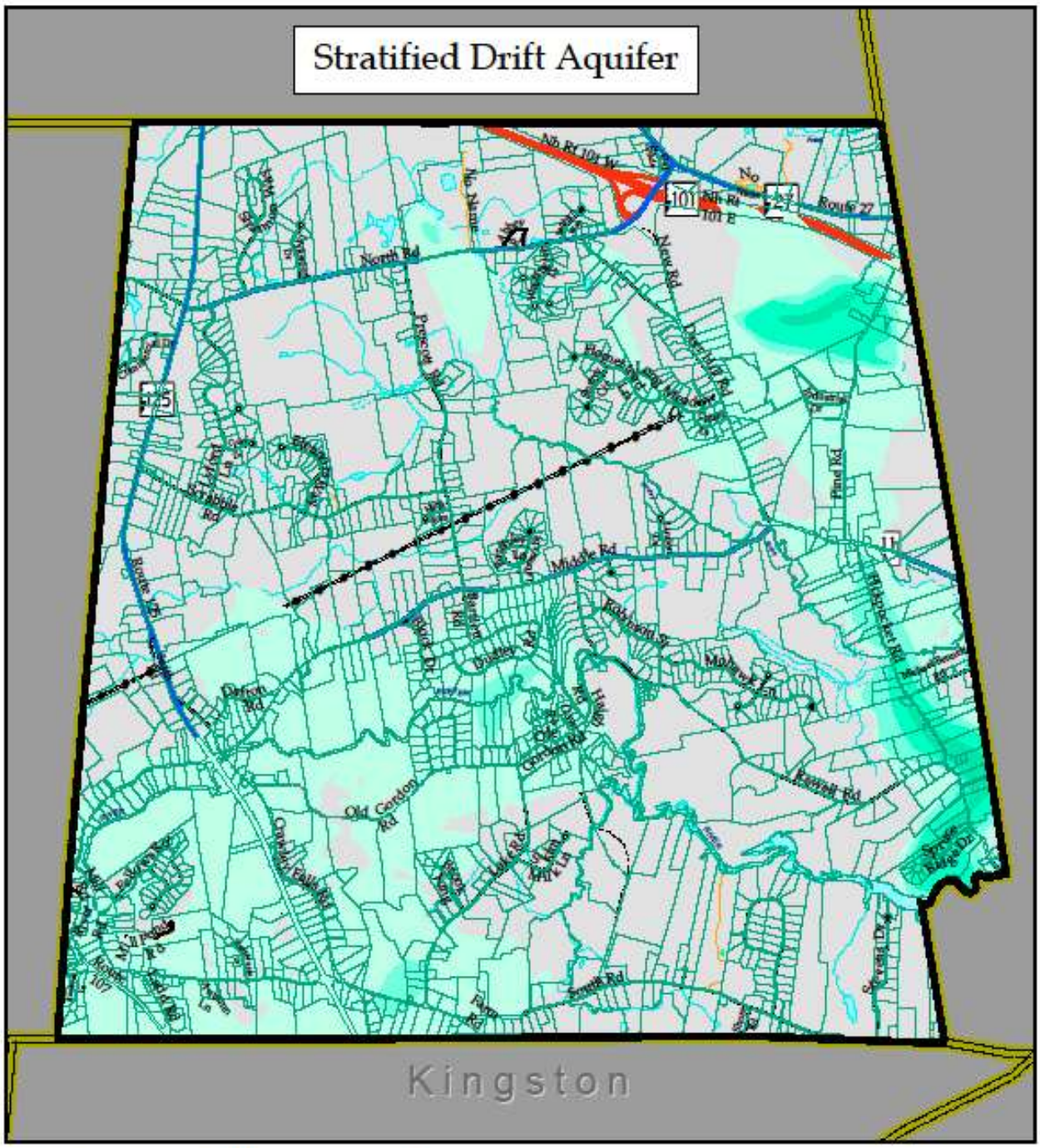
1000.004 Severability

If any section, clause, provision or portion of this ordinance shall beheld to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision or portion of this ordinance.

1000.005 Effective Date

This Ordinance, and amendments, shall take effect upon its passage.


Rockingham Planning Commission Standard Map Set
Zoning And Parcels
Brentwood
New Hampshire
LEGEND
2013 Brentwood Parcels
Zoning
Commercial/Industrial
Multi-Fam./ Professional Off.
Multi-Fam./ Professional Off. / Comm./ Indust.
Residential - Agricultural
Town Center
Brentwood Town Boundary
MAP FEATURES
MAP SOURCES
ROCKINGHAM PLANNING COMMISSION
NH GRANIT
DOT
Epping
Kingston
Fremont
Exeter



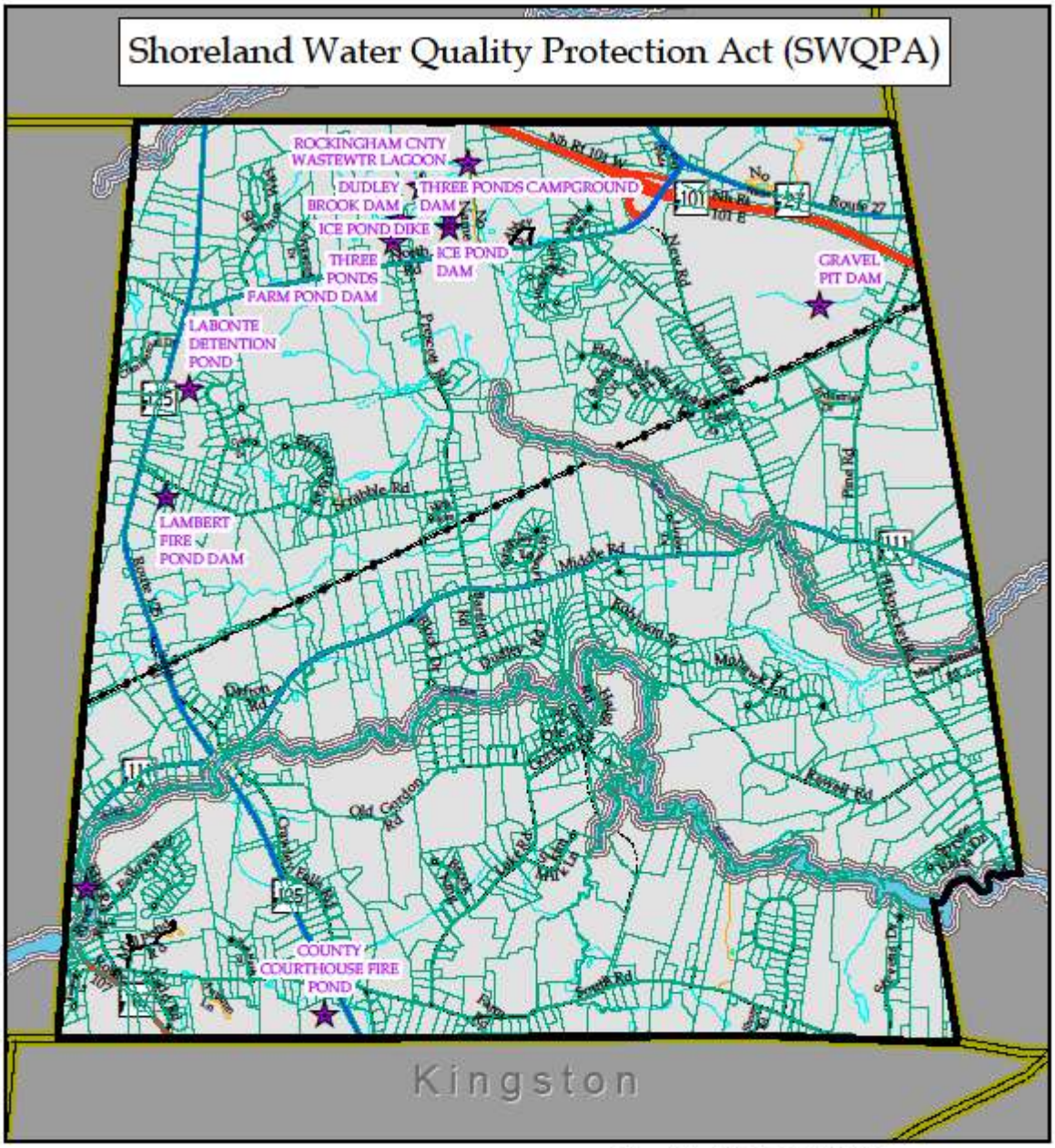
Stratified-Drift Aquifer in the Exeter River Basin

Transmissivity Range

- Less than 500
- 500 to 1000
- 1000 to 2000
- 2000 to 3000
- Greater than 3000

0 0.25 0.5 1 Miles

ROCKINGHAM PLANNING COMMISSION



Active Dams

Jurisdictional SWQPA Water

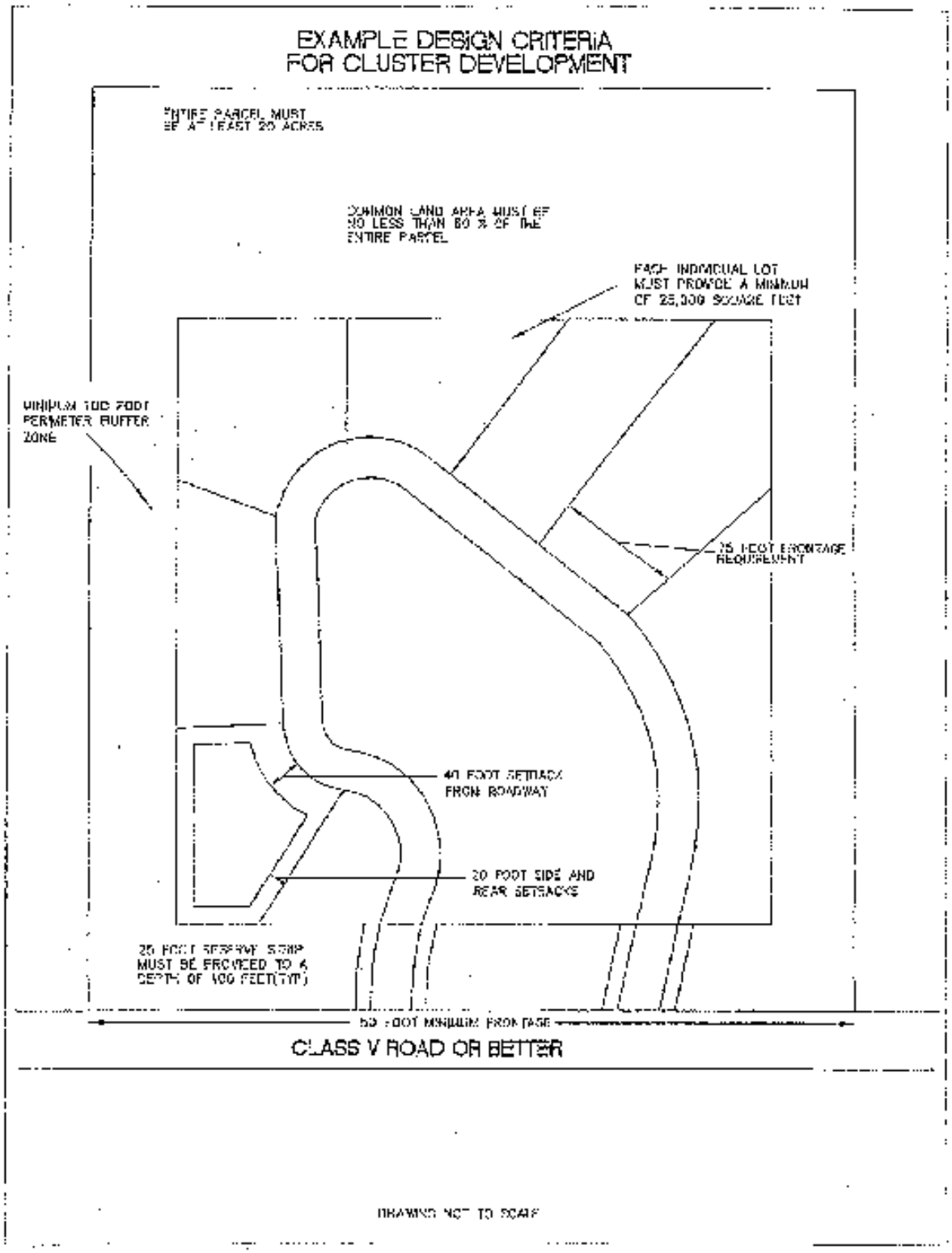
50' Buffer

150' Buffer

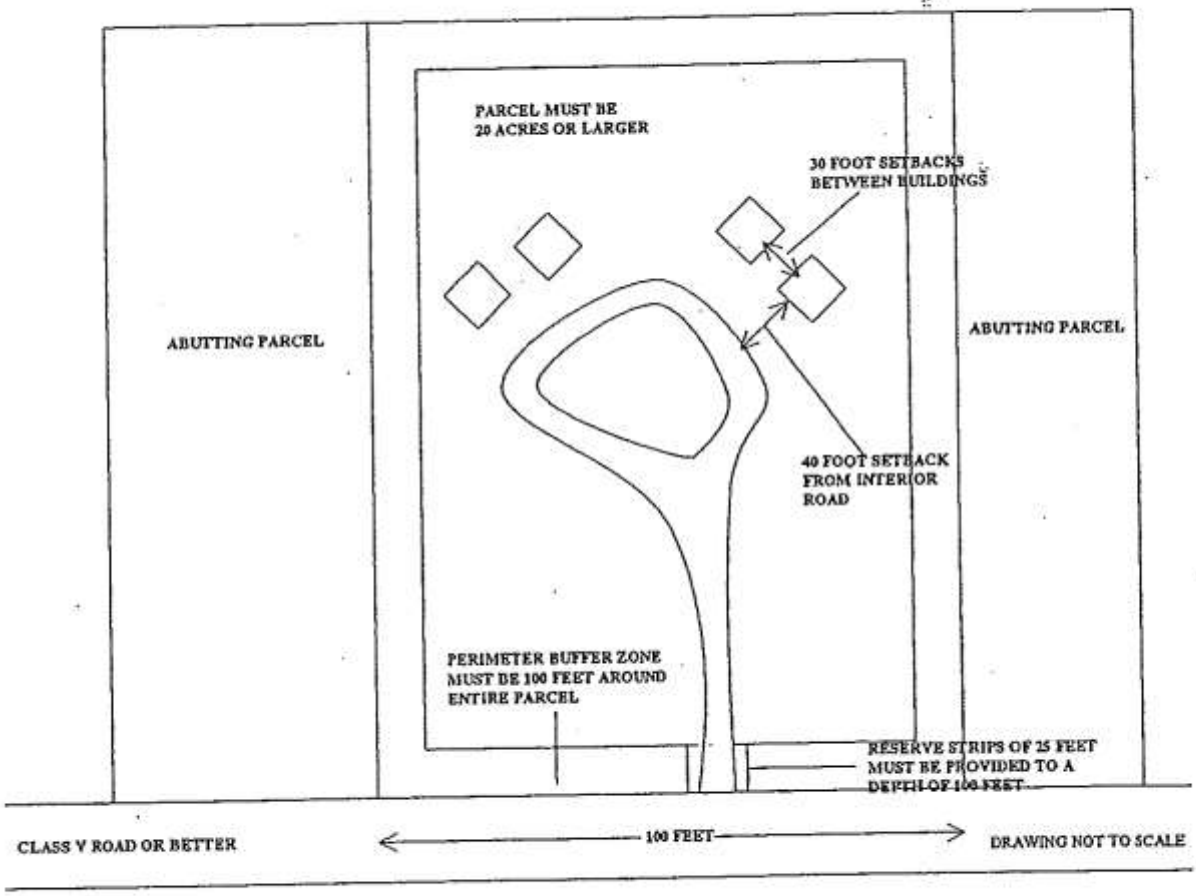
250' Buffer

0 0.25 0.5 1 Miles

ROCKINGHAM PLANNING COMMISSION


EXAMPLE DESIGN CRITERIA
FOR CLUSTER DEVELOPMENT
ENTIRE PARCEL MUST
BE AT LEAST 25 ACRES
COMMON LAND AREA MUST BE
NO LESS THAN 50 % OF THE
ENTIRE PARCEL
EACH INDIVIDUAL LOT
MUST PROVIDE A MINIMUM
OF 25,000 SQUARE FEET
MINIMUM 100 FOOT
PERIMETER BUFFER
ZONE
75 FOOT FRONTAGE
REQUIREMENT
40 FOOT SETBACK
FROM ROADWAY
20 FOOT SIDE AND
REAR SETBACKS
25 FOOT RESERVE STRIP
MUST BE PROVIDED TO A
DEPTH OF 100 FEET(TYP)
50 FOOT MINIMUM FRONTAGE
CLASS V ROAD OR BETTER
DRAWING NOT TO SCALE

EXAMPLE OF DESIGN CRITERIA FOR MULTI-FAMILY DEVELOPMENT



TOWN OF BRENTWOOD

Subdivision Regulations

- Adopted November 19, 1992 -
- Amended August 18, 1994 -
- Amended January 4, 1996 -
- Amended January 2, 1997-
- Amended April 17, 1997 -
- Amended June 4, 1998 -
- Amended July 16, 1998 -
- Amended November 5, 1998 -
- Amended October 7, 1999 -
- Amended August 17, 2000 -
- Amended July 16, 2001 -
- Amended August 16, 2001 -
- Amended October 17, 2002 -
- Amended March 20, 2003 -
- Amended April 17, 2003 -
- Amended January 13, 2005 -
- Amended March 3, 2005 -
- Amended December 15, 2005 -
- Amended January 12, 2006 -
- Amended January 4, 2007-
-Amended January 17, 2008-
Amended January 6, 2011-
-Amended June 5, 2014-

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TOWN OF BRENTWOOD

LAND SUBDIVISION REGULATIONS

SECTION 1 - AUTHORITY AND TITLE

Pursuant to the authority vested in the Brentwood Planning Board by the voters of the Town of Brentwood at the Annual Town Meeting of March 9, 1974, and to the authority granted to the Planning Board under Chapter 674:35-39 of the Revised Statutes Annotated of New Hampshire of 1991, as amended, the Planning Board hereby adopts the following regulations governing the subdivision of land in the Town of Brentwood.

These regulations shall be known, and may be cited as, the "Town of Brentwood Land Subdivision Regulations," hereinafter referred to as "Subdivision Regulations." The current set of Regulations revise and replace the Brentwood Land Subdivision Regulations of 1978, as amended, and take effect upon adoption by the Board and filing with the Brentwood Town Clerk in accordance with RSA 675:6. A copy shall also be filed with the New Hampshire Office of State Planning in accordance with RSA 675:9.]

SECTION 2 - PURPOSE AND INTENT

The purpose of these regulations is to provide for Planning Board review and approval or disapproval of all subdivision, consolidation, lot line adjustment, and easement plans (and subsequent revisions thereto). It is the intent of the Brentwood Planning Board to provide for the orderly present and future development of the Town of Brentwood, therein promoting the public health, safety, convenience and welfare of the residents. The Brentwood Planning Board specifically adopts the provisions of New Hampshire Revised Statutes Annotated, Chapter 674:36, and it is the stated purpose of these regulations to provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department or other public services, or necessitate an excessive expenditure of public funds for the supply of such services. It is the intent of the Brentwood Planning Board to promote the utilization of sound development standards.

SECTION 3 - CONFLICTING PROVISIONS AND VALIDITY

Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the highest standard shall govern.

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

SECTION 4 - JURISDICTION

The provisions of these regulations shall apply to all land within the boundaries of the Town of Brentwood.

4.1 Subdivisions. Any person proposing to subdivide land in the Town of Brentwood must apply to the Planning Board for approval of such subdivision.

A subdivision application must be made and approved before any offer to sell, rent or lease a proposed subdivision or part thereof before any construction, land clearing or building development is begun, before any permit for the erection of any building may be granted, and before a subdivision plat may be filed with the County Registry of Deeds.

4.2 Permits. No building permit may be issued for the construction or alteration of any building or structure within the purview of these Regulations until a copy of an approved subdivision plat has been presented by the applicant to the Building Inspector.

SECTION 5 - DEFINITIONS

All definitions appearing in the Town of Brentwood Zoning Ordinance are applicable to subdivision and site plan review regulations.

