

TOWN OF CORNISH, NEW HAMPSHIRE

ZONING ORDINANCE

Adopted 1974

and amended

at

Town Meetings

of

1975

1976

1977

1980

1981

1983

1992

1995

1996

1998

1999

2000

2006

2007

2010

2011

2012

2015

TABLE OF CONTENTS

		Page
Article I	Enactment	1
Article II	Definitions	1
Article III	Zoning Districts	10
	Overlay Districts	10
	Conservation Overlay Districts	11
Article IV	Use Regulations and General Provisions	13
	Table 4.1 Uses Permitted by Right and Special Exception	14
	General Provisions	15
Article V	Dimensional Standards	27
	Table 5.1 Dimensional Controls	27
	Lot Shape and Boundaries	28
	Setback	28
Article VI	Signs	29
Article VI-A	Telecommunication Facilities	30
Article VII	Non-Conforming Lots, Uses or Structures	33
Article VIII	Prohibited Uses	36
Article IX	Administration & Enforcement	37
Article X	Board of Adjustment	38
Article XI	Penalty	44
Article XII	Effective Date	44

**ZONING ORDINANCE
of the
TOWN OF CORNISH, NEW HAMPSHIRE**

ARTICLE I ENACTMENT

- A. Authority & Purpose – Pursuant to the authority conferred by RSA 672-677, and for the purpose of promoting the health, safety, convenience, and the general welfare of the Town of Cornish, the following Ordinance is hereby enacted by the voters of the Town of Cornish, New Hampshire.
- B. Title – This ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Cornish, New Hampshire” hereinafter referred to as “this Ordinance.”
- C. Revocation of Existing Ordinances – Upon adoption of this Ordinance by vote of the Town of Cornish, all previously enacted zoning ordinances shall be revoked.
- D. Amendment – The provisions of this Ordinance may be amended by a Town Meeting vote with the procedure provided by RSA 675.
- E. Saving Clause – Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any other part thereof.
- F. Legal Nonconformity – This Ordinance shall not apply to existing lawful structures nor to the existing lawful use of any building or land, which shall be considered as lawfully nonconforming structures or uses for as long as they are not enlarged or changed, except in conformity with Article VII.

ARTICLE II DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purpose of this Ordinance, have the meanings indicated in this section. Words using the present tense include the future; the singular number includes the plural and the singular. Where terms are not defined in this section, they shall have their ordinarily accepted meaning or such as the context may imply. The word “shall” is mandatory the word “may” is permissive. The word “person” includes a firm, association, a partnership, trust, company corporation or other entity as well as an individual, and shall apply to the owner, agent, contractor, and others acting on behalf of the above. The words “used” or “occupied” include the words “intended, designed or arranged to be used or occupied”.

Accessory Building – A subordinate building incidental to and on the same lot occupied by the main building or use.

Accessory Use – A land use locate-d on a lot, which is incidental and subordinate to the main building on such lot, or to the main use of the lot.

Administrator - The administrator of this Ordinance. The Selectmen or their designee shall be the Administrator.

Agriculture – General farming, including horticulture, dairying, livestock, poultry raising and other uses as described under *New Hampshire Revised Statutes Annotated, 21:34-a, Definition of Agriculture*.

Alteration – As applied to a building or structure, any structural change or rearrangement of the structural parts of a building, or the enlargement of a building whether by extension of any side or by increase in height. Alteration includes the movement of a building from one location to another, but does not include ordinary repairs. As applied to a use, a change in the character or intensity of a use.

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

Antenna – Shall mean any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

Apartment – As an accessory use, a single family dwelling unit that may be located on the same lot or in the same structure as the primary dwelling unit on a lot. When apartments are grouped as a primary use in a multifamily dwelling, see Multi-family Conversions.

Areas of Special Flood Hazard – The land in the flood plain within the Town of Cornish subject to a one percent or greater possibility chance of flooding in any given year. The area is designated as Zone A and AE on the Flood Insurance Rate Map (FIRM).

Automotive Repair Garage – Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler or upholstery work, oil change and lubrication, painting, tire service and sales.

Base Flood– The flood having a one percent chance of being equaled or exceeded in any given year.