SECTION 6 - GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND

The subdivider shall make application using appropriate forms provided by the Planning Board and shall conform to the application procedures and any other applicable regulations adopted by the Town.

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

6.1 No subdivision approval shall be granted for a subdivision whose proposed roads enter or exit upon a Class VI road, closed subject to gates and bars.

6.2 The arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivision or for their proper projection when adjoining property is not subdivided.

6.3 No street or highway right-of-way shall be less than fifty (50) feet in width and may be required to be more if a greater street width is warranted by specific conditions found by the Planning Board. The apportioning of the street width among roadway, sidewalks and possible grass strips shall be subject to the approval of the Board.

6.4 Intersecting property lines at street intersections shall be joined by a curve of at least twenty-five (25) foot radius.

6.5 Grades of all streets shall conform in general to the terrain and shall, so far as practicable, not exceed 6% for major streets and 8% for minor streets. No street shall have a grade of less than 1%.

6.6 Dead-end or cul-de-sac streets shall be equipped with a turn-around roadway at the closed end with a minimum radius of one hundred (100) feet from the center to the outside edge of the right-of-way. (10/7/99) Cul-de-sac roads require a minimum road length of 250 feet before the beginning of a cul-de-sac bulb. (4/17/03)

6.7 Reserve strips of land which, in the opinion of the Planning Board, show an intent on the part of the subdivider to control access to land dedicated or to be dedicated to public use shall not be permitted.

6.8 The widths of blocks shall not be less than four hundred (400) feet, nor shall the length exceed twelve hundred (1200) feet.

6.8.1 All lots on new subdivision roads shall have a minimum of 200 foot frontage except in those cases addressed in section 4.2, 4.,E.,1. of Article IV of the Town's Zoning Ordinance.

6.8.2 All frontage in a subdivision shall have access to its applicable public right-of-way.

6.9 Fire Protection Regulations

Fire Suppression for Residential Development.

a. Any new subdivision of three or more individual dwelling units and all existing subdivisions expanding to three or more individual dwelling units shall be provided a credible (not subject to drought or drainage) water source for fire protection. This water source shall be

required if any of the dwelling units exceed 1,200 feet of travel distance but will never exceed 1,500 feet. A credible water source will be determined by the Brentwood Fire Department. The existence of a dry hydrant does not necessarily constitute a credible water supply. Due to drought conditions, many former water supplies have been deemed unreliable.

b. Exception: All dwelling units that are protected throughout by an approved automatic sprinkler system installed in accordance with N.F.P.A 13D.

c. Water sources for fire protection shall be designed in accordance with the Brentwood Fire Department water supply regulations for cisterns and dry hydrants. All designs shall be submitted to the Brentwood Fire Department a minimum of 30 days prior to commencement of construction.

d. All residential plans relative to fire protection shall bear the stamp of a qualified licensed engineer or architect.

e. Security shall be in place for any cistern, in accordance with subdivision regulations 6.14, 6.16, 6.17 and 6.18. The amount to be reviewed and approved by the town engineer

Fire Suppression for Non-Residential Development to read as follows:

Fire Suppression for Non Residential Development.

a. Any new nonresidential development and all existing developments that are expanding in size or creating a change in use may be required to provide a credible (not subject to drought or drainage) water source for fire protection commensurate with the proposed hazards associated with the development as determined by the Brentwood Fire Department.

b. Exception: All units are protected throughout by an approved automatic sprinkler system installed in accordance with N.F.P.A 13.

c. Water sources for fire protection shall be designed in accordance with the Brentwood Fire Department water supply regulations for cisterns and dry hydrants. All designs shall be approved by the Brentwood Fire Department.

d. All non-residential plans relative to fire protection shall bear the stamp of a qualified licensed engineer or architect.

Fire Cisterns

1.0 General Requirements

1.1 The Brentwood Planning Board shall approve all cistern locations. **(6-2014)**

1.2 Sound engineering practices shall be used for cistern installations.

1.3 The design of the cistern shall be submitted to the Brentwood Fire Department for approval prior to installation.

1.4 The installer is responsible for completely filling the cistern until accepted by the Brentwood Fire Department.

1.5 Documented permission to use the water source if not on town property**. (6-2014)**

1.6 The Brentwood Fire Department and town engineer shall be notified of the date the site work will begin.

2.0 Cistern Specifications

2.1 The cistern shall be of sound engineering design to be trouble free and designed to last a minimum of 50 years.

2.2 The minimum useable capacity shall be 30,000 gallons. **(6-2014**)

2.3 The suction piping system shall be capable of delivering 1,500 gallons per minute for 75% of the cisterns capacity.

2.4 Tank construction should be rated for highway loading. **(6-2014)**

2.5 All piping shall be minimum 6" Schedule 80 PVC (ASTM) with glued joints. **(6-2014)**

2.6 Corrosion resistant tie downs attached to concrete dead men to prevent flotation when empty shall be used.

2.7 The final suction connection shall be six inch female National Standard Hose thread fitting with ears located 24" to 30" above the final level grade where vehicle wheels will be located. Static lift should not exceed 12 feet. Final suction connection shall be outfitted with a plug and plug tether.

2.8 The final fill connection shall be a 4" stortz fitting with cap and tether located 36" above finish grade.

2.9 The vent pipe shall be sized appropriately and be outfitted with a screen cover to prevent wildlife from entering the vent pipe.

2.10 Cistern shall be equipped with a water level indicator approved by the Brentwood Fire Department.

2.11 All horizontal piping shall be adequately supported below frost line and slope slightly back towards tank to prevent freezing.

2.12 A 30" minimum man way shall be located on top of tank to allow for tank inspection.

2.13 After back filling cistern, all piping and cistern shall be protected by fencing, concrete bollards or large rocks to prevent damage by vehicular traffic.

2.14 6 inch diameter concrete bollards if used shall have a finished height of 48" above the finished grade, and painted safety yellow.

2.15 The immediate area around hydrant shall be level to provide for fire fighter safety.

2.16 Access to hydrant shall be 20' minimum width, paved and located to be accessible under all weather conditions, and capable of supporting the heaviest vehicle. The vehicle pad shall be of sufficient size to accommodate the largest truck as determined by the Brentwood Fire Department. All access to hydrant including vehicle pad shall be sloped to allow for proper water runoff. All pavement shall be approved by Town Engineer.

2.17 System and site accessibility criteria shall ensure that hydrant can be reached with one 10' length of suction hose.

2.18 Hydrant shall have a minimum clearance of 20' above and on each side and be located a minimum of 100' from any structure. Highway or road traffic shall not be impaired during the use of the hydrant.

2.19 All exterior piping, ~~bollards~~ and man ways shall be painted using commercial grade paint. Color to be high gloss red.

2.20 Cistern location shall be made visible from the roadway during an emergency by reflective markings and signage approved by the Brentwood Fire Department.

2.21 Signs stating “No Parking” “Fire Department Use Only” shall be provided as approved by the Brentwood Fire Department.

2.22 The Brentwood Fire Department and the Town Engineer shall be notified by the contractor to observe the following points of installation and provide a written schedule for the following:

- Site work commencement.
- When excavation is complete and dead man in place.
- Tank in place with hold down straps attached.
- When backfill is complete and insulation installed.
- When they start and finish leak test.
- When shoulder and vehicle pad in place and graded.
- When ready for FD flow test.
- Pavement, vehicular protection, painting and signs complete.

Dry Fire Hydrant

1.0 General Requirements

1.1 The Brentwood Planning Board shall approve all dry hydrant locations. **(6-2014)**

1.2 Sound engineering practices shall be used for dry hydrant design and installations.

1.3 The design of the dry hydrant and water source shall be submitted to the Brentwood Fire Department for approval prior to construction.

1.4 The dry hydrant shall be flow tested by the Brentwood Fire department prior to acceptance.

1.5 Documented permission The Brentwood Fire Department and the Town Engineer shall be notified of the date the site work will begin. **(6-2014)**

2.0 Dry Hydrant Specifications

2.1 The dry hydrant shall be designed and constructed to provide a minimum flow of 1,500 gpm at draft.

2.2 Documentation that the water supply has a capacity to support a minimum draw of 250 gpm for two hours (minimum 30,000 gallons).

2.3 Documentation that the hydrant has the ability to draft water 365 days a year, to include during freezing weather.

2.4 Documentation that the water supply can withstand a 50-year drought occurrence.

2.5 All dry hydrant pipe, fittings and appendices shall be schedule 80 PVC 6” (ASTM) minimum diameter. **(6-2014)**

2.6 Dry hydrant systems shall be designed and constructed so that slope and piping configuration does not impede drafting capability.

2.7 Subject to alternative engineering practices, no more than the equivalent of two 90-degree elbows shall be used in the total system.

2.8 The final suction connection shall be six inch 90-degree female National Standard Hose thread fitting with ears located 24" to 30" above the final grade where the vehicle wheels will be located when hydrant is in use. Suction connection shall be equipped with a cap and tether.

2.9 Dry hydrant system piping and appendices shall be supported and/or stabilized using approved engineering design practices. Trust blocks, or equivalent protection, shall be employed at elbows and other system stress points.

2.10 All connections shall be clean and the appropriate sealing materials used according to manufacturers specifications so as to ensure that all joints are airtight.

2.11 System strainer shall be schedule 80 PVC (ASTM) equipped with a back flushing end cap. Strainer shall be 6" minimum in diameter. **(6-2014)**

2.12 A minimum water level of two feet below and three feet above strainer shall be maintained.

2.13 Static lift should not exceed 12'.

2.14 Total head loss shall not exceed 20'.

2.15 The immediate area around dry hydrant shall be level to provide for fire fighter safety.

2.16 Access to dry hydrant shall be 20' minimum width, paved and located to be accessible under all weather conditions, and capable of supporting the heaviest vehicle. The vehicle pad shall be of sufficient size to accommodate the largest truck as determined by the Brentwood Fire Department. All access to hydrant including vehicle pad shall be sloped to allow for proper water runoff. All pavement shall be approved by Town Engineer and Road Agent.

2.17 System and site accessibility criteria shall ensure that hydrant can be reached with one 10' length of suction hose.

2.18 Dry hydrants shall have a minimum clearance of 20' above and on each side and be located a minimum of 100' from any structure. Highway or road traffic shall not be impaired during the use of the dry hydrant.

2.19 All piping shall be protected by fencing, concrete bollards or large rocks to prevent damage by vehicular traffic.

2.20 6 inch concrete bollards if used shall have a finished height of 48" above the finished grade and painted safety yellow.

2.21 Dry hydrant locations shall be made visible from the roadway during an emergency by reflective markings and signage approved by the Brentwood Fire Department.

2.22 Signs stating "No Parking" "Fire Department Use Only" shall be provided as approved by the Brentwood Fire Department.

2.23 All exterior piping shall be painted using a commercial paint. Color shall be high gloss red. Any metal below grade shall be coated for protection.

2.24 The Brentwood Fire Department and the Town Engineer shall be notified by the contractor to observe the following points of installation and provide a written schedule for the following:

- Piping, strainer, and trust blocks in place.
- Access road and vehicle pad in place and graded.
- All paving, piping system, vehicular protection, painting and signs complete.
- Ready for fire department flow test. **(12-05)**

6.10 Areas set aside for parks and playgrounds to be dedicated or to be reserved for the common use of all property owners by covenant in the deed, shall be of reasonable size and character for neighborhood playground or other recreational use.

6.11 Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall be named by the Selectmen.

6.12 In areas not currently served by public sewer system, it shall be the responsibility of the subdivider or his agent to provide adequate information to prove that the area of each lot is adequate to permit the installation and operation of an individual sewage disposal system (septic tank and drain field). The subdivider or his agent shall be required to provide the necessary equipment and labor for the making of these tests. Not less than two (2) test pits and at least one (1) percolation test shall be required within said 4,000 contiguous square feet.

6.13 Pavement and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the standard specifications of the Town of Brentwood and in all cases must be constructed under the supervision of the Planning Board agent.

6.14 Security shall be in a form and amount, and with surety, and other conditions all satisfactory to the Board to insure for the Town the construction and installation of any required improvements within a period of time not to exceed three (3) years. The time limit of three (3) years for completion from the date of final approval shall be expressed in the security. The security shall remain valid and available until drawn upon by the Town or released in accordance with 6.16 below.

Further to the above, the security shall be one of the following:

6.14.1 certified check or bank check properly endorsed to the Town of Brentwood.

6.14.2 irrevocable letter of credit submitted on the standard form approved by the Town. (If other than the Town's approved form, the performance agreement shall be reviewed and approved by the Planning Board and Town Counsel as to proper legal form and enforceability. The cost of this review shall be borne by the applicant.)

6.15 The applicant shall file with the Board a detailed estimate of all costs of required street improvements, drainage structures, utilities or other improvements. The Board may have the estimate reviewed by a professional consultant, if deemed necessary. The cost of this review shall be borne by the applicant. The Board, after considering the estimate, and other pertinent information, shall determine the amount of the performance security required.

6.16 The Board may further extend the time of three (3) years for completion when the reasons for delay were unforeseeable and beyond the reasonable control of the applicant. Any such extension shall be in writing and signed by a majority of the Board signifying their concurrence and shall only be granted after ensuring the validity and availability of the security for such extension. Any such extension shall be solely at the discretion of the Planning Board.

6.17 The performance security shall not be released until the Board has certified after inspection that the required improvements have been completed in accordance with the approved plat. A fee, payable by the applicant, may be charged to cover the cost of professional consultation selected by the Board to assist in determining completion of all required work to the construction standards of the Town.

6.18 All security shall be held by the Treasurer of the Town and in accordance with RSA 673:16. The Treasurer shall not draw upon or release any security until he/she are in receipt of a resolution passed by a majority of the Planning Board stating the purpose and amount to be drawn or released. The Selectmen shall enforce such securities by all appropriate legal and equitable remedies. **(Amended 8/94)**

6.19 All utilities including telephone and electric shall be underground. This standard applies only to those instances involving construction of new roads. Where a subdivision is occurring along existing Town Roads with above ground utilities, the utilities supplied to the new lots on the existing road need not be placed underground.

6.20 Permanent concrete or granite monuments shall be set as required. Monuments for lot corners on newly created lots or on lots with boundary lines adjusted by the Planning Board shall be four (4) inches by four (4) inches and shall have a magnetic cap to facilitate the location of the boundary monument in the future. **(1/6/11)**

6.21 Where the distance between concrete or granite bounds is greater than four hundred (400) feet, the Planning Board requires iron pins to be set at intervals of two hundred (200) feet.

6.22 Prior to final approval, all subdivisions coming before the Planning Board shall be accompanied by approval from N.H. Water Supply & Pollution Control Division as per RSA 149-E for lots less than five (5) acres in size.

6.23 Special Flood Hazard Areas. All subdivision proposals and proposals for other development governed by these Regulations having lands identified as Special Flood Hazard Areas in the "Flood Insurance Study for the Town of Brentwood, N.H.," together with the associated Flood Insurance Rate Maps and Flood Boundary and Floodway Maps of the Town of Brentwood dated 4/15/81 shall meet the following requirements:

All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. Subdivision review shall assure that the following minimum standards are met:

6.23.1 The proposal is designed consistent with the need to minimize flood damage, and

6.23.2 All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage, and

6.23.3 Adequate drainage systems shall be provided to reduce exposure to flood hazards, and

6.23.4 Base flood elevation (the level of the 100-year flood) data shall be provided for proposals greater than 50 lots or 5 acres, whichever is the lesser, for that portion within the Special Flood Hazard Area).

6.24 Topographic survey of the whole or part of the property shall be required for subdivision. All topographic contours must conform to 2' intervals.

6.25 In accordance with NH RSA 676:4,I (g) the applicant shall be required to pay all reasonable costs or fees for special investigative studies and the review of documents, which are particular to the application, in addition to administrative and notification fees as required by the Board.

6.26 The Board may make a visual on-site inspection of any proposed subdivision at any stage of the proposal, after prior arrangements are made with the applicant or land owner. Inspection is to be at such time when the site is free of snow cover, unless the Board is otherwise satisfied that such inspection is not required.

6.27 If a plan is withdrawn prior to hearing notification for the plan, no further action is required by the Board, and it will be considered terminated. One copy of any such plan(s) shall be retained for Board files.

6.28 Approval of the plan by the Board shall not constitute an acceptance by the Town of any proposed street, highway, park or other public open space.

6.29 In accordance with state law any developments which are likely to have impacts beyond the boundaries of the Town of Brentwood shall be processed by the Brentwood Planning Board according to the procedures established in RSA 36:54-58.

6.30 In the case where an owner of contiguous land which is located in more than one municipality applies to the Brentwood Planning Board for subdivision the proceedings will be done in conformance with the standards outlined in RSA 674:53, Land Affected by Municipal Boundaries.

6.31 Pursuant to RSA 674:36, III the Board may require special improvements on or off-site, which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular subdivision. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore. The Planning Board may require, either that the applicant construct the improvements in whole or in part, or reimburse the municipality or any other party who, at the direction of the municipality, undertakes such improvements. The applicant's responsibility for such improvements is limited to that portion of the cost of the improvements which bears a rational nexus to the needs created by, and special benefits conferred upon, the subdivision, taking into consideration the municipality's ability to pay for such improvements.

6.32 Street signs relative to safety (i.e., stop signs, speed limit signs, etc.) As well as street striping and painting shall be installed as per recommendation of the Brentwood Police Chief. (Amended 8/94)

6.33 When land is subdivided on NH Route 125, shared driveways between abutting lots shall be required.

SECTION 7 - PROCEDURE FOR SUBDIVISION OF LAND

7.1 Pre-application Review The Brentwood Planning Board may provide for pre-application review of plats in accordance with RSA 676:4, II, a-c, as follows: (These steps are optional however.)

7.1.1 Preliminary Consultation Phase: A preliminary consultation with the Board shall enable a developer to review basic concepts of the proposal, request suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the Board and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken. The Board and the applicant may discuss proposals in conceptual form only and in general terms. Such discussion may occur without giving formal public notice. Such discussions shall only take place at formal meetings of the board.

7.1.2 It is recommended that the applicant submit the following information for the preliminary consultation with the Board:

7.1.2.1 Correct names and mailings addresses and zip codes of owner(s) of record (and applicant, if different), and a brief description of the proposal.

7.1.3 Design Review Phase: The Board or its designees may engage in non-binding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details provided, however, that a list of abutters has been previously provided to the Board or its agents and proper notice to said abutters and the general public has been made. Statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any subsequent action taken.

7.1.3.1 When meeting with the Planning Board under the design review phase option, a rough sketch of the site should be provided which shows the following:

a. Location of lot lines.
b. Lot measurements.
c. Streets surrounding site.

7.1.4 The applicant may elect to forego or engage in the pre-application review or either phase thereof and proceed directly to the formal application process.

7.1.4.1 Pre-application review shall be separate and apart from formal consideration as described under, "7.2 Formal Application Process," and the time limits as described under Section 7.4 shall not apply until formal application is submitted, deemed complete by the Planning Board and formally accepted.

7.2 Formal Application Process

Whenever any subdivision is proposed to be made, and before any sale of lot(s) occurs or application for a permit for the erection of a structure thereon shall be made, the owner thereof or his agent (agent to be designated, in writing, to the Board) shall apply, in writing, to the Planning Board of the Town of Brentwood for approval of such subdivision.

The applicant shall file the completed application with the Board or its agent at least 20 days prior to the meeting at which the application will be accepted. A completed application shall be submitted to and be accepted by the Board at Public Meetings (1st and 3rd Thursday of the month). All applications shall contain the information and documents required by Sections 6 and 8 of these regulations, as well as the following:

7.2.1 Eight (8) copies of the plat (twenty-two inches by thirty-four inches 22" X 34") and 4 copies of the plat (eleven inches by seventeen inches 11" X 17") showing all of the information required in Sections six (6) and eight (8) of these regulations. (Amended 8/16/01)

7.2.2 A list of names and mailing addresses of the present owners of all of the property abutting the land to be subdivided including those across any road or river abutting the property within 200 feet in any direction.

7.2.3 Certification of the Planning Board's authorized representative that he has inspected the proposed road profiles, locations, and grades and finds the plans adequate.

7.3 The Subdivider shall bear the following costs at the time of application:

7.3.1 A fee of one hundred and fifty ($150) assigned to each lot to cover the costs incurred by the Board for professional plan review is required upon application. Those funds collected but not used by the Board to cover the Board's costs for plan review will be returned to the applicant.

7.3.1.1 An estimated fee for roadway inspection services will be provide to the applicant prior to approval of the plans or commencing work.

7.3.2 An application and secretarial fee.

7.3.3 Cost of certified mailings for each landowner within 200 feet of the proposed subdivision. Notice to abutters shall be made by Planning Board 10 days prior to date of formal submission of application by certified mail, return receipt requested.

7.3.4 A fee to cover the costs of publication of a legal notice in a paper of general circulation.

7.3.5 In the event that the abutters' hearing is defaulted for any reason, or additional hearings are required, all fees except those for the tax map changes shall be repaid by the applicant for the new hearing.

7.3.6 The subdivider shall bear the following costs to be paid before the subdivision mylar is signed by the Planning Board:

7.3.6.1 A fee to cover the costs of making appropriate changes to the Brentwood tax maps.

7.3.6.2 The costs incurred as a result of review by the Town's planner or other consultants.

7.3.6.3 The cost of recording the original mylar and securing two copies of said plan at the Rockingham County Registry of Deeds.

7.3.6.4 Any and all costs deemed necessary by the Director of Public Works and/or the Planning Board in excess of the above shall be paid by the applicant before the final approval.

7.4 <u>65-Day Period and Hearings</u>:

7.4.1 The Planning Board will accept the application as complete and will begin the review process if the application includes:

1) the plan for the proposed subdivision of land incorporating the requirements of Sections 6 and 8 of these regulations,

2) the list of current abutters,

3) letter of intent,

4) letter of authorization (if required),

5) a copy of the deed, and

6) the money to cover all fees.

The 65-day period called for in RSA 676:4 IC shall begin upon acceptance by the Board of a completed application as described in 1-6 of this paragraph. The minutes of the meeting shall indicate which, if any, applications are accepted for review. **(Amended 8/16/01)**

Should an application be found incomplete, the Board shall notify the applicant requesting that the necessary documentation be submitted and informing the applicant that no further consideration of the application can be made until the application is complete.

7.4.2 Before making any decision to approve or disapprove the plat, the Board will hold a hearing at which all of the abutters and other interested parties will be allowed to speak. All landowners within 200 feet will be notified of the hearing by certified mail, return receipt requested, at least 10 days before the hearing (in accordance with RSA 676:4,I,(d). During the public hearing, the Planning Board will take testimony from the applicant, questions by members of the Board and questions from any abutters present and any members of the public present with an interest in the proceedings.

7.4.3 The Planning Board and such other appropriate Town agencies or agents, may choose to arrange an inspection of the proposed site with the applicant. The applicant and/or landowner is requested to attend the inspection.

7.4.4 The Planning Board shall have the authority to finally approve an application which conforms to the Brentwood Zoning Ordinance or has received proper variances from the Brentwood Zoning Ordinance. It shall be the power of the Zoning Board of Adjustment to authorize, upon appeal, in specific cases, variances or exceptions from the terms of the zoning ordinances (see RSA 674:33 and any amendment thereto).

7.4.5 Within 65 days of formal acceptance of the plan the Planning Board will make a decision on the site plan proposal as follows:

7.4.5.1 **Approval.** At a duly noticed public meeting, the board shall act to approve, conditionally approve, or disapprove, the application. The sixty-five (65) day time limit shall be subject to extension OR waiver as provided below in Sections 8.5 and 8.6 (RSA 676:4, I(c)). **(Amended 8/16/01)**

7.4.5.2 **Conditional Approval**. The Planning Board may grant conditional approval of a plat or application, which approval shall become final without further public hearing, upon certification to the Board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Final approval of a plat or application may occur in the foregoing manner only when the conditions are:

A. Minor plan changes whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or

B. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or

C. Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies, provided said permits and approvals themselves have not required a change to the Plat submitted to the Board or to any other conditions imposed by the Board. All other conditions shall require a hearing, and notice to abutters and the public, except that additional notice shall not be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session were made known at the prior hearing;

7.4.5.3 **Disapproval.** The Board shall disapprove of an application which does not meet the standards of these regulations, or fails to comply with other Town or State laws, or will have an adverse impact on surrounding areas or the community.

7.4.6 The Planning Board shall issue a final written decision of their action to approve, conditionally approve, or disapprove the completed application. If the application is conditionally approved, the Board shall list the conditions necessary to be met by the applicant prior to final approval.

7.4.7 In accordance with RSA 676:3, if the application is not approved, the Board shall provide the applicant with written reasons for disapproval. The decision shall be placed on file in the Planning Board's office and shall be made available for public inspection within seventy-two (72) hours after the decision is made and a copy of the decision shall be filed with the Town Clerk.

7.4.8 A conditional approval shall be good for a term of one calendar year from the date granted. Within sixty (60) days of the expiration of the conditional approval the Planning Board shall hold a properly noticed public hearing pursuant to RSA 676:4-a to determine the final outcome of the plan.

7.4.9 The applicant in writing may waive the requirement for Planning Board action within the time periods specified above and consent to such extension as may be mutually agreeable (RSA 676:4,I(f)); or

7.4.10 The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application (RSA 676:4,I(f)).

7.4.11 In accordance with RSA 676:4,I(c)(1), upon failure of the Board to approve, conditionally approve, or disapprove the application, the Selectmen may order the Planning Board to act within 30 days. If the board still fails to act, the Selectmen must approve the plan within 40 days, unless it can state in writing some specific regulation with which the application does not comply. The failure of the Selectmen to act on such order shall, upon petition of the applicant, constitute grounds for the Superior Court to issue an order approving the application, if the Court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

7.4.12 Recording and Filing of Plats

No subdivision plat shall be filed or recorded until it has been approved by the Planning Board and all outstanding fees have been paid by the applicant. Approved plans shall be endorsed in writing on the plat with the signatures of at least three members of the Board.

The approved plat will be registered at the Rockingham County Registry of Deeds by the Brentwood Planning Board at the fee established by the Planning Board. Two copies of the recorded plat shall be obtained by the Planning Board at the expense of the Subdivider.

The final Mylar sheets are to be reviewed by the RCRD before submitting them to the Planning Board, and the applicant shall provide a statement that the registry has approved the Mylar sheets. **(8/2007)**

7.4.13 Rules for Conducting Hearings

The Planning Board of the Town of Brentwood NH has adopted rules of procedure in accordance with RSA 676:1 and they are available at the Brentwood Town Hall.

SECTION 8 - SPECIFIC PLAN REQUIREMENTS

8.1 The minimum dimensional requirements of lots shall be determined by the provisions of the Town of Brentwood Soil Type Lot Size Regulations (Section 8.21 of these regulations) and by applicable provisions of the Brentwood Zoning Ordinance.

8.2 All subdivisions must occur along Class V roads or better.

8.3 Eight (8) copies of the plat (twenty-two inches by thirty-four inches 22" X 34") and 4 copies of the plat (eleven inches by seventeen inches 11" X 17") shall be submitted for approval to the Planning Board by the developer. The size and material of the sheets shall conform to the requirements of the Registry of Deeds of Rockingham County, for filing. (See definition of Plat found in the Town of Brentwood Zoning Ordinance) Adequate space shall be available on the map for the necessary endorsement by the proper authorities. (Amended 8/16/01)

8.4 Proposed subdivision name; name and address of owner of record; subdivider and designer; date, and north point and scale. The name, license number and seal of a NH licensed land surveyor shall be required on the plats.

8.5 Names of owners of record of properties within two hundred feet of proposed subdivision, abutting subdivision names, streets, easements, building lines, alleys, parks and public open spaces and similar facts regarding abutting properties.

8.6 Location of property lines and their dimensions, easements, buildings, water courses, ponds or standing water, rock ledges, street lines, building lines, pedestrian ways, lot lines, reservations, wells and other essential features.

8.7 Existing water mains, sewers, culverts, drains and proposed connections or alternative means of providing water supply and disposal of sewerage and surface drainage.

8.8 The following example endorsement blocks should be incorporated into any final plan submitted to the Planning Board for approval:

Approved by the Brentwood Planning Board	Date
, Chairman	
Recording Agent:	

Impact Fees assigned these _____lots shall be $_____per lot.
(# of lots) (impact fee amount)

_____ _____
Developer **Town of Brentwood**

8.9 Location, name and widths of existing and proposed streets and highways with their grades and profiles and the elevations of sufficient points on the property to indicate the general topography of the property.

For the streets, subdividers shall file (on mylar or other suitable material) with the Board, three copies of separate plans for streets showing widths, grades, profiles, existing topography, boundaries and drainage (existing and proposed) at a scale of not less than 1" = 50'.

8.10 Sufficient data acceptable to the Planning Board agent to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed 1 to 10,000. The plan shall show the boundaries of the property.

8.11 Where the topography is such as to make difficult the inclusion of any facilities mentioned above, within the public area so laid out, the plat shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than ten (10) feet in width and shall have satisfactory access to existing or proposed public ways.

8.12 Location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication and a copy of such private deed restrictions as are intended to cover part or all of the tract.

8.13 Designs of any bridges or culverts which may be required.

8.14 Where the plat submitted covers a part of the subdivider's entire holding, a sketch of the prospective future street system of the un-submitted part shall be furnished and the street system of the submitted part will be considered in the light of adjustments and connections with the street systems of the part not submitted.

8.15 The location of and pertinent data on at least two (2) test pits, and of at least one (1) percolation test to show that the regulations in Section 6 have been met on each lot created by the subdivision. Information shall include at least the following: the location of test pits, and outline of the 4,000 contiguous sq. ft. area reserved for leach fields, percolation test data, the certification of the Town official witnessing the tests.

8.16 All drawings, unless otherwise specified, will be at a scale of not more than one hundred feet to the inch.

8.17 The following notation is to be part of the mylar (written on it);

Note: The Subdivision Regulations of the Town of Brentwood are a part of this plat, and approval of this plat is contingent upon completion of all requirements of said Subdivision Regulations excepting only any waivers or modifications made in writing by the Board and written on the mylar.

8.18 Changes in lot line locations require application and approval for boundary line adjustment. Application forms and a checklist detailing the necessary steps for boundary line adjustments are available in Planning Board Office. These applications will be addressed only during regularly scheduled public hearings and require that abutters must be notified of the meeting. (RSA 676:4, I(e)1.) (see Appendix B)

8.19 Erosion and Sediment Control Regulations

8.19.1 GENERAL

The purpose of this regulation is to control soil erosion and sedimentation resulting from site construction and development. Subdivision and site plans shall include plans for controlling erosion and sedimentation as provided below

8.19.2 WHERE REQUIRED

The applicant shall submit an erosion and sediment control plan to the Planning Board for any tract of land being developed or subdivided, where one or more of the following conditions are proposed:

8.19.2.1 A cumulative disturbed area exceeding 20,000 square feet.

8.19.2.2 Construction of a street or road.

8.19.2.3 A subdivision of three or more building lots or dwelling units.

8.19.2.4 Disturbed critical areas.

Standard agricultural and silvacultural practices are exempt from this regulation. The Planning Board may waive the requirement for all or part of an erosion and sediment control plan if it determines that a plan is unnecessary because of the size, character, or natural conditions of a site. All requests for waivers and action thereon shall be made in writing.

8.19.3 DESIGN STANDARDS

The following standards shall be applied in planning for erosion and sediment control:

8.19.3.1 All erosion and sediment control measures in the plan shall meet the design standards and specifications set forth in the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" as amended and adopted by the Rockingham County Conservation District.

8.19.3.2 Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation will be done in a manner that minimizes soil erosion.

8.19.3.3 Appropriate control measures shall be installed prior to removal of vegetation.

8.19.3.4 The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.

8.19.3.5 Measures shall be taken to control sediment and retain it within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Very poorly drained soils and water bodies shall be protected from sediment.

8.19.3.6 Off-site surface water and runoff from undisturbed areas shall be carried non-erosively through the project area, or diverted away from disturbed areas where feasible.

8.19.3.7 Naturally occurring streams, channels, and wetlands shall be used for conveyance of runoff leaving the project area.

8.19.3.8 All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within 30 days.

8.19.4 PLAN REQUIREMENTS FOR EROSION AND SEDIMENT CONTROL

8.19.4.1 Preliminary Plan Requirements

A preliminary plan is optional. If submitted it shall include the following:

A. Site drawing of existing and proposed conditions:

(a) Locus map showing property boundaries
(b) North arrow, scale, date
(c) Property lines
(d) Easements
(e) Structures, utilities, roads and other paved areas
(f) Topographic contours
(g) Critical areas
(h) Waterways, bodies of water, drainage patterns, and watershed boundaries
(i) Vegetation
(j) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist
(k) Erosion and sediment control measures
(l) Areas of soil disturbance

B. Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.

8.19.4.2 Final Plan Requirements for Erosion and Sediment Control

The Planning Board shall require each of the following in the final plan unless specifically waived:

A. Site drawing of existing and proposed conditions:

(a) Locus map showing property boundaries
(b) North arrow, scale, date
(c) Property lines
(d) Structures, roads, utilities, earth stockpiles, equipment storage, and stump disposal areas

(e) Topographic contours at two-foot intervals
(f) Extent of 100-year flood plain boundaries if published or determined
(g) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist
(h) Easements
(i) Areas of soil disturbance
(j) Areas of cut and fill
(k) Areas of poorly and/or very poorly drained soils including any portion to be disturbed or filled
(l) Location of all structural and vegetative erosion and sedimentation control measures
(m) Identification of all permanent control measures

B. Narrative section including:

(a) Construction schedule
(b) Earth movement schedule
(c) Description of temporary and permanent vegetative measures including seeding specifications
(d) Description of all structural erosion and sedimentation control measures, with detailed drawings of each
(e) Design calculations for all temporary and permanent structural control measures
(f) A proposed schedule for the inspection and maintenance of all measures
(g) Identification of all permanent control measures and responsibility for continued maintenance
(h) Calculations showing volume, peak discharge, and velocity of present and future runoff

8.19.5 RESPONSIBILITY FOR INSTALLATION/CONSTRUCTION

The applicant shall bear final responsibility for the installation, construction, and disposition of all erosion and sediment control measures required by the provisions of this regulation. The Planning Board may require a bond or other [security as described in an amount and with surety conditions satisfactory to the Board, Section 6.14 above.] Site development shall not begin before the erosion and sediment control plan is approved. Erosion and sediment control measures shall be installed as scheduled in the approved plan.

8.19.6 MAINTENANCE

The applicant shall maintain all soil erosion and sediment control measures, including devices and plantings as specified in the approved plan, in effective working condition. Responsibility for maintenance by subsequent owners of the property on which permanent measures have been installed shall be included in the deed and shall run with the land. [This information shall also be incorporated on the plan. For improvements which require easements on property owned by another the easement must be recorded at the Rockingham County Registry of Deeds.] If the owner fails to adequately maintain such measures, the town shall have the authority to perform required maintenance. The cost of such work shall be borne by the owner.

8.19.7 PLAN APPROVAL AND REVIEW

The Planning Board shall indicate its approval of the erosion and sediment control plan, as filed, if it complies with the requirements and objectives of this regulation. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

Technical review of any erosion and sediment control plan prepared under this regulation shall be reviewed by the Brentwood consulting engineering firm at the expense of the applicant.

8.19.8 INSPECTION

Inspection shall be made during development to ensure compliance with the approved plan and that control measures are properly installed or performed and maintained.

8.19.9 OTHER REQUIRED PERMITS

In addition to local approval, the following may be required:

A. RSA 485-A:17 requires a permit from the New Hampshire Water Supply and Pollution Control Division for "... any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural run-off...". Regulations require this permit for any project involving more than 100,000 contiguous square feet of disturbance or if such activity occurs in or on the border of the surface waters of the state.

8.20 Waiver Procedure

8.20.1 When a proposed subdivision plat is submitted for approval, the applicant may request in writing to waive specific requirements of these Regulations as they pertain to the site plan. The applicant shall present reasons in writing why the waiver is needed.

8.20.2 The Planning Board may grant a waiver in a special case, so that justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purposes of these Regulations; and further provided that the Planning Board shall not approve waivers unless it shall make written findings based upon the evidence presented to it in each specific case. Such waivers will be entertained and acted upon by the Planning Board only at a properly noticed public hearing.

8.21 Soil Type Lot Size Regulations

8.21.1 PURPOSE

Whereas, the local legislative body of the Town of Brentwood has established a minimum lot size in its municipal zoning ordinance in accordance with RSA 674:16, I(b):

The Planning Board of the Town of Brentwood, New Hampshire hereby adopts the following as part of their Subdivision Regulations in accordance with RSA 674:35-36 for the following purposes:

To require that the land indicated on plats submitted to the Planning Board shall be of such character that it can be used for the building purposes without danger to health;

To prescribe minimum areas of lots so as to assure conformance with local zoning ordinances and to assure such additional areas as may be needed for each lot for on-site sanitary facilities; and

To protect ground water quality for purposes of public health and safety.

8.21.2 DEFINITIONS

As used in this regulation, the following terms shall have the following meaning unless the context clearly indicates otherwise:

Certified Soil Scientist: A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

Cluster Subdivision: As defined by the Town of Brentwood Zoning Ordinance.

Commercial: As defined by the Town of Brentwood Zoning Ordinance.

Community Wastewater System: A non-municipal wastewater supply system that serves an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections.

Community Water Supply: A non-municipal water supply system that serves an average of at least twenty-five (25) individuals daily year-round, or that has at least fifteen (15) service connections.

Industrial: As defined by the Town of Brentwood Zoning Ordinance.

Municipal Wastewater System: A wastewater collection, treatment, and disposal system that serves an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections and that is owned and operated by a municipal or regional government.

Municipal Water Supply: A water supply system that serves an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections and that is owned and operated by a municipal or regional government.

Qualified Soil Scientist: A person qualified in soil classification and mapping who has been approved by the State of New Hampshire, Board of Certification of Natural Scientists.

Residential: As defined by the Town of Brentwood Zoning Ordinance.

Slope: The average steepness of the land surface under consideration. For the purpose of determining lot size categories, slope shall be determined by slope factors used by the National Cooperative Soil Survey soil classification (where A & B = 0-8%; C = 8-15%; D = 15-25%; and E = >25%).

Soil Type: As defined by High Intensity Soil Maps for New Hampshire prepared by a Qualified soil scientist.

Subdivision: As defined by the Town of Brentwood Subdivision Regulations.

Wetlands: Lands containing soils classified on a High Intensity Soil Survey (H.I.S.S.) prepared by a qualified soil scientist as poorly drained, very poorly drained, including freshwater and saltwater marshes or alluvial soils, and displaying a preponderance of wetlands vegetation.

8.21.3 MINIMUM LOT SIZES

In the absence of municipal sewerage facilities, minimum lot sizes within all subdivisions shall, in addition to meeting the requirements of the zoning ordinance for the district wherein the subdivision is proposed, also meet such additional size requirements as may be needed for each lot to insure ground water quality protection. Each lot shall have a carrying capacity of one or greater (1-06). These additional requirements are specified in Table 1A, "Minimum Lot Size by Soil Type".

This requirement is subject to the following modifications:

(a) Where more than one soil type is found on a lot, a carrying capacity of those soils occurring on the lot shall be used to determine the minimum lot size.

In the case of Cluster Subdivisions and multi-family developments, the overall density of lots for development within the parcel shall be determined by using the appropriate table and computing a carrying capacity of all allowed soils found in the parcel proposed for subdivision. Type B Hydric soils will be given credit up to the density computed for the upland portion of the property. Each lot in the cluster development shall have a carrying capacity of one or greater. The overall computed density may then be increased by 2%.

(b) Wetlands may be used as a part of the computed lot size according to the following:

(1) Areas designated as Type B Hydric soils may be utilized to fulfill the minimum lot size required by town ordinances and subdivision regulations provided that a contiguous, non-wetland area of 25,000 square feet to adequately accommodate all housing and required utilities such as sewage disposal and water supply to include setbacks, is provided.