Bed and Breakfast – A single-family, owner-occupied dwelling with meal service limited to breakfast, for ten or fewer in-house transient guests in a maximum of five bedrooms with a maximum rental period of two weeks.

Boarding/Lodging House – A dwelling or part thereof, which is the primary residence of the owner (who may be an officer of the corporation or family trust which owns the property), in which permanent occupancy is provided by the owner to at least three (3), but no more than eight (8), adult persons not related by blood, marriage or adoption to the owner. No provision for cooking is to be made in any of the rooms occupied by those adult persons.

Building – Any structure or portion thereof whether movable, portable or fixed having a roof and intended for the shelter, housing or enclosure of persons, animals, or property.

Building Footprint – The area under the horizontal projection of the roof and any accessory structures above grade with the exception of trellises and patios.

Burial Ground – A private cemetery on private property and not available for use by the public.

Campground – A parcel of land without water, electricity and sewer hookups, with provisions for the pitching of tents or the parking of any trailer designated to be used as sleeping quarters.

Cemetery – Any cemetery owned, managed, or controlled by any municipality within the State or owned and managed by any corporation chartered by the State.

Cemetery Corporation – A corporation organized for the purpose of operating a cemetery.

Cluster Development – A residential subdivision of a tract of land where single-family dwellings are grouped. The density of a cluster development may exceed the density prescribed in this Ordinance according to the formula set forth in Article IV, Section C: 16.

Commercial Water Extraction The withdrawal of groundwater for the purpose of the sale of said water as a commodity.

Construction Trailer/Office – a temporary structure, not for residential use, that serves the professional needs of the construction trades and project managers/inspectors during active construction of permanent structures, highways, telecommunication towers or similar projects.

Cottage Industry – Any business carried on in the home or an accessory building, which complies with the standards in Article IV, Section C.

Country Inn – A business in an existing structure, which provides lodging to transient guests. Dining facilities may be open to guests and the general public.

Day Care Facility – A use accessory to a residence operated to provide care during the day for three or more persons unrelated to the occupants of the residence.

Development – 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 operations or storage of equipment or materials.

Dwelling, multi-family – A residential building containing dwelling units for occupancy by two or more families.

Dwelling Unit – A room or rooms arranged for use as a separate, independent housekeeping unit established for owner or guest occupancy or rental, containing cooking, living, sleeping and associated sanitary facilities.

Expanded Cottage Industry – Any business carried on in the residence or an accessory building which complies with the standards in Article IV, Section C, Subsection 19A.

FAA – An acronym that shall mean the Federal Aviation Administration.

Family –(1) A single individual, doing his own cooking and living upon the premises as a separate housekeeping unit; or (2) a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship.

FCC – An acronym that shall mean the Federal Communications Commission.

Flood – Inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or other severe storms or deluge.

Flood Elevation Study- An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map – (FIRM) means an official 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 Cornish.

Flood Plain – The area of land lower in elevation than the land-water boundary along a watercourse or other body of water flowing at its 100 year frequency and/or those soils classified by the National Cooperative Soil Survey as “soils subject to flooding.” See Flood Insurance Rate Study and Maps available at the Selectmen’s Office for definition of terms related to Flood Plain.

Flood plain, Regulatory – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Frontage – The distance along a lot line on a street, county, or state highway or town road.

Fuel – Any material, not including wood, used to produce heat or power by burning such as gasoline, heating oil, LP gas, kerosene or diesel fuel.

General Store – A business establishment dedicated to the retail sales of food stuffs, hardware, sporting goods, dry goods, vehicular fuels, automotive supplies and such other items as may be reasonably expected to be used in the home or farm, primarily for personal use.

Government Uses – Agencies and departments of local, county, state and federal governments. The type of function of the governmental facility is stated below:

Office, such as laboratory, post office, clinic, assembly, court.

Education, such as schools, and libraries.

Public Safety, such as fire, police, rescue and ambulance services.

Recreation, such as recreation centers, outdoor recreation facilities, senior centers, gymnasiums, and auditoriums.

Waste Disposal, such as areas or structures for disposal of sewage, septage, solid waste, and garbage under the control of governmental unit; including sanitary landfills, incinerators, sewage treatment plants and similar methods of disposal.