(2) Areas designated as Type A Hydric soils (very poorly drained soils, fresh or saltwater marsh) may not be utilized to fulfill minimum lot size.

(3) No subsurface wastewater disposal system shall be constructed within 75 feet of any Type A Hydric soil or 50 feet of any Type B Hydric soil.

(c) Slopes greater than 25% may be used as part of the computed lot size according to the following:

(1) Areas designated with slopes greater than 25% may be utilized to fulfill the minimum lot size required by town ordinances and subdivision regulations provided that an area with less than 15% slopes sufficient in size and configuration to adequately accommodate all housing and required utilities such as sewage disposal and water supply to include setbacks, is provided. This area of greater than 15% slopes can be included in the calculation of 25,000 square feet of upland soil required in section (b) 1 above, as long as required on site facilities can be located within the lot.

(d) Minimum lot sizes for residential developments with greater than four (4) bedrooms per unit and for commercial and industrial developments shall be determined as follows:

(1) For multi-family residential use the minimum lot size shall be proportionately larger than the lot size indicated in the appropriate table as determined by the following formulas:

Lot Size (Sq.Ft.) =
Number of 1 or 2 Bedroom units x (Lot Size from Table 1A x .75)

Lot Size (Sq.Ft.) =
Number of 3 & 4 Bedroom units x Lot size from Table 1A

(2) For the conversion of a single family house into a two family structure where the number of bedrooms shall not exceed 4, the lot size shall be increased by 50% of the minimum lot size as determined by the appropriate table.

(3) For commercial and industrial uses with residential-type waste, lot sizes will be determined by the formula:

$$\text{Lot Size} = \frac{Q\ (gpd)}{} \times \text{Lot Size from Table 1A}$$

B. Table HISS: Establishing Lot Sizes Using

High Intensity Soil Map Units

Soil Type	Slope B	C	D	E
111-H	31750	35250	40000	46000
112-H	31750	35250	40000	46000
114-H	77000	89000	106000	132000
117-H	54500	60500	67500	77000
118-H	65750	74750	86750	104500
121-H	31750	35250	40000	46000
122-H	31750	35250	40000	46000
124-H	77000	89000	106000	132000
127-H	54500	60500	67500	77000
128-H	65750	74750	86750	104500
161-H	31750	35250	40000	46000
164-H	77000	89000	106000	132000
167-H	54500	60500	67500	77000
168-H	65750	74750	86750	104500
211-H	31750	35250	40000	46000
212-H	31750	35250	40000	46000
214-H	77000	89000	106000	132000
217-H	54500	60500	67500	77000
218-H	65750	74750	86750	104500
221-H	40000	46000	54500	67500
222-H	40000	46000	54500	67500
223-H	54500	60500	67500	77000
224-H	77000	89000	106000	132000
227-H	54500	60500	67500	77000
228-H	65750	74750	86750	104500
231-H	40000	46000	54500	67500
234-H	77000	89000	106000	132000
237-H	54500	60500	67500	77000
238-H	65750	74750	86750	104500
243-H	54500	60500	67500	77000
247-H	54500	60500	67500	77000
248-H	65750	74750	86750	104500
253-H	54500	60500	67500	77000
257-H	54500	60500	67500	77000
258-H	65750	74750	86750	104500
261-H	40000	46000	54500	67500
263-H	54500	60500	67500	77000
264-H	77000	89000	106000	132000
267-H	54500	60500	67500	77000
268-H	65750	74750	86750	104500
275-H	40000	46000	54500	67500
311-H	54500	60500	67500	77000
312-H	54500	60500	67500	77000
313-H	54500	60500	67500	77000
314-H	77000	89000	106000	132000
317-H	54500	60500	67500	77000
318-H	65750	74750	86750	104500
321-H	54500	60500	67500	77000
322-H	54500	60500	67500	77000
323-H	54500	60500	67500	77000
324-H	77000	89000	106000	132000
325-H	54500	60500	67500	77000

Soil Type	B	Slope C	D	E
327-H	54500	60500	67500	77000
328-H	65750	74750	86750	104500
331-H	54500	60500	67500	77000
332-H	54500	60500	67500	77000
333-H	54500	60500	67500	77000
334-H	77000	89000	106000	132000
337-H	54500	60500	67500	77000
338-H	65750	74750	86750	104500
343-H	54500	60500	67500	77000
344-H	77000	89000	106000	132000
347-H	54500	60500	67500	77000
348-H	65750	74750	86750	104500
353-H	106000	132000	N/A	N/A
354-H	106000	132000	N/A	N/A
357-H	106000	132000	N/A	N/A
358-H	106000	132000	N/A	N/A
361-H	54500	60500	67500	77000
363-H	54500	60500	67500	77000
364-H	77000	89000	106000	132000
367-H	54500	60500	67500	77000
368-H	65750	74750	86750	104500
374-H	77000	89000	106000	132000
375-H	54500	60500	67500	77000
411-H	77000	89000	106000	132000
412-H	77000	89000	106000	132000
413-H	77000	89000	106000	132000
414-H	77000	89000	106000	132000
417-H	77000	89000	106000	132000
418-H	77000	89000	106000	132000
421-H	77000	89000	106000	132000
422-H	77000	89000	106000	132000
423-H	77000	89000	106000	132000
424-H	77000	89000	106000	132000
427-H	77000	89000	106000	132000
428-H	77000	89000	106000	132000
431-H	77000	89000	106000	132000
432-H	77000	89000	106000	132000
433-H	77000	89000	106000	132000
434-H	77000	89000	106000	132000
437-H	77000	89000	106000	132000
438-H	77000	89000	106000	132000
443-H	77000	89000	106000	132000
444-H	77000	89000	106000	132000
447-H	77000	89000	106000	132000
448-H	77000	89000	106000	132000
453-H	106000	132000	N/A	N/A
454-H	106000	132000	N/A	N/A
457-H	106000	132000	N/A	N/A
458-H	106000	132000	N/A	N/A
461-H	77000	89000	106000	132000
463-H	77000	89000	106000	132000
464-H	77000	89000	106000	132000
467-H	77000	89000	106000	132000
468-H	77000	89000	106000	132000
475-H	77000	89000	106000	132000

Soil Type	Slope B	C	D	E
511-H	106000	132000	N/A	N/A
512-H	106000	132000	N/A	N/A
513-H	106000	132000	N/A	N/A
514-H	106000	132000	N/A	N/A
517-H	106000	132000	N/A	N/A
518-H	106000	132000	N/A	N/A
521-H	106000	132000	N/A	N/A
522-H	106000	132000	N/A	N/A
523-H	106000	132000	N/A	N/A
524-H	106000	132000	N/A	N/A
527-H	106000	132000	N/A	N/A
528-H	106000	132000	N/A	N/A
531-H	106000	132000	N/A	N/A
532-H	106000	132000	N/A	N/A
533-H	106000	132000	N/A	N/A
534-H	106000	132000	N/A	N/A
537-H	106000	132000	N/A	N/A
538-H	106000	132000	N/A	N/A
543-H	106000	132000	N/A	N/A
544-H	106000	132000	N/A	N/A
547-H	106000	132000	N/A	N/A
548-H	106000	132000	N/A	N/A
553-H	N/A	N/A	N/A	N/A
554-H	N/A	N/A	N/A	N/A
557-H	N/A	N/A	N/A	N/A
558-H	N/A	N/A	N/A	N/A
561-H	106000	132000	N/A	N/A
563-H	106000	132000	N/A	N/A
564-H	106000	132000	N/A	N/A
567-H	106000	132000	N/A	N/A
568-H	106000	132000	N/A	N/A
575-H	106000	132000	N/A	N/A

The soil types listed below have one or more limiting characteristics that make the soil type “NA” or require on-site investigation, no matter what other characteristics of the soil may be present

Soil Type	Minimum Lot Size	
6***H	N/A	very poorly drained soil
*66*H	N/A	fill does not meet the Standards for Fill Material (See Key to Soil Types
76**H	On-site evaluation needed. (Usually filled, excavated or regraded sites)	

The Soil Type symbols are explained in “High Intensity Soil Maps for New Hampshire. Standards, SSSNNE Special Publication No.1, revised July 2002.”

“N/A” means not allowed. Doesn’t count at all toward lot size.

“*” means any slope or any number.

C. Example Calculations

Example One: Conventional Subdivision using High Intensity Soil Mapping Standards

~ Soil types and slopes are taken from a High Intensity Soil Survey prepared by a certified soil scientist according to the published standards.
~ Each lot in a subdivision is calculated individually.
~ The soil carrying capacity must equal 1.0 or more for the lot to meet the soil based lot size requirements.

Soil type	Square feet of soil	Lot size from Table	Divide sq. ft / lot size	Soil carrying capacity
323BH	26400	54500	26400/54500	0.48
323DH	27200	67500	27200/67500	0.40
511BH	15100	106000	15100/100600	0.15
681BH	12300	not allowed		0.0
			Total:	1.03

This lot exceeds the minimum lot size. **(3-05)**

(Sq.Ft.) 200 gpd

where Q = gallons of wastewater to be discharged per day. The amount of flow will be determined by use of env-Ws 1008.2 Average Daily Flow Volume.

(4) Final site plan approval for commercial/industrial development which generate wastes of such nature or character as to require state or federal permits for pre-treatment and discharge or subsurface disposal shall not be granted until all such permits are secured, provided however that conditional approval may be granted per RSA 676:4, I (I). The conditions upon which such permits are issued shall comply with state and local regulations and be made part of the record before the Planning Board.

(e) Each newly created lot must be able to incorporate a rectangle measuring forty feet by eighty feet (40 X 80) that does not encroach upon any setbacks established by town or State regulations and ordinances. At the discretion of the Planning Board this rectangle may be required to be shown on the recordable mylar for the proposed subdivision.

In addition, the building envelope for the lot cannot include the four thousand square feet required for septic system replacement as this area shall be left undisturbed in the event that the on-site septic system needs to be replaced. (8/17/00)

8.21.4 SOURCES OF SOILS INFORMATION

(a) Soils information shall be provided by use of HISS maps.

(b) HISS mappings shall be performed by a Certified Soil Scientist and so stamped.

(c) All costs of preparing soil data shall be borne by the subdivider.

8.21.5 RELATIONSHIP BETWEEN STATE AND LOCAL REGULATIONS

Where both state and local regulations are applicable, the most stringent regulations shall take effect. If the state regulation addresses an issue not included in the local regulation or if the local regulation addresses an issue not included in the state regulation, that regulation shall automatically apply.

8.21.6 SAVING CLAUSE

Where any provision included within these regulations is found to be unenforceable by law, it shall be considered severable from the remainder of the regulation and shall not be construed to invalidate any other provision in these regulations.

8.21.7 RECORD OF ADOPTION

The Subdivision Regulations Supplement incorporating soils-based lot size determination has been adopted by majority vote of the Brentwood Planning Board on _____ following a duly noticed public hearing held on _____.

8.21.8 EFFECTIVE DATE

These regulations are effective as of _____, on which day they have been filed with the Brentwood Town Clerk.

8.22 Deeds or other proposed documents of conveyance of any land located within the subdivision proposed by the Subdivider for use for recreational or other Town purposes and Town ownership shall be part of the application. This includes the requirement that deeds be submitted for land to be used for street rights of way. These proposed documents of conveyance shall be in a form satisfactory to Town Counsel. The fact that the Subdivider makes such offers and Town Counsel approves the form of the documents does not bind the Town or its agents to accepting the offer. The suitability of lands offered for recreational or conservation uses shall be determined by the Conservation Commission of the Town in the first instance. A letter indicating the Commission's opinion shall accompany the application.

8.23 New lots displayed on the subdivision plat should be labeled as lots A-Z. For subdivisions with more than twenty-six (26) lots the twenty-seventh (27th) lot should be designated AA, and so forth.

8.24 For any subdivision which requires the creation of easements, these easements shall be shown on an individual plan sheet. The purpose of this sheet will be to insure that those areas required as easement areas are clearly delineated. These easement plans will be recorded as a part of any approved plan set at the Rockingham County Registry of Deeds. In addition, each page of the plan set that is recorded will have the following notation: “All lots within this subdivision are subject to the easements delineated on the easement plan and all deeds conveyed out of the subdivision shall include language reflecting these easements.” (10/7/99)

8.25 The applicant shall provide a PDF and DWG/DXF format file of the approved record drawings on a compact disk (CD). The file set shall contain all information shown on the record plan set with each file layer identified on a separate text file. The plan file shall show horizontal datum using North American Datum of 1983(NAD 83) or NH State Plane Coordinates tied to a minimum of three (3) property line monumentation points. The plan file shall also show a bench mark tied to North American Vertical Datum (NAVD 88) or (NGVD 29) (1/4/07)

8.26 The final plan set shall include a cover page that shows the subject parcel along with all abutting parcels within two hundred feet. Each parcel shall be labeled with their tax map references. (1/17/08)

SECTION 9 - ADMINISTRATION AND ENFORCEMENT

9.1 General

9.1.1 These Regulations shall be administered by the Planning Board with the assistance of the Building Inspector, Town Engineer, planning board agent and such other persons as the Board shall designate. It shall be the duty of the Board of Selectmen to enforce the Subdivision Regulations. The Selectmen in enforcing these Regulations shall act upon complaints from the public or information from the Planning Board, Building Inspector, Town Engineer, planning board agent] or others, and shall, whenever practicable, take such action as is necessary.

9.1.2 Agents designated by the Board of Selectmen, Building Inspector, Town Road Agent, Town Engineer shall be charged with the responsibility of inspecting improvements and development of subdivisions on site for compliance with the Subdivision Regulations.

9.2 Appeals

9.2.1 Any person aggrieved by any decision of the Planning Board concerning a plat or subdivision may appeal said decision to the Superior Court, as provided by RSA 677:15.

9.3 Amendments

The Planning Board may from time to time amend these regulations. Amendments to the Subdivision Regulations shall include the following steps:

9.3.1 The Board shall hold at least one (1) public hearing on the proposed regulations and/or amendments.

9.3.2 Notice for time, place and date of any hearing to amend shall be given at least ten (10) calendar days before hearing, not including day of posting or day of hearing. Notice of hearing shall be published in a paper of general circulation in Town and posted in two (2) public places. Notice shall include an adequate statement describing the proposal and the place where a full text of proposal is on file for public inspection. Posting shall include a copy of the full text.

9.3.3 The Planning Board may adopt the amendments upon completion of the public hearing by an affirmative vote of a majority of its members.

9.3.4 Regulations and/or amendments adopted shall be legal and have full force and effect when copies are certified by a majority of the Planning Board members and filed with the Town Clerk and the Board of Selectmen. A copy of the regulations and/or amendments shall be forwarded to the Office of State Planning.

9.4 Penalties for Transferring Lots in Unapproved Subdivisions.

9.4.1 Any owner, or agent of the owner, of any land located within Brentwood, who transfers or sells any land before a plat of said subdivision has been approved by the Planning Board and filed with the appropriate recording official under RSA 674:35 II, shall forfeit and pay a civil penalty of $500.00 for each parcel or lot so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town of Brentwood may enjoin a transfer or sale which violates the provisions of this Section and may recover the penalty imposed by civil action. (RSA 676:16)

9.5 Fines and Penalties

9.5.1 Any violation of these regulations shall be punishable as per RSA 676:17, 17-a, and 17-b, as the Board of Selectmen shall elect.

The Planning Board shall also have the authority to seek injunctive relief pursuant to RSA 676:15.

ADDENDUM A

ROAD DESIGN AND CONSTRUCTION SPECIFICATIONS

GENERAL:

A. For the proposed street construction, the contractor shall submit to the Town Engineer or other agent of the Planning Board three (3) copies of plans for proposed widths, grades, profiles, existing topography, boundaries and drainage (existing and proposed) at a scale of not less than 1" = 50' and plans of all streets showing accurately all physical features (on mylar or other suitable material). If during construction, the final location of any item changes, this shall be corrected on the final plan and returned to the Town Engineer or other agent of the Planning Board for filing.

B. Decisions and recommendations of the Town Engineer or other agent of the Brentwood Planning Board relative to any of the requirements and conditions stated shall be final.

C. Permanent point of origin benchmark at mean sea level must be created within the right-of-way of the new street to be created in accordance with USGS Rules and Regulations.

D. The Town reserves the right of inspection to the Town Engineer, Planning Board, or other authorized agent from the time of approval until final acceptance.

E. Roads will not be accepted by the Town of Brentwood for at least three (3) years after construction is completed. A Maintenance Bond in the amount of 10% of the Construction Bond value will be required to be posted prior to releasing the Construction Bond. The Maintenance Bond must remain in effect until the road is accepted by the Town. Repairs to roads prior to acceptance will be accomplished by person or persons offering road for acceptance by Town.

Until such time that the Town Of Brentwood accepts any road as a town road, the developer shall be responsible for all maintenance and upkeep, including, but not limited to snowplowing, salt and sanding as needed. Failure to do so may result in the Town Of Brentwood's intervention at the developer's expense. Charges and penalties shall be set by the Board of Selectmen. (3-05)

F. The finished roadway surface shall not be less than twenty-four (24) feet in width and have at least four (4) foot gravel shoulders on each side of the paved section before tapering off at a 3:1 slope to the ditch line. In embankment areas where six (6) feet or more of fill is required and a 2:1 slope is used, the shoulder shall extend six (6) feet beyond the edge of pavement and a standard guard rail shall be installed. All ditch lines shall be a minimum o f 18 inches below the finished road surface at the center line.

G. The roadway shall be constructed in accordance with the typical roadway section included as part of these specifications. All work and materials shall be in accordance with the latest provisions of the New Hampshire Department of Transportation, Standard Specifications for Road and Bridge Construction, unless otherwise stated herein.

H. The grade of the road shall not be less than one percent (1%) nor more than eight percent (8%) unless specifically approved by the Planning Board.

I. Monuments of granite six (6) inches on the top and thirty-six (36) inches long shall be set with six (6) inches exposed above ground at all street corners and angle points in the street line as well as at the ends of all curves. All street lines shall have monuments set a maximum of four (400) feet apart.

REQUIREMENTS FOR CONSTRUCTION OF ROADS AND STREETS IN THE TOWN OF BRENTWOOD

SECTION 1 - CLEARING AND GRUBBING

1.1 Prior to clearing and grubbing, the Town Engineer or other agent of the Planning Board, accompanied by the Developer, shall review the layout of the clearing limits and approve or disapprove it.

1.2 This work shall consist of clearing, grubbing, removing and disposing of all vegetation and debris within the right-of-way.

1.3 This work shall also include the removal and disposal of all stone walls and fences within the right-of-way.

1.4 This work shall also include the preservation from injury or defacement of all vegetation and objects designated by the Town Engineer or other agent of the Planning Board to remain.

1.5 All debris shall be disposed of outside of the right-of-way.

SECTION 2 - EXCAVATION AND EMBANKMENT

2.1 All excavation and embankment operations shall be done in accordance with the applicable sections of the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended.

2.2 All testing of embankments, i.e., gradation, compaction, etc., shall be performed by an independent testing laboratory, approved by the State to perform such tests, and shall be paid for by the Developer.

2.3 Prior to placing any gravel sub-base, the Town Engineer or other agent of the Planning Board shall have inspected the sub-grade as suitable for placing the gravel sub-base.

SECTION 3 - SUBGRADE AND PLACEMENT FILL

3.1 The sub-grade of the road bed shall be constructed to the required width, grade, and cross section as shown on the typical section on file with the Planning Board and the Town Engineer.

3.2 All unsuitable material including stumps, large roots, loam, muck, organic material and any other improper road foundation material within the limits of the right-of-way shall be completely removed.

3.3 The sub-grade shall be proof rolled with a minimum of a 10 ton roller with at least five (5) passes, any material which weaves or otherwise yields shall be removed. The Developers engineer shall certify that the roadway has been proof rolled and all yielding material has been removed.

3.4 Any unsuitable material encountered in the sub-grade shall be replaced with granular backfill meeting NHDOT Item #209 containing no stone greater in any dimension than six inches and shall be compacted in accordance with the document, Standard Specification for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended to an effort of at least 95% of maximum dry density measured in accordance with AASHTO T-99, Method C.

3.5 Ledge and boulders larger than 6 inches shall be removed to a minimum of at least 8 inches below sub-grade and replaced with sand or bankrun gravel.