Cemetery, such as cemetery, cemetery vaults and necessary maintenance structures.

Parking, such as municipally owned parking facilities available for use by the general public.

Height – Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point of the tower or other structure, even if said highest point is an antenna.

Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Home Occupation – Any use of a professional or service character, including related limited sales conducted entirely within the dwelling which is clearly incidental and secondary to the residential use of the dwelling and does not change the character thereof nor employ more than one full time equivalent non-family member.

Lodging Unit – A room, suite of rooms, or structure, such as a cabin or guest house, to be occupied by the passengers of a single vehicle for a period not to exceed two weeks. A bunkroom shall not be considered a lodging unit for the purposes of Article IV 21:d; instead parking requirements will be established by the ZBA.

Lot – any parcel of land, which may be legally conveyed by the owner thereof without applying for subdivision of such parcel from a larger parcel of land.

Lot Size – The total horizontal land area within the boundaries of a lot.

Manufactured Housing – Any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is four hundred (400) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating

systems contained therein. Manufactured housing shall not include presite built housing as defined in RSA 674:31-a.

Multi-Use Conversion – A mix of residential and business uses on a single lot in an existing residential building and/or in its existing accessory building(s).

Neighborhood Store – Any use for the sale of new goods such as groceries, newspapers and magazines, personal care items, drugs, and similar family consumer goods which is operated by a family similar to a home occupation employing not more than one full-time equivalent non-family member in its operation. Such a neighborhood store shall not be over 3,000 square feet in area and shall be intended to primarily serve the neighborhood in which it is located.

New Construction – 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.

Nonconforming Structure – A structure, the dimensions or location of which was lawful prior to the adoption of, or amendment to, the zoning ordinance but that fails by reason of such adoption or amendment to conform to the present dimension or location requirements of the zoning ordinance.

Nonconforming Use – A structure or use of land that does not conform to the regulations of the zoning district in which it is located.

Office – A building or buildings containing the facilities where the business of a commercial, industrial, service or professional organization is transacted. This shall include such office uses as legal, medical, dental, accounting, architecture, advertising, graphic design, investment firm, planning, surveying, engineering, drafting, library, scientific research, real estate and insurance, and office type functions of business exclusive of any on-premise manufacturing, assembling, distribution and sale of goods.

Oil – Any lubricating oils – also see fuel.

Parking Space – An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet exclusive of the necessary internal and access driveways and passageways.

Planning Board or Board – Shall mean the Town of Cornish Zoning Board of Adjustment and the regulator of this article.

Preexisting Towers or Antennas – Shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this article. Shall also mean any tower or antenna lawfully constructed in accordance with this article that predates an application currently before the Board.

Principal Use – The main use of land or a structure, as distinguished from a secondary or accessory use.

Private Campsite – the use of any parcel of property for the placing of a camping trailer, camping tent, recreational vehicle, or similar shelter with the intent of being occupied temporarily.

Recreation, Outdoor – Outdoor recreation activities and the facilities to accommodate those activities including but not limited to cross country skiing, hiking, snowmobiling, ATV use, tennis, swimming, horseback riding, and field sports such as baseball, soccer, hockey, etc. Outdoor activities organized for educational purposes such as fly-fishing or hunting schools shall be considered outdoor recreational uses. No structure shall be allowed except as necessary related such as backstops, dock, rest room and maintenance structures.

Recreational Vehicle – A vehicle which is: (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 vehicle; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood Plain Overlay District The districts as designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the County of Sullivan, NH” dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps dated May 23, 2006 or as amended.

Regulatory Floodway – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Restaurant – An eating establishment, which is primarily developed for its patrons to eat at tables, booths or a counter. Take-out services are only incidental to the main purposes of the establishment. So called drive-in, fast food or take-out establishments do not qualify as a restaurant for the purposes of this Ordinance.

Retail Use – The sale of merchandise to customers primarily for personal uses by customers.

Secondary Use – A use different from and not necessarily related to the principal use of the premises.

Service Establishment – Shall include uses such as barber, hairdresser, shoe repair and businesses providing similar services of a personal nature. Service use does not include dry

cleaners, commercial laundries, car washes and other use which generate large volumes of wastewater.