3.6 All fill material placed above sub-grade and in trenches shall meet the minimum material requirements of NHDOT, Granular Backfill, Section 209. Fill shall be placed in maximum lifts of 12". Each lift shall be compacted to 95% of maximum dry density (AASHTO T-99, Method C). Compaction tests shall be completed at 50 foot increments for each lift. In the case of the culvert trenching a minimum of two (2) tests (one in each travelway) shall be completed per lift. The Town shall be furnished a copy of all compaction test results. The expense of the compaction tests shall be born by the Developer.

SECTION 4 - DRAINAGE

4.1 The Developer shall engage the services of a registered professional engineer currently licensed to practice in the State of New Hampshire to make a complete study of the subdivision, including adjacent properties which may be contributing run-off water, or have natural water courses affecting said subdivision, for the purpose of designing a storm drainage system for the subdivision.

4.2 The criteria to be used shall be the criteria currently used by the N.H. Department of Transportation for designing storm drainage systems for roadways. Design criteria shall be a twenty-five (25) year storm frequency. The storm drainage design shall result in a “net-zero” increase in runoff. All ponds shall be designed to safely pass the 100 year storm event.

4.3 The Developer shall submit the design, criteria, and plans for the proposed storm drainage system on the preliminary plan.

4.4 All pipe used for storm drains shall be Class IV reinforced concrete pipe not less than 15 inches in diameter measured inside of the pipe, certified by the manufacturer. The minimum pipe slope shall be 0.005.

4.5 Headwalls of a type recognized by the N.H. Department of Transportation shall be constructed at the ends of all pipes which drain to the surface of the ground.

SECTION 5 - GRAVEL SUB-BASE AND CRUSHED GRAVEL BASE

5.1 A sub-base course of gravel consisting of 12 inches, placed in two six (6) inch lifts and compacted to 95% of dry density (AASHTO T-99, Method C) shall be constructed. The gravel sub-base shall be tested, at the expense of the Developer at an interval of one test every 50' of roadway per lift. The Town shall be furnished with a copy of the test reports.

5.2 A gravel base consisting of six (6) inches of crushed gravel containing no stone larger than three (3) inches shall be constructed on the approved sub-base in accordance with the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended. The width and depth of the gravel sub-base shall be in accordance with the typical section on file with the Planning Board and the Town Engineer. The Developer shall have the gravel base tested for compaction as described in Section 5.1 above. The cost of such testing to be paid for by the Developer.

5.3 Material used for Gravel Sub-base and crushed gravel base shall meet or exceed the standards described in the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended and as detailed on the typical cross section.

SECTION 6 - BITUMINOUS CONCRETE PAVEMENT

6.1 The construction of Bituminous Concrete Pavement and materials used shall be in accordance with the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended.

6.2 Bituminous concrete pavement shall be constructed in two courses as shown on the typical section. 2 ½ " (Type D: Single Course), 1 ½ " wearing course (Type E: ½ ") (Amended 7/19/01)

6.3 A maximum tolerance of 1/4 inch in 10 feet in any direction from the theoretical plane will be allowed.

6.4 The binder course shall be in place for two (2) winter seasons before application of the final wearing course. The binder course shall be shimmed prior to placement of surface course to remove any irregularities from settlement or construction/maintenance damage.

SECTION 7 - GUARD RAIL

7.1 On all fill slopes of greater than 3:1, guard rail will be installed in accordance with the standard details contained in the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended.

SECTION 8 - SEEDING

8.1 Humus material will be placed on the final slope. This material shall be free from stumps, roots, rocks, glass and other non-desirable material greater than 1" in diameter designated by the Town Engineer or other agent of the Planning Board.

8.2 After placing and shaping of humus material, all slopes except rock slope ledge shall be seeded with a mixture of seed at an application rate set forth in the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended for slope seed.

SECTION 9 - SIGNS AND MAILBOXES

9.1 Signs with names of street conforming to standards of Town of Brentwood shall be erected on required metal posts.

9.2 All traffic regulatory signs shall be furnished by the Developer. All traffic regulatory signs shall be in accordance with the Manual on Uniform Traffic Control Devices.

9.3 The face of all mailboxes shall be four (4) feet from edge of pavement and forty-two (42) inches in height from the pavement surface to the inside bottom surface of the mailbox. Mailbox posts shall be six (6) feet from edge of pavement. (Amended 8/16/01)

SECTION 10 - CURBING AND SIDEWALKS

10.1 Curbing shall be granite and installed and constructed in accordance with the Standard Specifications. The curb reveal will be six (6) inches above finished pavement grade. Bituminous sidewalks shall be constructed in accordance with the document, Standard Specifications for Road and Bridge Construction, State of New Hampshire, Department of Transportation, 1990, as amended. The total thickness of the Bituminous sidewalk will be 2 ½ inches consisting of a 1 ½ inch binder course and a 1-inch wearing course placed on 12 inches of compacted gravel base.

SECTION 11 - CONSTRUCTION AND INSPECTION PROCEDURES

Prior to commencing any work the Developer shall schedule and hold a preconstruction meeting. The Planning Board, Road Agent, Selectmen and Town Engineer shall be notified at least one (1) week in advance of the meeting. The meeting shall be held at a time mutually agreeable to all parties. The following items shall be discussed at the Preconstruction Meeting:

1. Contacts:

1.1 A sign up sheet shall be distributed at the meeting for identification of the Developer, Contractor, Engineer, and Town contacts. This sign up sheet will be attached to the meeting notes and will identify addresses and phone numbers for key contacts. This same list will be used for distribution of the meeting notes.

1.2 In the event of an emergency an individual from the contractor must be identified and available on a twenty four (24) hour call basis.

2. Schedule:

2.1 The Developer shall provide a schedule identifying key components of the construction activities.

2.2 The Developer shall provide the Town's Engineer with at least forty eight (48) hours advance notice for completing the mandatory inspections identified in subsequent sections of this agenda.

3. Mandatory Inspections:

3.1 The Town's Consultant shall complete inspections at the following intervals:

a. Inspection of clearing limits and erosion control devices prior to commencing earthwork.
b. Inspection of sub-grade prior to placement of any fill.
c. Inspection of granular base sub-grade prior to placement of select gravel material.
d. Inspection of granular base material prior to placement of any binder or wearing course pavements.
e. Inspection of binder installation.
f. Inspection of roadway when all work is substantially complete and ready for release of Construction Bond.
g. Inspection of shim course prior to overlay and inspection of overlay.

3.2 A written report will be furnished for each inspection noting any areas that are of concern or in violation of the approved plans.

4. Testing Services:

4.1 The Developer shall arrange for an independent geotechnical testing firm to complete the following tests and certifications:

a. Provide a written certification from a licensed Professional Engineer that all organic material and unsuitable material has been removed from the roadway. This shall include inspecting the sub-grade prior to placement of any fill, by proof rolling with a minimum of a ten (10) ton vibratory roller making five (5) passes over the sub-grade. Any areas which demonstrate weaving shall be considered to be unsuitable.

b. Compaction tests shall be completed for each lift of fill material placed at a frequency of one (1) test for every 50 l.f for roadway. The maximum lift of fill material shall be twelve (12) inches.

c. Compaction tests shall be completed in each trench for either the water line storm drain or other subsurface utilities. Compaction tests shall be completed on each lift of material placed at an increment not to exceed one (1) test for every 50 feet of trench. The maximum lift shall be twelve (12) inches.

d. The geotechnical consultant shall provide material certifications for all common borrow and granular base material utilized on the project.

e. The geotechnical consultant shall provide inspection reports detailing the location of the tests, date of tests, results of the tests. These reports shall be made available to the Town's Consulting Engineer as they are generated.

5. Submittals:

5.1 The Developer shall provide material certifications for all drainage pipe, bituminous pavement and granular base materials utilized on the project.

5.2 The Developer shall provide certification that no hazardous material has been placed within the limits of the right-of-way.

6. As-Built Survey:

6.1 The Developer shall maintain a set of as-built records on site during the progress of the work. The Developer shall furnish the Town with one (1) set of as-built drawings certified by a licensed professional engineer or surveyor depicting the roadway alignment, finished grade, monuments and utility locations depth and sizes.

Diameter	Headwall Length	Headwall Height	Fill Height	Pipe Cover	Headwall Bottom Width
D	L	H	FH	h	W
12"	4-3	3-9	1-1	1-3	2-0
15"	6-0	4-3	1-7	1-6	2-1
18"	7-0	4-6	1-10	1-6	2-2
24"	9-0	5-0	2-4	1-6	2-3
30"	11-0	5-6	2-10	1-6	2-5
36"	13-0	6-0	3-4	1-6	2-6
42"	15-9	6-9	4-1	1-9	2-9
48"	17-9	7-3	4-7	1-9	2-10

Note:

1. All dimensions given in feet and inches except pipe diameter.
2. Provide bell end at inlet headwall and spigot end at outlet end headwall.
3. Rip-rap shall be sized to resist the tractive velocity forces.

ADDENDUM B

LOT LINE ADJUSTMENT APPLICATION CHECKLIST

Name of Applicant: _____ Date:_____

Location of Property: _____

Tax map(s) and Lot Number(s) of lots involved _____

In order to be complete, a lot line adjustment application shall contain the following information, where applicable:

___ Copy of deeds of parcels involved in lot line adjustment

___ List of abutters and addresses

___ Five (5) full size and five (5) size B copies of the plan showing the following, where applicable

__ Current Owner's name and address

__ Option holder's name and address

__ Surveyor name, address, signed stamp, and error of closure certification

__ North arrow

__ Scale (not more than 100 feet to the inch)

__ Date

__ Location (Locus) map

__ Tax map and parcel number

__ Location and dimension of property lines including entire undivided lot. Each lot must be numbered according to the tax map numbering system

__ Old and new lot lines

__ Abutting subdivision names, streets, easements, building lines, parks & public places, & similar facts regarding abutting properties

__ Area of proposed lots

__ Location of existing & proposed easements or rights-of-way; utility, slope and/or drainage

__ Location of existing buildings

__ Location of existing & proposed sewer & water lines and utilities

__ Name, width, class & location of existing & proposed streets

__ Location of water courses, standing water, and fire ponds

__ Location of ledges, stone walls, & other natural features

__ Other essential features

__ Edges of wetlands and brooks

Lot Line Adjustment Application checklist (pg. 2 of 2)

__ Common and dedicated land

__ Access locations to existing town & state highways

__ Title Block

__ Copies of all applicable permits and applications for permits

__ Certification by the surveyor that the field work undertaken in the preparation of the plan has an error of closure no greater than 1 part in 10,000

__ Plan at the scale conforming to the Brentwood Tax Map

__ Approval block for Planning Board endorsement

__ Monumentation shown on plat as set, concrete bounds at new lot corners, iron pins on runs longer than 400 feet

__ Building setbacks from property lines and from poorly and very poorly drained soils where appropriate

"Reasonable fees in addition to fees for notice . . . may be imposed by the Board to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular applications" (RSA 676:4 (g)).

The following items may be required by the Planning Board before final approval is granted:

___ Erosion and sediment control plan

___ Traffic Impact Analysis

___ Environmental Impact Studies

___ N.H. Wetlands Board Dredge and Fill Permit

___ Driveway Access Permit

___ NH WS & PCD Major Alteration Permit (149:8-a)

___ Construction and Maintenance Bonding

___ Town Engineer Review of Proposal

___ Miscellaneous Engineering Studies

___ Topographical Map (2 ft. intervals) existing & proposed

___ Location of test pits and test pit logs

___ High Intensity Soils Map overlay with 5 digit nomenclature (by Qualified Soil Scientist) showing soil types, slopes, & calculations

APPLICATION FOR LOT LINE ADJUSTMENT

Note: Lot line adjustments or boundary agreements are those applications which do not result in newly created buildable lots.

1. Name, mailing address and telephone number of subdvider(s)

_____

_____

_____

2. Name, mailing address and telephone number of owner of record if other than applicant

_____

_____

_____

3. Location (address) of proposed Lot line adjustment

_____

4. Town of Brentwood Tax Map(s) and Lot Number(s) of affected properties

_____

Name, mailing address and telephone number of surveyor and/or agent

_____

_____

_____

5. Abutters: Attach a separate sheet listing the Town of Brentwood Tax Map, Lot Number, Name and Mailing Address of all abutters, including those across a street, brook or stream. Names should be those of current owners as recorded in the Town of Brentwood Tax Records. Provide on mailing labels, in triplicate.

   Note: No application shall be heard unless all abutters as described herein have been notified

6. **NOTE WELL**: No Lot Line Adjustment Hearing shall be scheduled unless the following is submitted to the Town Hall 20 days prior to the date upon which the applicant wishes his/her application to be heard:

   a. This application, correctly completed with the required attachments.

   b. Five (5) full size copies, and 5 B size copies of the Final Plan, including all pertinent information as required by the Subdivision Regulations , Section 8, "Specific Plan Requirements".

   c. Payment of all applicable subdivision fees.

   d. An abutter list with all abutters of the parcel. Abutter notification fees must be paid upon application.

   e. The applicant shall submit to the Planning Board new deeds for the properties involved that show the results of the lot line adjustment. These deeds must be submitted for Board review prior to their being recorded by the Town with the new plot plans at the Rockingham County Registry of Deeds.

7.	Fees:	Advertising/secretarial costs		$170.00
		Abutter notification (each)	$ 7.50	_____
		Any engineering or professional costs		_____
			Total	_____

The subdivider and/or owner, or agent, certifies that this application is correctly completed with all required attachments, and requirements as stated in Part 6 of this application have been met, and that any additional costs for engineering or professional services incurred by the Brentwood Planning Board or the Town of Brentwood in the final subdivision process of this property shall be borne by the subdivider and/or owner.

Date Subdivision and/or Owner, or Agent

_____ _____

_____

"I hereby authorize the Brentwood Planning Board and its agents to access my land for the purposes of reviewing this lot line adjustment plan, performing road inspections and any other inspections deemed necessary by the Board or its agents, to insure conformance of the on-site improvements with the approved plan and all Town of Brentwood ordinances and regulations."

Date Owner

_____ _____

_____

ADDENDUM C

DRIVEWAY AND OTHER ACCESSES TO TOWN ROADS

SECTION 1 - AUTHORITY AND PURPOSE

Pursuant to the authority vested in the Planning Board of the Town of Brentwood by N.H. RSA 236:13, V, the following regulations are promulgated as required by N.H. RSA 236:13, V, the said Planning Board having previously been granted the power to regulate the subdivision of land by vote of the Brentwood Town Meeting on March 9, 1974. The purpose of these regulations is to provide a mechanism whereby abutters may obtain access to Town roads in a planned and orderly manner in order to insure the public health and safety of all residents of the Town. For the purposes of this regulation, when the driveway or access point is in a subdivision or on a road not yet accepted by the Town, the Planning Board's permitting and inspection agent shall be the Town's consulting engineer. When the driveway or access permit involves a Town road the Planning Board's permitting and inspection agent shall be the Road Agent.

SECTION 2 - PERMIT REQUIRED

No person shall construct, or alter in any way that, in the opinion of the Planning Board's Agent, Town Building Inspector, or Road Agent, substantially affects the size or grade of any driveway, entrance, exit, or approach within the limits of the right-of-way of any Class IV, V, or VI highway or Town maintained portion of any Class II highway as defined by N.H. RSA 230:4 that does not conform to the terms and specifications of a written permit issued by the Town's Road Agent or the Brentwood Planning Board's agent.

SECTION 3 - CONTENTS OF APPLICATION AND PERMIT

A written construction permit application must be obtained from, filed with and approved by the Planning Board's agent before any construction or alteration work is commenced.

A. All said applications shall:

1. Describe the location of the driveway, entrance, exit, or approach. The location shall be selected to most adequately protect the safety of the traveling public. Driveways shall be placed no closer than 10 feet from a property line for newly created lots. The location of driveways as they exist in 2010 on existing lots are not required to be changed to meet this standard, nor does improvement to driveways existing in 2010 result in the need to meet this standard. **(1/6/2011)**

2. Describe any drainage structures, traffic control devices, and channelization islands to be installed by the abutter.

3. Establish grades that adequately protect and promote highway drainage and permit a safe and controlled approach to the highway in all seasons of the year.

4. Include any other terms and specifications necessary for the safety of the traveling public.

B. Applications regarding access to industrial enterprise or to a subdivision, all of which for the purposes of these regulations shall be considered a single parcel of land, even though acquired by more than one conveyance or held nominally by more than one owner, shall:

1. Be accompanied by an engineering drawing showing information set forth in subsection A:1-4 above;

2. Not be approved for more than one access to a single parcel of land unless all season safe sight distance of 400 feet in both directions along the road can be obtained. The access approved by the Board shall be at that location the Board determines to be the safest.

3. Be reviewed with "all season safe sight distance" defined as provided by N.H. RSA 249:17 III (c).

SECTION 4 - LIMITATION ON PERMITS

No construction permit shall allow:

A. A driveway, entrance, exit or approach to be constructed more than fifty (50) feet in width, except that a driveway, entrance, exit or approach may be flared beyond a width of fifty (50) feet at its junction with the road to accommodate the turning radius of vehicles expected to use the particular driveway, entrance, exit or approach.

B. More than two (2) driveways, entrances, exits or approaches from any one road to any one parcel of land unless the frontage along that road exceeds five hundred (500) feet.

SECTION 5 - APPEAL OF DENIAL OF PERMIT

In the event the Planning Board's agent denies any application for a permit the applicant may, by a request in writing, appear before the Board at its next regularly scheduled public meeting to appeal the denial. Notice of said appeal shall additionally be given to abutters and be published all as required by N.H. RSA 36:23 (Supp. 1979) and the Planning Board's regulations in the case of subdivision requests, the expense of same to be borne and prepaid by the appealing applicant. At said meeting, the Board may reaffirm or modify its action and/or accept any changes proposed by the applicant.

SECTION 6 - EFFECTIVE DATE

These regulations shall take effect upon the filing of certified copies of same with the Town Clerk and the Board of Selectmen.

SECTION 7 - BONDS

The Planning Board or its agent may require the posting of a bond or other such surety with the Town Treasurer in an amount as it requires reasonably sufficient to guarantee compliance with the permit.

SECTION 8 - FEES (Adopted 1/6/83)

A twenty-five dollar ($25.00) inspection fee will be charged, payable in advance to the Town of Brentwood. Inspector shall be entitled to ninety percent (90%) compensation for their services.

_____

Sections 1, 2, and 3, in their entirety, result from an amendment effective 12/20/79.

Add typical driveway section here

TOWN OF BRENTWOOD

SITE PLAN REVIEW REGULATIONS

- Adopted November 19, 1992 -
- Amended January 21, 1993 -
- Amended January 2, 1997 -
- Amended May 1, 1997 -
- Amended June 5, 1997 -
- Amended August 16, 2001 -
- Amended October 17, 2002 -
- Amended February 20, 2003 -
-Amended July 15, 2004 -
- Amended December 15, 2005 –
-Amended January 17, 2008-

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TOWN OF BRENTWOOD

SITE PLAN REVIEW REGULATIONS

SECTION 1 - AUTHORITY AND TITLE

Pursuant to the authority vested in the Planning Board by the voters of the Town of Brentwood and in accordance with RSA 674:43 the Planning Board has been empowered to review and approve or disapprove site plans for the development or change or expansion of use of tracts for non-residential uses, or for multi-family dwelling units whether or not such development includes the subdivision or re-subdivision of the site.

These regulations shall be known, and may be cited as, the "Town of Brentwood Site Plan Review Regulations," hereinafter referred to as "Site Plan Review Regulations." The current set of Regulations revise and replace the Brentwood Site Plan Review Regulations of 1985, as amended, and take effect upon adoption by the Board and filing with the Brentwood Town Clerk in accordance with RSA 675:6. A copy shall also be filed with the NH Office of State Planning in accordance with RSA 675:9.]

SECTION 2 - PURPOSE AND INTENT

The purpose of the Site Review Procedure as detailed in RSA 674:44 is to protect the public health, safety, and welfare; to promote balanced growth; to ensure sound site utilization; to avoid development which may result in adverse environmental impacts; to prevent premature and uncoordinated development of land without the adequate provision of public services and facilities; and to guide the character of development.