Sign – A device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

Slope – Slope is calculated as a percentage by dividing a total change in elevation by the horizontal distance across which the change occurs and multiplying by one hundred (100). Change in elevation and distance are measured perpendicular to the contours of elevation.

Special Exception (Use Allowed By) – A use which would not be appropriate without restriction in a particular district, and accordingly, is allowable only if all applicable standards, conditions and requirements established by or pursuant to the Ordinance are met and only after public hearing and determination by the Zoning Board of Adjustment.

Special Flood Hazard Area – See “area of special flood hazard.”

Street – A public thoroughfare, highway, street, road or avenue, lawfully existing and maintained for vehicular travel by the Town of Cornish and/or the State of New Hampshire.

Structure – Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Substantial Improvement – 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 dimension 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 as a “historic structure.”

Telecommunication Facilities – Shall mean any structure, antenna, tower, or other device, which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services. A telecommunication facility is not a tower or antenna that is less than thirty-five (35) feet in height, and is owned and operated by a federally licensed amateur radio station operator, or is used exclusively for receive only antennas.

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

Use – The purpose for which a structure or land or any part thereof is occupied, designed, or arranged.

Variance – A variation from the terms of this Ordinance, not otherwise permitted within the district concerned, which may be granted by the Zoning Board of Adjustment pursuant to its discretionary power, where the Board finds that the granting of such variance will do substantial justice and the intent of the Ordinance will still be observed. The Zoning Board of Adjustment may in such case waive the literal enforcement of the applicable provisions of the Ordinance and grant a variance only where such literal enforcement would result in unnecessary hardship. More specifically, the Zoning Board of Adjustment can grant a variance only if it finds that each and every one of the conditions of Section X – G apply.

Violation – 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 in 44CFR section 60.3(b)(5),(c)(4),(c)(10),(d)(3),(e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Bodies – Shall include any and all lakes, dammed water and ponds, at least 3.5 feet deep.

Water Courses – Any and all brooks, rivers and streams whether intermittent or not.

Wetlands – Areas compromised of bogs, marshes, swamps and other areas of very poorly, somewhat poorly or poorly drained soils.

Windmill – A structure exclusively providing wind-generated energy and primarily serving the needs of the principal use of the property.

Wood Lot – A parcel of land used for growth and harvesting of trees and tree products, including either unmanaged tracts or those managed as tree farms.

Yard – The area of a lot extending from the walls of any structure to the lot lines.

ARTICLE III – ZONING DISTRICTS

A. Districts: Purposes and Descriptions – For the purpose of this ordinance the Town of Cornish is divided into the following zoning districts hereinafter referred to as “Districts” or “Zones” as follows:

1. Zoning Districts:

a) Rural District

The Rural District is mainly a district of farms, residences and woodlands.

b) Residential District

The Residential Districts are mainly districts of residences and woodlands which are more densely settled and have better access than the Rural District.

c) Village District

The Village Districts are districts of residences, commercial establishments, community buildings and neighborhood businesses.

2. Overlay Districts:

a) Regulatory Flood Plain District

The Regulatory Flood Plain district is established to limit the nature and intensity of development of flood prone areas to those uses which can be appropriately and safely located in flood prone areas. 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 Sullivan, NH" dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps dated May 23, 2006 or as amended, which are declared to be part of this ordinance and are hereby incorporated by reference.

b) Non-manufactured Housing Overlay District

The Non-Manufactured Housing Overlay District is described as follows: Within the boundaries hereinafter defined by description and shown on the map of the town dated March 14, 1969, on file with the Town Clerk and incorporated here by reference, an area is designated within which manufactured homes shall not be permitted either individually or in manufactured housing parks. The designated area is within the following boundaries:

- a) Beginning at the east end of the covered bridge to Windsor, Vermont: thence northerly along the east bank of the Connecticut River to the Plainfield town line.
- b) Thence along the Plainfield town line in an easterly direction a distance of 4.75 miles.
- c) Thence southerly a distance of .75 miles
- d) Thence southerly approximately 2.3 miles to a point where the transmission line of the New England Power Company intersects a discontinued road (Nelson Road), said road being a continuance of the road leading to Dingleton Hill Road at the Frederick Scruton residence.
- e) Thence parallel to the Dingleton Hill Road and 2,000 feet easterly of the center line of said road to a point 2,000 feet northerly of the Town House Road.
- f) Thence parallel to the Town House Road and 2,000 feet north of the center line of said road to the Dingleton Hill Road.
- g) Thence in a straight line to the point of beginning.

3. Conservation Overlay Districts:

Conservation Overlay Districts are established in order to protect Cornish's natural heritage and to ensure that land is developed only according to its natural capability.

a) Wetlands Conservation Overlay District

The Wetlands Conservation Overlay District is hereby defined as all areas comprising bogs, marshes, swamps and other very poorly drained or poorly drained soils, together with a 100 foot buffer zone around such areas. Swamps, marshes, and bogs are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation adapted for life in saturated soil conditions. These areas are further defined as follows:

- i) Swamps are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community characteristic of swamps includes the trees, woody shrubs and plants listed in Appendix A.
- ii) Marshes are treeless wetlands dominated by soft-stemmed herbaceous plants. The surface of the marsh is covered year round, though seasonal fluctuations in water depth are expected. Marshes range from the wet meadows variety to deep marshes, which can be covered with several feet of water. The vegetational community characteristic of marshes includes the plants listed in Appendix B.
- iii) Bogs consist of peat and muck deposits of significant depths and are characterized by a group of trees and plants, which are adapted to the bog's highly acidic conditions. The water in the bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions.
- iv) Soil series and land types commonly associated with wetlands and very poorly drained or poorly drained soil are described by the US Soil Conservation Service. These soils are listed in Appendix D.
- v) Wetlands less than 2500 square feet in size calculated using horizontal distances are excluded from the provisions of the Wetlands Conservation Overlay District.

The objective of this district is to limit development in and immediately around wetlands to protect those wetlands because they are extremely important to the Town. They provide areas for floodwater storage, wildlife habitat and groundwater recharge. They also serve to protect and enhance surface water quality through filtration and augmentation of stream flow during dry periods.

b) Shoreland Conservation Overlay District

The Shoreland Conservation Overlay District is hereby defined as comprising all lands within 100 feet of the shore of all water courses and water bodies. The 100 foot distance shall be measured horizontally from the top of the bank above the water course or water body in question. The Town's water courses and water bodies are vital natural resources

providing significant scenic, recreational and wildlife values with the potential for public water supply. The primary objective of this District is to preserve and protect the Town's water courses and water bodies by permitting only those uses which can be harmoniously, appropriately and sagely located adjacent to water course and water bodies from sedimentation, turbidity, runoff of stormwater and effluent from sewage disposal systems, preserve scenic views, wildlife habitat and vegetative cover.

c) Connecticut River Shoreline Conservation Overlay District

The Connecticut River Shoreline Conservation Overlay District is hereby defined as comprising all lands within 100 feet of the Regulatory Flood plain along the Connecticut River. The primary objectives of this district are to protect the river banks, preserve the scenic qualities of the River and protect water courses and water bodies from sedimentation, turbidity, runoff of stormwater and effluent from sewage disposal systems.

B. Zoning Map – The zoning districts listed above are bounded as shown on the map entitled “Cornish NH Zoning District Map of 2015” which map is attached hereto and made a part of the Ordinance and is hereinafter referred to as the “Zoning Map”. The official Zoning Map of the Town of Cornish to be used to determine exact district boundaries is drawn to ^{scale} of one thousand (1,000) feet to the inch, and shall be certified as the official Zoning Map of Cornish by the Town Clerk upon adoption or amendment of this Ordinance, and filed with the Town Clerk.

C. Interpretation of District Boundaries

1. Boundaries

a) Where appropriate and unless otherwise indicated, zoning district boundaries shown on the Zoning Map are center lines of streets, roads and railroad and power line rights of way, the middle of the channel of waterways or other bodies of water, or the town boundary. Where boundaries are so indicated that they parallel the centerline of highways or streets, such boundaries are parallel thereto at the distances there from shown on the Zoning Map. Any boundary within ten feet of the property line shall be considered to be coincident with the property line.

b) Where no dimension is given of the Zoning Map, distances shall be determined by use of the scale on the Map. In any instance in which there is doubt as to the location of a district boundary, the Board of Adjustment shall determine the location of such boundary pursuant to the intent of this Ordinance and Zoning Map.