The Site Review Procedure in no way relieves the developer, his/her agent, or individual from compliance with the Zoning Ordinance, Subdivision Regulations, or any other ordinance which pertains to the proposed development. No site plan will be finally approved until it complies in all respects to any and all pertinent ordinances and regulations of the Town of Brentwood.

SECTION 3 - CONFLICTING PROVISIONS AND VALIDITY

Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance, or other regulations, that provision which imposes the greater restriction or the highest standard shall govern.

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

SECTION 4 - JURISDICTION

4.1 The provisions of these regulations shall apply to all land within the boundaries of the Town of Brentwood.

4.1.1 Any person proposing site development in the Town of Brentwood must apply to the Planning Board for approval of such activity.

4.1.2 A site plan review application must be made and approved:

before a change or expansion of non-residential use;

before any construction, land clearing or building development is begun;

before any permit for the erection of any building may be granted, and;

before a site plan plat may be filed with the County Registry of Deeds.

4.1.3 Site plans for all multi-family dwellings and non-residential development shall be submitted to the Planning Board for review. A full site plan review will not be required for any expansion or change of use of any existing non-residential or multi-family use under the following circumstances:

4.1.3.1 A new site plan need not be submitted for Planning Board approval if the proposed development of the site; and

a. there is an approved site plan for the property on file in the Planning Board office; and

b. does not constitute a change of use;

c. does not result in expansion greater than seven percent of the original structure's size; (in no instance shall the increase constitute greater than 1500 square feet of new construction); and

d. all other requirements of site plan review are met.

e. all site activity must presently conform to the existing recorded site plan.

4.1.3.2 This site plan review exemption may be utilized two times on any non-residential parcel, and only after the applicant has had an informal consultation with the Planning Board at which the determination is made that a site plan is not required. After the second time any further expansion must be approved by the Planning Board within the scope of formal site plan review procedures.

4.2 No building permit may be issued for the construction or alteration of any building or structure within the purview of these Regulations (except as described in 4.1.3.1 and 4.1.3.2 above) until a copy of an approved site plan plat has been presented by the applicant to the Building Inspector.

SECTION 5 - DEFINITIONS

5.1 Change of Use: Any change which has an effect on the nature of the activity conducted on the site, its impact on the environment or public health and safety, the type and number of visitors or customers, traffic pattern, or the appearance of the structure or the site. (10-17-02)

All definitions appearing in the Town of Brentwood Zoning Ordinance are applicable to subdivision and site plan review regulations.

SECTION 6 - GENERAL STANDARDS AND PRINCIPLES FOR SITE PLAN REVIEW

In review of any site plans conducted under these regulations, the Planning Board will require that adequate provisions be made by the owner or his agent for:

6.1 Appropriate buffers that shall be maintained or installed to screen the use from neighboring properties. Landscape treatment shall consist of natural vegetation or features, or ground cover, shrubs, trees as appropriate, or fencing;

6.2 Sufficient off-street parking for the anticipated use;

6.3 Sufficient off-street loading space, including off-street areas for maneuvering the anticipated trucks or other vehicles;

6.4 Access, parking and loading areas constructed so as to minimize dust, erosion and run-off conditions that would have a detrimental effect on abutting or neighboring properties. The Planning Board may require oiling or paving if appropriate or necessary;

6.5 Grading, paving and storm drainage systems, so that development will not result in erosion/sedimentation of streams, or damage to abutting properties and roads;

6.6 Light glare and odors so that same will not be discernible off the premises except for indirect lighting of permitted signs or security lighting. Lighting shall not glare on abutting properties or on public highways or streets;

6.7 Access to public streets that will meet the standards of the New Hampshire Department of Transportation and/or the specifications for the construction of roads in Brentwood as detailed in Appendix A of the Town of Brentwood Subdivision Regulations;

6.8 To insure that water supply and sewage disposal facilities are sized to adequately meet the needs of the proposed use under the regulations of New Hampshire Water Supply & Pollution Control Division and the Town of Brentwood Zoning ordinance for the Siting of Septic Systems;

6.9 Pedestrian and bicycle safety and access;

6.10 Storm water drainage and ground water recharge;

6.11 Adequate fire safety, prevention, and control;

6.12 Suitably located and coordinated travelways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access to buildings for fire fighting apparatus and other emergency equipment;

6.13 Conformance with all existing regulations and ordinances;

6.14 Demonstration that the proposal is generally consistent with the Town's Master Plan;

6.15 The minimization of encroachment on neighboring land uses;

6.16 Adequate green areas, open space, conservation easements, slope and drainage easements as may be necessary or applicable;

6.17 Sidewalks, when required, shall be installed and constructed in accordance with the specifications of the Town of Brentwood.

6.18 Fire protection measures for non-residential uses shall be in accordance with subdivision regulation 6.9. **(12/05)**

6.19 The public health, safety and welfare will be otherwise protected.

In addition to the general standards for site plan review listed above the applicant shall observe the following general principles governing site development:

6.20 Land of such character that it cannot be safely used for building purposes because of exceptional danger to health or peril from fire, flood, impermeable soil or other menace shall not be platted for building, nor for such other uses as may increase danger to health, life or property or aggravate the flood or sewage hazard, until appropriate measures have been taken by the owner or his agent to eliminate such hazards.

6.21 All public or private utilities, sewerage and drainage facilities, curbs and sidewalks, when required, shall be installed and constructed in accordance with the specifications spelled out in the Town of Brentwood Subdivision Regulations.

6.22 A detailed plan indicating how the site will be served by electric, telephone and any other public utility must be provided. If the utility company(s) require an easement to provide service, no final approval shall be granted by the Brentwood Planning Board until such easements are secured.

6.23 Pursuant to RSA 674:44,IV, the Board may require special improvements on or off-site which it deems reasonably necessary or desirable for the conditions or circumstances relative to the particular site plan review. Any such special requirements shall be stated in writing in the minutes of the Board with the reasons therefore. The Planning Board may require, either that the applicant construct the improvements in whole or in part, or reimburse the municipality or any other party who, at the direction of the municipality, undertakes such improvements. The applicant's responsibility for such improvements is limited to that portion of the cost of the improvements which bears a rational nexus to the needs created by, and special benefits conferred upon, the site, taking into consideration the municipality's ability to pay for such improvements.

6.24 The development of the site shall not change the topography of the land to be developed by the removal of trees, shrubs, soil and rocks, except that which is necessary for the building of the structures and driveways.

6.25 The applicant must file when appropriate, emergency planning documentation with the Brentwood Office of Emergency Management. These forms are available in the Planning Board office.

SECTION 7 - GENERAL INFORMATION REGARDING THE BRENTWOOD SITE PLAN REVIEW PROCESS

7.1 It is recommended that the applicant read the Town of Brentwood Zoning Ordinance, Building Code, and Subdivision Regulations.

7.2 The applicant shall make application using appropriate forms provided by the Planning Board and shall conform to the application procedures and any other applicable regulations adopted by the Town.

7.3 The applicant shall be required to pay all reasonable costs or fees for special investigative studies and the review of documents, which are particular to the application, in addition to administrative and notification fees as required by the Board, in accordance with RSA 676:4,I(g).

7.4 The Board or its representative may make a visual on-site inspection of the land at any stage of the proposal. Inspection is to be at such time when the site is free of snow cover, unless the Board is otherwise satisfied that such inspection is not required.

7.5 If a plan is withdrawn prior to hearing notification for the plan, no further action is required by the Board, and it will be considered terminated. One copy of any such plan(s) shall be retained for Board files.

7.6 Approval of the plan by the Board shall not constitute an acceptance by the Town of the dedication of any proposed street, highway, park or other public open space.

7.7 Only the Town of Brentwood Planning Board has the authority to waive any Site Plan Review Regulations. The procedure for granting of waivers is found at Section 10.3 below.

7.8 In accordance with state law any developments which are likely to have impacts beyond the boundaries of the Town of Brentwood shall be processed by the Brentwood Planning Board according to the procedures established in RSA 36: 54-58.

7.9 In the case where an owner of contiguous land which is located in more than one municipality applies to the Brentwood Planning Board for site plan the proceedings will be done in conformance with the standards outlined in RSA 674:53, Land Affected by Municipal Boundaries.

SECTION 8 - PROCEDURES FOR SITE PLAN REVIEW

8.1 Pre-application Review Phase The Brentwood Planning Board may provide for pre-application review of site plan plats in accordance with RSA 676:4,II, a-c, as follows: (These steps are optional however.)

8.1.1 Preliminary Conceptual Consultation Phase. This is an optional phase directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken. The board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan. Such discussion may occur without the necessity of giving formal public notice as required under RSA 676:4,I(d); however such discussions may occur only at formal meetings of the board.

8.1.1.1 It is recommended that the applicant submit the following information for the preliminary consultation with the Board:

- Correct names and mailings addresses and zip codes of owner(s) of record (and applicant, if different), and a brief description of the proposal.

8.1.2 Design Review Phase. This is an optional phase intended for nonbinding discussions with the applicant, beyond conceptual and general discussions, which involve more specific design and engineering details; provided, however, that the design review phase may proceed only after identification of and notice to abutters and the general public as required by RSA 676:4,I(d). Statements made by Planning Board members shall not be the basis for disqualifying said members or invalidating any action taken.

8.1.2.1 When meeting with the Planning Board under the design review phase option, a rough sketch of the site should be provided which shows the following:

a. Location of lot lines.
b. Lot measurements.
c. Streets surrounding site.

8.1.3 Persons wishing to engage in either the conceptual consultation, or design review pre-application phases shall request an appointment with the Planning Board by contacting the Planning Board secretary or the circuit rider planner.

8.2 Formal Application

8.2.1 Applications for site plan review shall be filed with the Planning Board and shall fulfill all the requirements of these Regulations. An application shall be filled out using forms approved by the Planning Board and available at the Planning Board office. It is required that the applicant meet with the Town's Planning Board Agent before making formal application so that potential problems may be addressed as early as possible in the planning process.

A completed application will be submitted to and accepted for consideration by the Planning Board only at a Public Meeting for which notice has been given to the applicant, abutters and the general public.

8.2.2 Incomplete applications shall not be placed on the Brentwood Planning Board agenda.

8.2.3 The Planning Board at any given time may deem an application complete and schedule same for a Public Hearing.

8.2.4 All completed applications scheduled for Planning Board hearings shall be accompanied by the following:

8.2.4.1 A letter of intent, detailing the scope of the proposed development.

8.2.4.2 A letter of authorization if a representative other than the property owner expects to be in charge of the development proceedings before the Board. This letter must be written by the present owner and state that the owner is in agreement with the development plans being proposed before the board.

8.2.4.3 A copy of the deed(s) establishing ownership to be filed with the Planning Board.

8.2.4.4 On a separate form provided by the Planning Board, the correct names and mailing addresses and zip codes of the applicant and owner(s) of record (if different), and all abutters (including those across the street or stream) as indicated in Town records -- to be obtained not more than 5 days before the day of filing.

8.2.5 The applicant shall submit to the Planning Board a complete application for site plan approval, including all supporting exhibits as specified under Sections 8 and 9 of these regulations. At that time, the Planning Board Secretary will submit plans to the town engineer, Planning Board agent, fire department and police department.

8.2.6 **Fees**

8.2.6.1 An application and secretarial fee.

8.2.6.2 Cost of certified mailings for each landowner within 200 feet of the proposed subdivision. Notice to abutters shall be made by Planning Board 10 days prior to date of formal submission of application by certified mail, return receipt requested.

8.2.6.3 A fee to cover the costs of publication of a legal notice in a paper of general circulation.

8.2.6.4 In the event that the abutters' hearing is defaulted for any reason, or additional hearings are required, all fees except those for the tax map changes shall be repaid by the applicant for the new hearing.

8.2.6.5 The applicant for site plan review shall bear the following costs to be paid before the Site Plan Review mylar is signed by the Planning Board:

A. A fee to cover the costs of making appropriate changes to the Brentwood tax maps.

B. The costs incurred as a result of review by the Town's planner or other consultant.

C. The cost of recording the original mylar and securing two copies of this plan at the Rockingham County Registry of Deeds.

D. Any and all costs deemed necessary by the Director of Public Works and/or the Planning Board in excess of the above shall be paid by the applicant before the final approval.

8.3 Notification

The Planning Board shall notify the applicant and abutters by certified mail, of the date upon which the application will be submitted to the Board for formal consideration. According to RSA 676:4 (d), notice shall be mailed at least ten (10) days prior to date of submission. Notice to the general public shall also be given at the same time by posting in two (2) public places. The notice shall include a general description of the proposal, the applicant's name, and location of the proposal. For any public hearing on the application, the same notice as required for notice of submission of the application shall be

given. If notice of public hearing has been included in any prior notice, additional notice is not required, nor shall additional notice be required of an adjourned session of a hearing properly noticed, if the date, time and place of the adjourned session was made known at the prior hearing.

8.4 Acceptance, Formal Consideration and Public Hearing

8.4.1 At the beginning of the public hearing, the Planning Board may formally accept for consideration the application for site plan if all requirements have been met. This marks the beginning of the sixty-five (65) day review period described in Section 8.4.5 of these Regulations. (RSA 676:4, I(c)). **(Amended 8/16/01)**

Should an application be found incomplete, the Board shall notify the applicant requesting that the necessary documentation be submitted and informing the applicant that no further consideration of the application can be made until the application is complete.

8.4.2 During the public hearing, the Planning Board will take testimony from the applicant, questions by members of the Board and questions from any abutters present and any members of the public present with an interest in the proceedings.

8.4.3 The Planning Board and such other appropriate Town agencies or agents, may choose to arrange an inspection of the proposed site with the applicant. The applicant and/or landowner is requested to attend the inspection.

8.4.4 The Planning Board shall not have the authority to [finally] approve an application which does not conform to the Brentwood Zoning Ordinance. It shall be the power of the Zoning Board of Adjustment to authorize, upon appeal, in specific cases, variances or exceptions from the terms of the zoning ordinances (see RSA 674:33 and any amendment thereto).

8.4.5 Within 65 days of formal acceptance of the plan the Planning Board will make a decision on the site plan proposal as follows:

8.4.5.1 Approval. At a duly noticed public meeting, the board shall act to approve, conditionally approve, or disapprove, the application. The sixty-five (65) day time limit shall be subject to extension OR waiver as provided below in Sections 8.5 and 8.6 (RSA 676:4, I(c)). (Amended 8/16/01)

8.4.5.2 Conditional Approval. The Planning Board may grant conditional approval of a plat or application, which approval shall become final without further public hearing, upon certification to the Board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Final approval of a plat or application may occur in the foregoing manner only when the conditions are:

A. Minor plan changes whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or

B. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or

C. Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies, provided said permits and approvals themselves have not required a change to the Plat submitted to the Board or to any other conditions imposed by the Board. All other conditions shall require a hearing, and notice to

abutters and the public, except that additional notice shall not be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session were made known at the prior hearing;

8.4.5.3 Disapproval. If the Board finds that the application does not meet the standards of these regulations, or fails to comply with other Town or State laws, or will have an adverse impact on surrounding areas or the community, the Board shall disapprove the application.

8.4.6 The Planning Board shall issue a final written decision of their action to approve, conditionally approve, or disapprove the completed application. If the application is conditionally approved, the Board shall list the conditions necessary to be met by the applicant prior to final approval.

8.4.7 In accordance with RSA 676:3, if the application is not approved, the Board shall provide the applicant with written reasons for disapproval. The decision shall be placed on file in the Planning Board's office and shall be made available for public inspection within seventy-two (72) hours after the decision is made and a copy of the decision shall be filed with the Town Clerk.

8.4.8 Conditional approval shall be good for a term of one calendar year from the date granted.

8.5 Extension

The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application (RSA 676:4,I(f)).

8.6 Certificate of Failure To Take Action

In accordance with RSA 676:4,I(c)(1), upon failure of the Board to approve, conditionally approve, or disapprove the application, the Selectmen may order the Planning Board to act within 30 days. If the board still fails to act, the Selectmen must approve the plan within 40 days, unless it can state in writing some specific regulation with which the application does not comply. The failure of the Selectmen to act on such order shall, upon petition of the applicant, constitute grounds for the Superior Court to issue an order approving the application, if the Court determines that the proposal complies with existing site plan review regulations and zoning and other ordinances.

8.7 Recording and Filing of Plats

No site plan plat shall be filed or recorded until it has been approved by the Planning Board, all outstanding fees have been paid by the applicant and the plat has been endorsed with the signatures of a majority of the Board.

The approved plat will be registered at the Rockingham County Registry of Deeds by the Brentwood Planning Board recording agent at the fee established by the Planning Board. Two copies of the recorded plat shall be obtained by the Planning Board at the expense of the Subdivider.

The final Mylar sheets are to be reviewed by the Registry of Deeds before submitting them to the Planning Board, and the applicant shall provide a statement that the registry has approved the Mylar sheets. **(8/2007)**

SECTION 9 - SPECIFIC PLAN REQUIREMENTS

9.1 Format The Plan must be presented to the Planning Board in the following format:

9.1.1 The plan must be drawn in original ink on mylar or other material acceptable for recording purposes at the Rockingham County Registry of Deeds.

9.1.2 Sheet size which conforms to the requirements of the Registry of Deeds of Rockingham County for filing. These sheet sizes are: 8.5" x 11"; 11" x 17"; 17" x 22"; 22" x 34".

9.1.3 Abutters must be indicated on any plan submitted, showing their location in relation to the proposed site plan.

9.1.4 Scale should be not more than 1" = 100' (one inch = 100 feet).

9.1.5 Proposed site plan name or identifying title.

9.1.6 Correct current names of owner(s) of record (and applicant, if different).

9.1.7 Date, north arrow, location (locus map).

9.1.8 Name, license number, signature(s), and seal of the N.H. registered land surveyor, and engineer, if applicable.

9.1.9 Endorsement blocks for Planning Board approval.

The following example endorsement blocks should be incorporated into any final plat to be endorsed by the Brentwood Planning Board.

Approved by the Brentwood Planning Board	Date
Chairman	
Recording Agent	

9.1.10 All benchmarks shall be placed in reference to a permanent USGS point location.

9.1.11 Tax map reference including map and parcel number.

9.1.12 The final plan(s) shall include sufficient data acceptable to the Planning Board and the Town Engineer to determine readily the location, bearing and length of the existing and street and lot line, and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed a ratio of 1 to 10,000. The final plan(s) shall show the boundaries of the property and the bounds of any public or private streets and easements abutting or pertaining to the proposed site plan.

9.1.13 Match lines when needed.

9.2 Surveyed Plan Five (5) copies of the surveyed plan shall be submitted upon application and these plans shall include the following information:

9.2.1 Location of property lines and their approximate dimensions and bearings, boundary extensions, existing buildings, existing and proposed easements, alleys, parks, public open spaces, water courses, flood plains, ponds or standing water, wetlands, rock ledges, and other essential features. Abutting parcels names and similar facts regarding abutting property shall be included.

9.2.2 Location, name and widths of existing and proposed streets, roads and rights-of-ways (ROW's) with their grades and profiles and their center lines.

9.2.3 The plan shall incorporate a note stating that an emergency keybox will be provided for on-premises in a location that is agreed upon between the applicant and the police and fire chiefs of the Town of Brentwood. The purpose of the keybox is to insure access to all on-site facilities in the case of emergencies.

9.2.4 Locations of access to existing town roads, as stated in RSA 236-13, Section 5, and copies of permits for the access.

9.2.5 Existing and proposed water mains, sewers, culverts, drains, and proposed connections or alternative means of providing water supply, and disposal of sewage and surface drainage. All utilities including telephone and electric shall be underground.

9.2.6 Where the topography is such as to make difficult the inclusion of any facilities mentioned in Paragraph 9.2.1 above, within the public area so laid out, the plan shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than ten (10) feet in width and shall have satisfactory access to existing or proposed public way(s).

9.3 Topographic Plan The topographic plan of the proposed site shall be submitted which includes the information described below.

9.3.1 The general topography of the proposed site shall be shown by means of elevations of sufficient points on the property to establish and show contour lines at vertical increments of not more than two (2) feet for the entire area proposed to be subdivided.

9.4 Erosion and Sediment Control Plan

An erosion and sediment control plan, if required, shall be submitted as specified in Section 9.8 - (Erosion Control) of these regulations and all State requirements.

9.5 Septic System Siting Requirements

9.5.1 In no case shall the Planning Board grant final approval of a proposed site plan until all State and Federal approvals, if necessary, have been received: e.g.; New Hampshire Department of Environmental Services (DES) - Water Supply and Pollution Control Division Subdivision Approval; DES Subsurface Disposal; DES Site Specific; DES Wetlands Board - Dredge and Fill Permit; DES Water Supply Approval; and U.S. Army Corps of Engineers 404 Permit.

In the case of site plans where an existing commercial structure is to be remodeled, replaced or altered in any way, if no state approved subsurface waste disposal system is evident, the applicant shall submit plans and specifications for a subsurface disposal system approval to The New Hampshire Department of Environmental Services in accordance with section Env-Ws 1003.10.

9.5.2 In areas served by individual on-site sewage disposal systems, it shall be incumbent upon the applicant or his agent to adequately demonstrate that the lots will meet all current state and local septic system disposal standards. No site plan of land will be approved which cannot meet these standards.

9.5.3 The applicant or his agent shall be required to submit all site information, including but not limited to percolation tests, test pits, soil, slope, and minimum distance data as may be required by the Brentwood Zoning Ordinance to determine the suitability of the lot(s) for on-site sewage disposal.

9.5.4 The location of and pertinent data on sufficient test pits and percolation tests to show that the regulations can be met on the lot(s). Information shall include at least the following: the location of at least two (2) test pits; one (1) percolation test data; the certification of the test pit inspector witnessing the perc tests; and an outline of the four thousand (4,000) square foot areas reserved for leach fields which corresponds to test locations. (Local septic system requirements must be met prior to obtaining approval from the N.H. Water Supply and Pollution Control Division.)

9.6 Legal Documents

Where applicable to a specific site, the following are required in a form approved by Town Counsel:

9.6.1 Agreement to convey to the Town land to be used for streets or other public purposes, with transfer of title.

9.6.2 Easements and rights-of-way over property to remain in private ownership, including drainage easements.

9.6.3 Performance security, as described in Section 9.7.1

9.7 Security

9.7.1 Security shall be in a form and amount, and with surety, and other conditions all satisfactory to the Board to insure for the Town the construction and installation of any required improvements within a period of time not to exceed three (3) years. The time limit of three (3) years for completion from the date of final approval shall be expressed in the security. The security shall remain valid and available until drawn upon by the Town or released in accordance with 9.7.5 below.

Further to the above, the security shall be one of the following:

9.7.1.1 certified check or bank check properly endorsed to the Town of Brentwood.

9.7.1.2 irrevocable letter of credit submitted on the standard form approved by the Town. (If other than the Town's approved form, the performance agreement shall be reviewed and approved by the Planning Board and Town Counsel as to proper legal form and enforceability. The cost of this review shall be borne by the applicant.)

9.7.2 The applicant shall file with the Board a detailed estimate of all costs of required street improvements, drainage structures, utilities or other improvements. The Board may have the estimate reviewed by a professional consultant, if deemed necessary. The cost of this review shall be borne by the applicant. The Board, after considering the estimate, and other pertinent information, shall determine the amount of the performance security required.

9.7.3 The Board may further extend the time of three (3) years for completion when the reasons for delay were unforeseeable and beyond the reasonable control of the applicant. Any such extension shall be in writing and signed by a majority of the Board signifying their concurrence and shall only be granted after ensuring the validity and availability of the security for such extension. Any such extension shall be solely at the discretion of the Planning Board.

9.7.4 The performance security shall not be released until the Board has certified after inspection that the required improvements have been completed in accordance with the approved plat. A fee, payable by the applicant, may be charged to cover the cost of professional consultation selected by the Board to assist in determining completion of all required work to the construction standards of the Town.

9.7.5 All security shall be held by the Treasurer of the Town. The Treasurer shall not draw upon or release any security until he/she is in receipt of a resolution passed by a majority of the Planning Board stating the purpose and amount to be drawn or released. The Selectmen shall enforce such securities by all appropriate legal and equitable remedies.

9.8 Erosion Control

9.8.1 GENERAL

The purpose of this regulation is to control soil erosion and sedimentation resulting from site construction and development. Subdivision and site plans shall include plans for controlling erosion and sedimentation as provided below.

9.8.2 WHERE REQUIRED

The applicant shall submit an erosion and sediment control plan to the Planning Board for any tract of land being developed or subdivided, where one or more of the following conditions are proposed:

9.8.2.1 A cumulative disturbed area exceeding 20,000 square feet.

9.8.2.2 Construction of a street or road.

9.8.2.3 A subdivision of three or more building lots or dwelling units.

9.8.2.4 Disturbed critical areas.

Standard agricultural and silvicultural practices are exempt from this regulation. The Planning Board may waive the requirement for all or part of an erosion and sediment control plan if it determines that a plan is unnecessary because of the size, character, or natural conditions of a site. All requests for waivers and action thereon shall be made in writing.

9.8.3. DESIGN STANDARDS - EROSION AND SEDIMENT CONTROL

The following standards shall be applied in planning for erosion and sediment control:

9.8.3.1. All erosion and sediment control measures in the plan shall meet the design standards and specifications set forth in the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" as amended and adopted by the Rockingham County Conservation District.

9.8.3.2 Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation will be done in a manner that minimizes soil erosion.

9.8.3.3 Appropriate control measures shall be installed prior to removal of vegetation.

9.8.3.4 The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than thirty (30) days shall be stabilized.

9.8.3.5 Measures shall be taken to control sediment and retain it within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Very poorly drained soils and waterbodies shall be protected from sediment.

9.8.3.6 Off-site surface water and runoff from undisturbed areas shall be carried non-erosively through the project area, or diverted away from disturbed areas where feasible.

9.8.3.7 Naturally occurring streams, channels, and wetlands shall be used for conveyance of runoff leaving the project area.

9.8.3.8 All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty (30) days.

9.8.4 PLAN REQUIREMENTS - EROSION AND SEDIMENT CONTROL

9.8.4.1 Preliminary Plan Requirements

A preliminary plan is optional. If submitted it shall include the following:

A. Site drawing of existing and proposed conditions:

(a) Locus map showing property boundaries
(b) North arrow, scale, date
(c) Property lines
(d) Easements
(e) Structures, utilities, roads and other paved areas
(f) Topographic contours
(g) Critical areas
(h) Waterways, bodies of water, drainage patterns, and watershed boundaries
(i) Vegetation
(j) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist
(k) Erosion and sediment control measures
(l) Areas of soil disturbance

B. Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.

9.8.4.2 Final Plan Requirements

The Planning Board shall require each of the following in the final plan unless specifically waived:

A. Site drawing of existing and proposed conditions:

(a) Locus map showing property boundaries
(b) North arrow, scale, date
(c) Property lines

(d) Structures, roads, utilities, earth stockpiles, equipment storage, and stump disposal
(e) Topographic contours at two-foot intervals
(f) Extent of 100-year flood plain boundaries if published or determined
(g) Soils information from Soil Conservation Service published data or, where High Intensity Soil Maps are used, a conversion to a soil series map done by a Certified Soil Scientist
(h) Easements
(i) Areas of soil disturbance
(j) Areas of cut and fill
(k) Areas of poorly and/or very poorly drained soils including any portion to be disturbed or filled
(l) Location of all structural and vegetative erosion and sedimentation control measures
(m) Identification of all permanent control measures

B. Narrative section including:

(a) Construction schedule
(b) Earth movement schedule
(c) Description of temporary and permanent vegetative measures including seeding specifications
(d) Description of all structural erosion and sedimentation control measures, with detailed drawings of each
(e) Design calculations for all temporary and permanent structural control measures
(f) A proposed schedule for the inspection and maintenance of all measures
(g) Identification of all permanent control measures and responsibility for continued maintenance
(h) Calculations showing volume, peak discharge, and velocity of present and future runoff

9.8.5 RESPONSIBILITY FOR INSTALLATION/CONSTRUCTION

The applicant shall bear final responsibility for the installation, construction, and disposition of all erosion and sediment control measures required by the provisions of this regulation. The Planning Board may require a bond or other [security as described in an amount and with surety conditions satisfactory to the Board, section 9.7.1, above]. Site development shall not begin before the erosion and sediment control plan is approved. Erosion and sediment control measures shall be installed as scheduled in the approved plan.

9.8.6 MAINTENANCE

The applicant shall maintain all soil erosion and sediment control measures, including devices and plantings as specified in the approved plan, in effective working condition. Responsibility for maintenance by subsequent owners of the property on which permanent measures have been installed shall be included in the deed and shall run with the land. [This information shall also be incorporated on the plan. For improvements which require easements on property owned by another the easement must be recorded at the Rockingham County Registry of Deeds.] If the owner fails to adequately maintain such measures, the town shall have the authority to perform required maintenance. The cost of such work shall be borne by the owner.

9.8.7 PLAN APPROVAL AND REVIEW

The Planning Board shall indicate its approval of the erosion and sediment control plan, as filed, if it complies with the requirements and objectives of this regulation. If disapproved, a list of plan deficiencies and the procedure for filing a revised plan will be given to the applicant.

Technical review of any erosion and sediment control plan prepared under this regulation shall be reviewed by the Brentwood consulting engineering firm at the expense of the applicant.

9.8.8 INSPECTION

Inspection shall be made by an agent of the Planning Board during development to ensure compliance with the approved plan and that control measures are properly installed or performed and maintained. This shall be done at the expense of the developer.

9.8.9 OTHER REQUIRED PERMITS

9.8.9.1 In addition to local approval, the following may be required:

A. RSA 485-A:17 requires a permit from the New Hampshire Water Supply and Pollution Control Division for "... any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural runoff...". Regulations require this permit for any project involving more than 100,000 contiguous square feet of disturbance or if such activity occurs in or on the border of the surface waters of the state.

9.9 Traffic Impact Analysis

9.9.1 All commercial, industrial or residential development proposed to be located on or having an effect on a town-maintained (Class V) road or street and any state highway shall be reviewed by the Planning Board to ascertain that adequate provisions have been made by the owner or his/her agent for traffic safety. To facilitate this review, the Planning Board may require the developer to provide the Planning Board with a traffic impact analysis when deemed necessary by the Board due to the size, location or traffic generating characteristics of the development.

Traffic impact analyses shall address each of the following:

9.9.1.1 Traffic circulation and access, including adequacy of adjacent streets and intersections, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended traffic signalization and may require accident statistics.

9.9.1.2 Pedestrian safety and access.

9.9.1.3 Off-street parking and loading.

9.9.1.4 Emergency vehicle access.

9.9.1.5 Off-site improvements necessitated and to be constructed by the developer.

9.9.2 The Planning Board may retain the services of a consultant qualified in traffic planning to review the traffic impact analysis and to ensure that adequate provisions are made in the development plan to reduce or eliminate those impacts.

9.10 Streets and Roads

All public and private streets, roads, driveways, sidewalks, pedestrian ways and bikeways shall be submitted as specified in **Addendum A - "Road Design and Construction Specifications" of these Regulations**.

9.11 Parking

9.11.1. Parking Space -- defined as an off-street area for vehicular parking of approximately 9' x 20' long.

9.11.2. Professional, general office, retail or service uses -- at least one (1) parking space per 300 sq. ft. of gross floor area. Upon review of the site plan, the Planning Board may require more spaces, up to a maximum of one (1) parking space per 50 sq. ft. of gross floor area.

9.11.3. Clubs, Restaurants, Churches, or Places of Assembly -- one parking space per three (3) person capacity.

9.11.4. Wholesale and Distribution, Warehousing and Storage, and other Enclosed Storage Uses, Manufacturing, Light Industrial and Industrial Uses -- one (1) parking space per 750 sq. ft. of gross floor area or one (1) parking space per employee on the maximum shift, whichever is greater.

Where a use is not specified re: above, the regulation's intent is that adequate parking spaces shall be provided for the vehicles of all persons likely to be gathered at the premises at one time.

All parking spaces must be on site or assured of perpetual existence by easement.

In site plans of more than one use, the aggregate number of parking spaces shall be apportioned based upon the various uses, with respective areas designated upon the plan. Each unit in a multi-unit facility shall provide a minimum of three parking spaces. More spaces may be required by the Planning Board, dependent upon the use(s) proposed by the applicant. **(7-04)**

For handicapped parking requirements, "The Architectural Barrier Free Design Code for the State of New Hampshire -Section 304" are incorporated by reference hereon.

9.11.5 Parking Lot Landscaped Area Requirements

Any lot which contains parking facilities for more than thirty cars shall also provide landscaped areas within the parking lots equal to at least 10 percent of the gross parking area. Gross parking area shall include the area of parking stalls, aisleways and associated landscaping. This landscaped area shall require landscaped end islands and landscaped center islands within the parking area. Intermediate landscaped islands measuring nine feet wide by twenty feet in length shall be provided in parking rows for every 16 spaces. One deciduous tree meeting the requirements found in the buffering provisions shall be planted within the landscaped area for each ten parking spaces. A deciduous tree shall be planted upon each island as required by the Planning Board.

9.12 Signs

For specific sign requirements, please refer to the Town of Brentwood Zoning Ordinance - General Regulations.

9.13 Noise

In accordance with Section 5.4 (1) (page 29), of the Brentwood Zoning Ordinance the following standards shall apply for the purpose of regulating noise levels within the Town:

General Noise Provisions

a. It shall be unlawful for the owner, occupant and/or any person causing or permitting sound or noise to project within the boundary of a use district which exceeds the limiting noise level set forth in Table 1 below.

b. Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the noise limits at any point of the district into which the noise is projected.

c. The issuance of a building permit shall carry an automatic increase in the noise limit to seventy-five (75) DBA for all activities directly involved with the permitted construction for the hours between 7:00 am and 8:00 pm. The noise limits for the hours between 8:00 pm and 7:00 am shall remain as specified in Table 1 below, unless otherwise specified in the site plan.

Measurement of Noise

a. The measurement of sound or noise shall be made with a sound-level meter meeting the standards prescribed by the American National Standards Institute.

b. The appropriate methodology shall be used in conjunction with a meter in order to best determine that the maximum permissible sound pressure levels for use districts has not exceeded the limiting noise level set forth in Table 1.

c. Measurement of sound levels shall be made at the property line of the property on which such noise is generated or perceived, as appropriate, and shall be taken at least four (4) feet from ground level.

d. Compliance with the noise limits is to be maintained at the boundary of the property.

e. Daytime hours shall be between 7:00 am and 8:00 pm. Nighttime hours shall be between 8:00 pm and 7:00 am.

TABLE 1

MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS FOR USE DISTRICTS

(Sound Pressure Level Limits Measured in DB(A)'s)

	DAYTIME	NIGHT TIME
Commercial/Industrial zone		
Industrial uses	70	65
Commercial uses (includes Professional office Structures)	65	55
Residential uses (includes multi-family structures)	60	50

9.14 Buffer Zones/Landscaping **(2-20-03)**

A. Each Site Plan proposed shall include appropriate buffer areas. These buffer zones shall not be less than twenty-five (25) feet when separating two commercial lots and shall not be less than fifty (50) feet when separating a commercial lot from a residential lot. No parking shall be located within any part of the buffer zone.

B. Each site plan submitted for approval by the Planning Board shall incorporate appropriate landscaping to serve as both visual and sound buffering from abutting parcels. The extent of landscaping materials necessary to achieve this required buffering is to be established on a site by site review using the following standards. Landscaping shall be maintained as approved.

1. Landscape Buffer Requirements **(see diagram end of Section 10)**

Landscaped buffers shall be provided where required by this section and shall conform to the standards in the bufferyards illustrated on the attached page. Fifty percent (50%) of all trees in such buffer areas shall be of the evergreen species. Trees and shrubs shall conform to the following standards:

a) Deciduous trees shall be planted at least three inches (3”) in caliper measured six inches (6”) above the root ball, with a mature height of at least 12 feet.

b) Fruit and ornamental trees shall be planted at two inches (2”) in caliper measured six inches (6”) above the root ball, with a mature height of at least 12 feet.

c) Evergreen trees shall be coniferous species planted at six feet (6’) in height.

d) Shrubs shall be either deciduous species planted at 2.5 feet in height with a mature height of at least six feet or evergreen species planted at 2.5 feet in spread.

e) Existing natural growth will be considered as part of the screen.

2. Front Yard Buffers:

Landscaped treatments of the front yard are required for all proposals and shall include either seeded lawn, evergreen cover, trees, shrubs, or a combination thereof. On a case by case basis, the Planning Board is authorized to allow display of goods within the area between 50 feet and 125 feet from edge of pavement for those uses that require such display of goods.

3. Side and Rear Yard Buffers:

Landscaped treatments are required for side and rear yards for all proposals. These buffers should follow the parameters of the A bufferyard on the attached diagram if the bufferyard is between similar uses. If the bufferyard separates commercial uses from residential uses the B bufferyard standards shall be utilized.

C. Bonding of Landscape Improvements

The Planning Board may require a bond in an amount to cover the cost of 100% of all landscape improvements. These improvements shall include the cost of all plant materials, seed, mulch, topsoil, construction of berms and labor necessary to implement the landscape plan. This bond will remain in effect for one year. A portion of this bond shall be kept in excess of one year to insure the required landscaping survives. **(2-20-03)**

9.15 Illumination

This regulation is intended to reduce the problems created by improperly designed and installed outdoor lighting for non-residential development. It is intended to eliminate problems of glare, minimize light trespass, minimize obtrusive light, protect the quality of the New Hampshire night sky, Brentwood's rural character, and conserve energy and resources while maintaining safety, security and productivity by establishing regulations which limit the area that certain kinds of outdoor-lighting fixtures can illuminate and by limiting the total allowable illumination of lots located in the Town of Brentwood.

9.15.1 Definitions: For the purposes of this Regulation, terms used shall be defined as follows:

a. Cut-off Angle (*of a luminaire)* – The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

b. Direct Light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

c. Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pile socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

d. Flood or Spot Light: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

e. Foot-candle: A unit of illuminance amounting to one lumen per square foot. A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away.

f. Fully Shielded: A fully shielded luminaire is a luminaire constructed or shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from the luminaire, is projected below an angle of 20 degrees below the horizontal plane through the luminaire's lowest light emitting part as determined by photometric test or certified by the manufacture.

g. Glare: Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

h. Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

i. Illuminance: The quantity of light arriving at a surface divided by the area of the illuminated surface, measured in foot-candles.

j. Lamp: The component of a luminaire that produces the actual light.

k. Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

l. Lumen: A measure of light energy generated by a light source. One foot-candle is one lumen per square foot. For the purposes of this Regulation, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

m. Luminaire: This is a complete lighting system, and includes a lamp or lamps and a fixture.

n. Outdoor Lighting: The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

o. Partially Shielded: Shall mean outdoor light fixtures shielded or constructed so that no more than ten percent of the light rays are emitted by the installed fixture at angles greater than 20 degrees below the horizontal plan, and shall not extend above the horizontal plane, as certified by a photometry test report.

q. Temporary Outdoor Lighting: The specific illumination of an outside area of object by any man-made device located outdoors that produces light by any means for a period of less than 7 days, with at least 180 days passing before being used again.

r. Up-lighting: Any light source that distributes illumination above a 90-degree horizontal plane.

9.15.2 <u>General Lighting Requirements:</u>

a. Illumination levels at property boundaries will not exceed .03 foot-candles, except when a property abuts a residential lot where illumination levels shall not exceed 0.2 foot-candles at the shared boundary.

b. All lighting in the Town Of Brentwood is required to have full-cutoff shielding.

c. Up-lighting by any method is prohibited; however, the Planning Board may allow limited use of upward landscape lighting on a case by case basis.

d. Non-cutoff wall-pack type fixtures are prohibited.

e. On a site by site basis during the site plan review process the Planning Board will determine the extent of lighting to be allowed after business hours. Security lighting is permitted and encouraged but the Planning Board shall not allow sites to be overly lighted beyond agreed hours of operation.