2. Lots in More than One District

a) Where the boundary line of a zoning district divides a lot of record in single ownership at the time of passage of this Zoning Ordinance, the owner may extend the permitted use in the less restrictive district into the more restricted portion of the lot for not more than seventy-five (75) feet.

b) Where the boundary line of a zoning district divides a lot in single ownership at the time of passage of the Zoning Ordinance and the owner proposes to subdivide that lot, the owner may at his option satisfy the lot size requirements for use within the less restrictive district from that portion lying in the more restrictive district if:

- i. At least fifty (50) percent of the total lot area lies within the less restrictive district; and
- ii. The land area remaining in the more restrictive district will conform to the lot size requirements of the more restrictive district; and
- iii. Construction of any structures shall conform to requirements of the less restrictive district.

3. Location of Overlay District Boundaries – When it is alleged that an area has been incorrectly designated as lying within an Overlay District or that an area not so designated meets the criteria of an Overlay District, the Administrator shall consult with the Conservation Commission and the Planning Board before determining whether the area in question meets such criteria. The Administrator may refer the issue to the ZBA in which case the ZBA shall make the determination after public hearing pursuant to the provisions of Article X-D of the Ordinance. Expenses incurred by the Town in ruling on such allegations, including the fees and disbursements of consultants, including engineers, surveyors and soil scientists, shall be borne by the person make the allegation.

ARTICLE IV USE REGULATION AND GENERAL PROVISIONS

A. General – Except as otherwise provided by law or in this Ordinance, no building, structure or land shall be constructed, occupied or used except where and as permitted in this Article.

B. Uses Permitted by Right and Uses Permitted by Special Exception – Table 4.1 lists permitted uses and uses allowed by special exception in the Village, Residential, and Rural Districts. Such uses are subject to the general provisions and additional standards and use provisions for overlay districts in this Article. All uses shall be consistent with the objectives of the districts in which they are located. Only uses listed in Article IV and existing legal non-conforming uses shall be allowed.

	Village	Residential	Rural
<u>Agriculture & Forestry</u>			
Wood lots & Tree Farms	Y	Y	Y
Agriculture	Y	Y	Y
<u>Residential</u>			
Single Family Dwellings	Y	Y	Y
Accessory Apartments	Y	Y	Y
Two Family Dwellings	Y	Y	SE
Multifamily Conversions	SE	SE	SE
Boarding/Lodging House	Y	SE	SE

Town of Cornish, New Hampshire, Zoning Ordinance

Cluster Development	Y	Y	Y
<u>Institutional</u>			
Government	SE	SE	SE
Cemetery	SE	SE	SE
School	SE	SE	SE
Place of Worship	SE	SE	SE
Post Office	SE	SE	SE
<u>Business Use</u>			
Automotive Repair Garage	SE	SE	SE
Bank	Y	N	N
Bed & Breakfast	SE	SE	SE
Campground	N	SE	SE
Construction Trailer/Office*	Y	Y	Y
Cottage Industry	SE	SE	SE
Country Inn	SE	SE	SE
Day Care Facility	SE	SE	SE
Extraction of Sand or Gravel	N	SE	SE
Fuel/Oil Stations	SE	N	N
Funeral Parlor	SE	SE	SE
General Store	SE	N	N
Home Occupation	Y	Y	Y
Manufacture of goods for retail sale on premises	Y	N	N
Multi-Use Conversion	SE	SE	SE
Neighborhood Store	SE	SE	N
Office	Y	SE	SE
Outdoor Recreation	SE	SE	SE
Restaurant	SE	SE	SE
Rest Home	SE	SE	SE
Retail Sales of antiques, art pieces, crafts, and/or handiwork	Y	SE	SE
Sawmill	N	N	SE
Service Establishments	Y	N	N
Summer Camp	N	N	SE
Theatre, Indoor	SE	SE	SE
Utility Structure	SE	SE	SE
Veterinarian	SE	SE	SE
Expansion of Non- Conforming Uses & Structures	SE	SE	SE

Non-Business Use

Private Campsite*	Y	Y	Y
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Telecommunication Facilities

New Tower Construction (1)	N	N	SE
Co-location on a Pre-existing Tower (2)	Y	Y	Y
Co-location on an Existing Structure which is not a tower	SE	SE	SE

(1) An antenna may be located on a tower, newly constructed, under this article.

(2) An antenna may be located on a preexisting tower, constructed prior to the adoption of this article.

* Limited time periods; excepting the provisions of IV.8a, Subsection (10) permit shall be required from Cornish Selectboard

Y = Use permitted by right, provided that all other requirements of State Law and this Ordinance have been met and a Zoning Permit has been issued.

SE = Use permitted by special exception provided that approval has been granted by the Zoning Board of Adjustment.

N = Use not permitted.

C. General Provisions

1. Principal Building and Use on Lot – There shall be only one principal building and one principal use on a lot unless otherwise approved as a cluster development or multi-use conversion or telecommunication facility, antenna, or tower.

2. Accessory Uses – Customary accessory uses are permitted uses which are incidental to the principal use, including single family residential uses in conjunction with permitted commercial use. (See also multi-use conversion)

3. Temporary Uses and Structures – Temporary permits may be issued by the Administrator for a period not exceeding one year for non-conforming uses incidental to construction, agricultural or forestry projects, provided such permits are conditioned upon agreement by the owner to remove the structure or terminate the use upon expiration of the permit. Such permits may be renewed upon application for an additional period of one year as long as work is active. These uses shall be limited to trailers or portable structures used for office, storage and locker purposes and other suitable uses.

3a. Cemeteries or Burial Grounds – No cemetery or burial ground shall be laid out within 100 feet of any dwelling house, schoolhouse or school lot, store or other place of business without the consent of the owner of the same, nor within 100 feet of a known source of water or the right of way of any classification of State highway or Class V or VI Town road.

4. Hazardous Property – No owner or occupant shall permit fire or other ruins to be left, but shall remove the ruins within one year. All abandoned wells must be filled or permanently covered within one year. All abandoned underground tanks must be filled or removed within one year.

5. Extraction of Soil, Sand, and Gravel – The commercial removal of soil, sand, and gravel for sale, except when incidental to construction of a building on the same premises shall be permitted only upon the following conditions:

- a) The removal of all material shall be conducted so as to result in the improvement of the land, giving due regard to the contours of the vicinity, such as leveling slopes and removing hills. The digging and creating of pits or steep slopes shall not be permitted, unless provision is made to contour such pits when they become inactive.
- b) When abandoned, all excavation sites shall be graded smooth and the operation site shall be fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion. Cut slopes and spoil banks shall not be allowed to remain untreated but shall be treated as any operation site.
- c) All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street, or private property. All provisions to control natural drainage water shall meet with the approval of the Selectmen or their agent which approval shall be based upon accepted engineering practices.
- d) Any excavation sites not worked for a period of twelve consecutive months shall be considered abandoned for the purposes of this Ordinance.

6. Non-Manufactured Housing Overlay District – Manufactured houses are allowed in all districts, subject to the provisions of this Ordinance, except in the Overlay District described in Article III.

6a. General Store -The business shall comply with all appropriate Town and State laws, regulations, ordinances, etc.

- a) The portion of the lot covered by the buildings and any associated improvements such as parking lots, storage bins, and gas pumps shall not exceed 50% of the total lot.
- b) There shall be adequate on-site parking for customers and employees so as to preclude on-street parking.
- c) The site shall have clearly defined and recognizable entrances and exits on town or state roads.

7. Fuel/Oil Stations – In all districts where permitted, fuel/oil stations shall comply with the following:

- a) A fuel/oil station lot shall not be located within three hundred (300) feet of any lot occupied by a school, library or religious institution.
- b) Lot size should be at least sixty thousand (60,000) square feet.
- c) Lot frontage should be at least two hundred (200) feet and lot depth shall be at least two hundred (200) feet.