9.15.3 <u>Control of Glare – Luminaire Design Factors:</u>

a. Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.

b. Any luminaire with a lamp or lamps rate at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, shall be mounted at a height equal to or less than the value 3+ (D/3), where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 25 feet.

c. The luminaire's maximum illuminance shall not exceed the MINIMUM illuminance recommended for that purpose as defined in the most RECENT "Illuminating Engineering Society Lighting Handbook/References & Applications". **(2-20-03)**

9.15.4 Submission of Plans:

a. The submission shall contain but shall not necessarily be limited to the following:

1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps supports, reflectors, and other devices;

2. Description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required);

3. Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions.

4. A visual impact photometric plan that demonstrates both light coverage and light spillage resulting from the proposed lighting plan.

Additional Submission. The above required plans, descriptions and data shall be sufficiently complete to readily determine whether compliance with the requirements of this regulation are met. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

9.15.5 Exceptions:

a. Any luminaire with a lamp or lamps rated at a total of 1800 lumens or LESS, and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or LESS, may be used without restriction to light distribution or mounting height, except that if any spot of flood luminaire rated 900 lumen or LESS is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

b. Luminaires used for public-roadway illumination may be installed at a maximum height of 25 feet and may be positioned at a height up to the edge of any bordering property. Proposed streetlights or replacement of existing streetlights shall be fully shielded.

c. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.

d. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaries used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.

e. Luminaires used primarily for sign illumination may be mounted at any height to a maximum of 25 feet, regardless of lumen rating.

9.15.6 Prohibitions:

a. Mercury Vapor Lamps Fixtures and Lamps. The installation of any mercury vapor fixture or lamp for use as outdoor lighting is prohibited.

b. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.

c. Searchlights. The operation of searchlights for advertising purposes is prohibited.

9.16 Protection of Natural and Historic Features

9.16.1 Each significant natural feature within the site including large or unusual trees, watercourses, natural stone outcroppings, and other scenic features shall be shown on the plan. Planning Board approval shall be obtained before removal of such features.

9.16.2 Each existing building or man-made structure, including stone fences, shall be shown on the plan and reviewed with the Planning Board for historic significance. Such features will not be destroyed or removed without Planning Board approval.

9.17 Building Depictions

Each site plan shall include plan views that depict the shape, size, height, bulk, and surface treatment of proposed structures.

9.18 The final plan set shall include a cover page that shows the subject parcel along with all abutting parcels within two hundred feet. Each parcel shall be labeled with their tax map references. **(1/17/08)**

9.19 The final mylar will include a note stating that the property owner will notify the Planning Board, in writing, of any change in tenants. The letter will indicate the type of business moving to the site. **(1/17/08)**

SECTION 10 - ADMINISTRATION AND ENFORCEMENT

10.1 General

10.1.1 These Regulations shall be administered by the Planning Board with the assistance of the Building Inspector, Town Engineer and such other persons as the Board shall designate. It shall be the duty of the Board of Selectmen to enforce the Site Plan Review Regulations. The Selectmen in enforcing these Regulations shall act upon complaint or information from the Planning Board, Building Inspector, Town Engineer, or otherwise, and shall, whenever practicable, take such action as the Planning Board or such other officer requests.

10.1.2 An agent so designated by the Planning Board may be charged with the responsibility of inspecting the sites for compliance with the Site Plan Review Regulations.

10.2 Appeals

10.2.1 Any person aggrieved by any decision of the Planning Board concerning a site plan review may appeal said decision to the Superior Court, as provided by R.S.A 677:15.

10.3 Waiver Procedure

10.3.1 When a proposed site plan plat is submitted for approval, the applicant may request in writing to waive specific requirements of these Regulations as they pertain to the site plan. The applicant shall present reasons in writing why the waiver is needed.

10.3.2 The Planning Board may grant a waiver in a special case, so that justice may be done and the public interest secured, provided that such waiver will not have the effect of nullifying the intent and purposes of these Regulations; and further provided that the Planning Board shall not approve waivers unless it shall make written findings based upon the evidence presented to it in each specific case. Such waivers will be entertained and acted upon by the Planning Board only at a properly noticed public hearing.

10.4 Amendments

The Planning Board may from time to time amend these regulations in accordance with RSA's 675:6 and 675:5. Amendments to the Site Plan Review Regulations shall include the following steps:

10.4.1 The Board shall hold at least one (1) public hearing on the proposed regulations and/or amendments.

10.4.2 Notice for time, place and date of any hearing to amend shall be given at least ten (10) calendar days before hearing, not including day of posting or day of hearing. Notice of hearing shall be published in a paper of general circulation in Town and posted in two (2) public places. Notice shall include an adequate statement describing the proposal and the place where a full text of proposal is on file for public inspection. Posting shall include a copy of the full text.

10.4.3 The Planning Board may adopt the amendments upon completion of the public hearing by an affirmative vote of a majority of its members.

10.4.4 Regulations and/or amendments adopted shall be legal and have full force and effect when copies are certified by a majority of the Planning Board members and filed with the Town Clerk.

10.5 Fines and Penalties

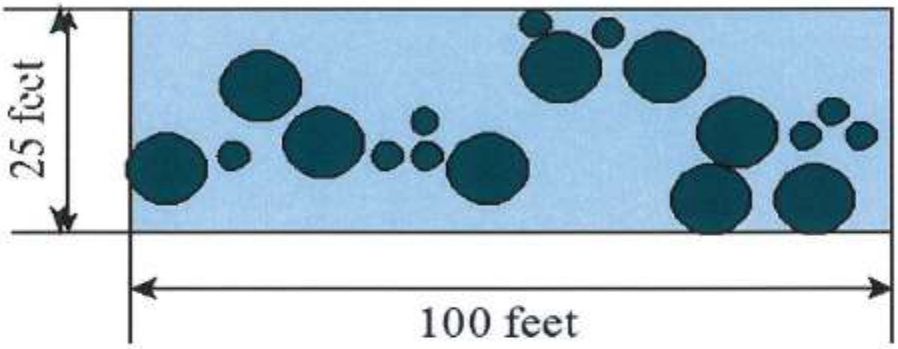
10.5.1 Any violation of these regulations shall be punishable pursuant to RSA 676:17, 17-a, and 17-b, as the Board of Selectmen shall elect.

The Planning Board shall also have the authority to seek injunctive relief pursuant to RSA 676:15.

10.6 Effective Date

These revised regulations are effective as of _____, on which day they have been filed with the Brentwood Town Clerk. In accordance with RSA 675:9 a copy of these regulations and subsequent amendments will be forwarded to the New Hampshire Office of State Planning.

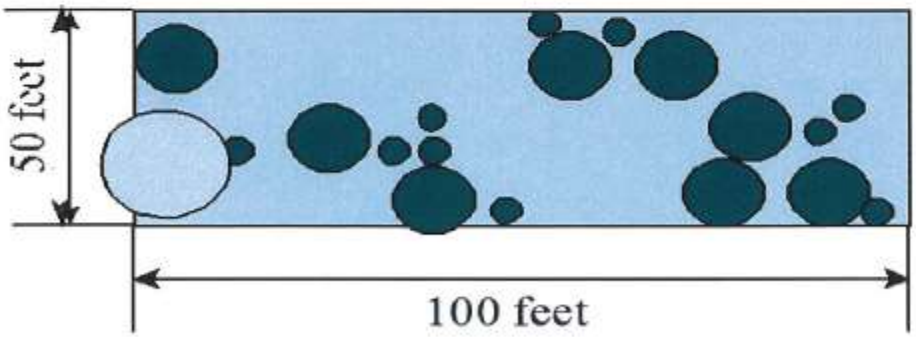
A Bufferyard



Required Plant Units / 100 Feet

9 Trees
9 Shrubs

B Bufferyard



Required Plant Units / 100 Feet

22 Trees
22 Shrubs

TOWN OF BRENTWOOD

CRITERIA FOR ISSUANCE OF BUILDING PERMITS ON CLASS VI ROADS

1. The applicant shall have researched and surveyed any section of the said Class VI right of way up to the farthest point of the property upon which the building permit is to be issued to determine the centerline and boundaries of the right of way in relationship to all abutting properties. Research and drawings to be provided and signed off by a licensed surveyor.

2. All buildings shall meet any and all applicable codes and ordinances including all septic, electrical, plumbing, etc.

3. All buildings shall be set back at least 100' from the centerline of the right of way and set back lines shall be shown on a submitted plat. Applicant to agree to deed to the town his fair portion of land necessary to establish a 50' right of way and setback shall include a 25' natural, treed buffer.

4. Each lot shall have only one dwelling as defined in Article 300.002.006 of the Brentwood Zoning and Land Use Ordinance.

5. Lots shall be considered to exist as taxed and shown on tax map ____, section ____, lot ___ for the Town of Brentwood and recorded at Rockingham Registry of Deeds book ____, page ____, dated_____.

6. Notice will be given to all affected municipal departments of the location of the dwelling and the terms and conditions of any building permit issued on a Class VI road.

7. Agreement and Release to be signed by APPLICANT (S) and recorded at Rockingham Registry of Deeds prior to the issuance of a building permit.

8. A drainage master plan will be developed by the Town's engineering firm. The APPLICANT (S) will be responsible for the expense. Said plan to go from the Class V highway to the furthest point of the applicant's property on the Class VI highway.

9. The Class VI roadway will be improved with a 12" gravel base to a width of not less than 20' unless it is determined that less gravel is required to ensure a good and passable roadway. Said gravel improvement to be from the Class V highway to 50' beyond the applicant's driveway.

The applicant(s) hereby acknowledge(s) that he/she has signed this document as his/her free and voluntary act without coercion or duress.

Effective date: July 1, 1997

Signed:

_____

_____

State of New Hampshire, County of Rockingham, ss.

On this the _____day of _____, 20____, before me, _____,

Personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained. In witness whereof, I hereunto set my hand and official seal.

_____

Notary Public (my commission expires)

SEAL

Amended 4/15/03

EXCAVATION REGULATIONS
FOR THE TOWN OF BRENTWOOD

These regulations have been adopted by the Brentwood Planning Board on 9/16/82. These regulations supplement the provisions of RSA 155-E and provide further clarification of the statutory requirements and their application in the municipality of Brentwood. They are adopted as provided in RSA 155-E:11, RSA 36:21-a and 36:22. Applicants should familiarize themselves with both RSA 155-E and these regulations to be fully informed as to permit requirements.

I. DEFINITIONS

Abutter Any person who owns land within 200 feet of the boundaries of the land under consideration. A way, as defined in RSA 259:1, XXXV, shall not be considered to be a barrier, but shall be included in the distance requirement for purposes of determining whether a person is an abutter. (RSA 36:1)

Applicant Owner of the excavation site or the owner's designee.

Application A complete submission of information and plans as required by the statute RSA 155-E, local regulations, and in the excavation permit application.

Aquifer Those areas designated by blue shading or hatching which appear on statewide mapping prepared by the United States Geological Survey entitled, "Availability of Groundwater…".

Excavation Fee (RSA 155-E:8) A fee of $_____ submitted by the applicant to the Planning Board, following the public hearing and prior to the issuance of an excavation permit, to defray the cost of processing the application.

Excavation Permit (RSA 155:E-8) A permit issued by the Planning Board allowing the excavation of material at a specific site, in a manner consistent with RSA 155-E and local regulations for the period designated on the permit itself.

Owner An individual or corporation who claims ownership of the land, containing the excavation site, by virtue of a properly executed deed filed at the County Registry of Deeds.

Permit Fee (RSA 155-E:11) A fee submitted by the applicant to the Planning Board, as one of the prerequisites to issuance of an excavation permit, for the purpose of defraying costs associated with permit compliance inspection. The fee is established by the Planning Board based on the area (acreage) and duration of the excavation project.

Pit Agreement An agreement between the excavation site owner and the contractor describing the procedure for material excavation (see Section 10.602 of "Standard Specifications for Roads and Bridges" published by the N.H. Department Public Works and Highways).

Stationary Manufacturing and Processing Plants Structural improvements that are permanently placed and that are integral to the grading, crushing and stockpiling of excavation material.

II. EXCAVATION PERMIT APPLICATION

A. The applicant shall submit to the Planning Board and the Conservation Commission the information and documents specified in RSA 155-E:3 and in the Excavation Permit Application.

B. The application submission shall include:

1. The owner's name, location of project, abutter's names and addresses, access routes, etc.

2. An excavation plan showing the excavation site and the scheme for removal of excavated material.

3. A restoration plan describing the process of site grading and re-vegetation following completion of the excavation projects and

4. Related permit approvals or other documents pertinent to the excavation proposal.

III. SUBMISSION DOCUMENTS

A. **Excavation Plan**. The owner/applicant shall submit a plan describing the specific location and extent of the proposed excavation project. The excavation plan shall include existing topographic and site boundary information compiled and prepared by a Registered Land Surveyor. Other information which must be contained in the plan is:

1. Proposed topography at the completion of excavation (prior to restoration);

2. Distances between disturbed areas and closest property lines;

3. Zoning districts;

4. Existing visual barrier to be retained;

5. Aquifer limits/location as identified by the U.S. Geological Survey;

6. Lakes, streams, significant natural and man-made features;

7. A description of project duration and phasing;

8. The names of abutting land owners;

9. Acceptable photographs of the existing site;

10. Notations as to excavation site acreage and volumes of material to be removed;

11. The location and design of site access roads leading to and from public highways;

12. The elevation of the highway annual average groundwater table within or next to the proposed excavation;

13. Topsoil storage sites during the excavation phase;

14. Plan to be drawn on mylar:

    a. Sheet sizes shall be one of the following:

       8 ½” x 11”; 11” x 17”; 17” x 22”; 22” x 34”

    b. Scale: not less than 1: = 60’;
    c. March lines when needed;
    d. Original on mylar to be retained by the Planning Board;
    e. Submit original and three copies;
    f. Prints of blue or black lines;
    g. Date, title, north point, scale;
    h. Name and address of developer and applicant.

B. **Restoration Plan.** Excavation site restoration plans shall be prepared and submitted by all new and existing excavation site owners except as noted in RSA 155-E:2. As required by Chapter 481:3, N.H. laws o f1979, the owners of existing excavation operations must perform restoration in compliance with RSA 155-E:5. The Planning Board shall notify all existing excavation operations owners of their site restoration responsibility. Owners of existing excavation operations shall submit a restoration plan and appropriate bonding to the Planning Board within six (6) months of their notification. The Excavation Permit Application shall be used for this submission.

The restoration plan shall meet, at a minimum, the requirements set forth in RSA 155-E:5. The character of the restored landscape shall blend with the surrounding natural features. The restored site shall be rendered in a condition that will not preclude its future use in a manner consistent with the zoning ordinance and map.

The restoration plan shall be drawn at the same scale and shall use the same base survey information as that utilized in the preparation of the excavation plan.

The restoration plan shall contain the following information:

1. restored topography and drainage at the completion of the restoration phase;

2. the phasing of site restoration showing designated areas and completion dates;

3. soil conditioning specifications;

4. seeding and mulching specifications;

5. the plant materials to be used in restoration, their quantities and sizes; and

6. sections showing existing, excavated and restored topography configuration.

IV. PROJECT SITE REQUIREMENTS

The following site development standards shall be incorporated into the site excavation plan and/or conditions for permit approval.

A. **Excavation Site Location**. Excavation site shall only be permitted within the Commercial/Industrial Zone of Brentwood.

B. **Excavation Site Access Roads**. Access roads leading to and from the excavation site shall intersect existing streets and roads at locations that have been duly approved by state or local officials and in a manner that will not endanger the safety of highway users and local residents. The provisions of RSA 249:17 and 18 ("Highway Access") shall be adhered to by the applicant and shall be shown on the excavation plan.

C. **Traffic Circulation and Truck Route**. (RSA 155-E:3 III) Permit approval shall be conditioned on compliance by the Applicant with street and highway regulations promulgated by Federal, State and local units.

D. **Excavation within Aquifer Areas**. (RSA 155-E:4, IV) No excavation project shall substantially damage any aquifer identified on mapping prepared by the U.S. Geological Survey. The Planning Board shall determine whether or not sustainable damage to the aquifer will be incurred by considering the following criteria:

1. The excavation shall not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of te aquifer to potential pollutants.

2. The excavation shall not cause a significant reduction in the long term volume of water contained in the aquifer or in the storage capacity of the aquifer.

The Planning Board shall require that the Applicant provided data or reports prepared by a qualified soil scientist approved by Rockingham County Conservation District which assess the potential aquifer damage caused by the proposed excavation project.

E. Excavation within 6' of seasonal high water is prohibited. (Adopted 1/6/83)

F. **Topsoil Cover.** Prior to the withdrawal of material at a new excavation site, topsoil material shall be stripped and stored for site restoration use when the excavation project is completed. This should be undertaken in a phased manner to minimize erosion potential. Topsoil shall be re-vegetated during the period of storage.

G. **Timber Removal.** The applicable New Hampshire statutes and regulations pertaining to forest practice and timber harvesting shall apply to the removal of vegetation cover at excavation sites.

H. **Visual Barriers.** A vegetative or topographical buffer shall be maintained between surrounding streets, highways, commercial and residential land as to specific requirements for the proposed excavation site. To the extent possible, existing barriers should be retained as the excavation project is conducted.

V. APPLICATION PROCEDURE

A. **Preparation and submission.** The applicant shall adhere to RSA 155-E:3 and these regulations during the process of application preparation and submittal. The completed application shall be submitted in duplicate, one copy to each the Planning Board and the Conservation Commission.

B. **Excavation Fee.** An excavation fee of $50.00 shall be paid to the Planning Board by the applicant.

C. **Bonding.** The Planning Board shall establish the amount of the performance bond prior to issuance of the excavation permit. The bond amount shall be adequate to restore the excavation site in accordance with RSA 155-E:5. The bond will be returned to the applicant when restoration work has been completed and a final satisfactory site inspection has been conducted by the Planning Board.

D. **Action on Permit.** Within 20 days of the hearing required in RSA 155-E:7, the Planning Board shall make a decision to grant or deny the requested permit. Excavation permit approval by the Planning Board shall be in the form of a memorandum citing all permit issuance conditions, accompanied by a weatherable permit sign depicting the location of the excavation site, the signature(s) of the Planning Board and the permit expiration date. The permit sign shall be posted in a secured manner at a prominent location near the excavation site. If the application is denied, the owner shall be notified in writing, by the Planning Board stating the reason for the denial.

E. **Pit Agreement.** A pit agreement between the owner, the contractor and the governmental unit shall be executed whenever the excavated material is to be used in the construction or modification of Class I, II, III, IV, V highways. A copy of the agreement shall be submitted for acceptance to the Planning Board. Excavation shall not proceed until the Planning Board has accepted the pit agreement and has been placed in an assured position that the excavation site will be restored in conformance with RSA 155-E:5. The pit agreement for Class IV and V highway construction projects shall be essentially the same as the pit agreement set forth in Section 106 of "Standard Specifications for Highways and Bridges" prepared by the N.H. Department of Public Works & Highways.

F. **Permit Validity.** The excavation permit shall be valid for a period of one (1) year.

VI. RENEWAL AND AMENDMENT OF EXCAVATION PERMIT

A. **Permit Renewal.** The applicant may renew the excavation permit and continue excavation operations by making application to the Planning Board in the manner set forth in Section II of these regulations. The excavation permit application need only describe those information items which have changed in content from the previous application submission. Fees and bonding will be established by the Planning Board for the renewal period.

B. **Permit Amendment.** If adherence to the permit conditions (including the excavation/restoration plans) cannot be maintained, the owner shall apply completed and submitted to the Planning Board in a manner similar to that provided in Section IV of these regulations.

VII. ADMINISTRATION AND ENFORCEMENT

A. **Permit Fee Schedule.** A fee of $20.00 per hour for each site visit shall be levied by the Planning Board. Only those site visits made by the Planning Board (or its designee) to affirm compliance with the excavation permit conditions and restoration plan shall be counted for this purpose. The method for and amount of payment shall be determined by the Planning Board.

B. **Enforcement.** (Also, refer to RSA 155-E:10) The Planning Board will conduct site inspections to verify permit compliance on an annual basis unless a more frequent site visitation is necessary due to special characteristics of the excavation/restoration plans.

C. **Other Regulations.** Where these regulations are in conflict with other local ordinances and/or regulations, the more stringent shall apply.

D. These regulations shall become effective upon passage and proper filling.