- d) Pumps, lubricating and other service devices shall be located at least thirty (30) feet from the front, side and rear lot lines, and at least seventy-five (75) feet from any well.
- e) All fuel and oil shall be stored at least thirty-five (35) feet from any property line and at least seventy-five (75) feet from any well.
- f) All automobile parts and dismantled vehicles are to be stored within a building, and no major repair work is to be performed outside the building.
- g) There shall be no more than two access driveways from any road. The maximum width of each access driveway shall be fifty (50) feet.

7a. Automotive Repair Garage - An Automotive Repair Garage is allowed by Special Exception in any zone and must have frontage and access on a State maintained road and shall comply with the following:

- a) Must remain at all times in compliance with all State and federal environmental guidelines.
- b) Lot size shall be at least one acre.
- c) Set backs are to be as per the zone requirements.
- d) Any fuel, oil, or antifreeze shall be stored at least 35 feet from any property line and at least 75 feet from any well.
- e) There shall not be more than 2 access driveways from any road. The maximum width of each driveway shall be 50 feet.
- f) The business shall not
 - i. Generate non-residential levels of vibration, glare, smoke, dust, fumes, odors, or heat.
 - ii. Produce noise of such volume or frequency as to be unreasonably offensive at or beyond the property line. Unreasonably offensive noises, due to intermittence, beat frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.
 - iii. Require the use of on-street parking.
- g) A maximum of 2 vehicles can be offered for sale at any time.
- h) No dispensing or sale of gasoline or diesel fuel.
- i) No major repair work is to be performed outside the building.

8. Travel Trailer Storage – An unoccupied travel trailer may be parked or stored in the rear or side yard of a residential lot.

8a. Private Campsite - Private Campsites are allowed in all zones for limited time periods and excepting the provisions of Subsection (10) shall require a permit from the Cornish Selectboard.

- 1. Excepting the provisions of Subsection (10), the owner of the associated lot shall obtain a permit from the Cornish Select Board prior to the occupation of a private campsite.

2. Private campsites may be occupied only temporarily. Permits for temporary occupation of private campsites, where required, shall be valid for a maximum of thirty (30) consecutive days.
3. Permits for the temporary occupation of private campsite, where required, shall be renewable a maximum of three (3) times, for a maximum total occupation of a private campsite of 120 days per calendar year. Each permit renewal need not immediately follow the previous thirty (30) day permit period.
4. Excepting the provisions of Subsection (10), a maximum of one (1) private campsite per lot is allowed.
5. A campsite permit application, where required, will be accepted by the Cornish Select Board only if accompanied by written sewage disposal and solid waste disposal plans, describing the proposed method and location of sewage and solid waste disposal. Where disposal is off-site, a written authorization from the receiving facility or landowner is required.
6. Private campsite placement shall conform to the setback requirements of the applicable Zoning District. The placement and condition of the campsite shall not be detrimental to the neighborhood or to property in the vicinity. Excepting the provisions of Subsection (10), location, condition and effective screening from neighboring homes and other land uses shall be as approved by the Cornish Select Board as part of the permit process.
7. Any electricity or plumbing from an external source provided to the recreational vehicle, tent or similar shelter shall be in compliance with all applicable codes. The method and appliance used to heat the recreational vehicle, tent or similar shelter shall be in compliance with all applicable codes.
8. The storage of an unoccupied recreational vehicle on private property is permitted provided all other State and local requirements are met. Tents and similar structures shall be collapsed when stored. Likewise, recreational vehicles, including campers and pop-ups, shall be stored in their fully collapsed, road-ready configuration, disconnected from all utilities.
9. A private campsite associated with the construction of a permitted single-family dwelling or duplex, shall be allowed for a period of twelve (12) months, provided that the building permit remains valid and that the private campsite is in conformance with all provisions of this section except for Subsection (3).
10. One or more private campsites used in conjunction with a residential structure on the same lot may be occupied for not more than thirty (30) days per calendar year without a permit. Where multiple private campsites on the same lot are used, the thirty (30) days per calendar year use limit applies when any of the campsites are occupied.

8b. Construction Trailer/Office - Private construction trailers/offices associated with construction are permitted for a specific period of time, as determined by the Cornish Select Board, while a building permit is valid or until completion of the associated construction, whichever occurs first. Private construction trailers/offices shall conform to all codes and do not require permits.

9. Utility Structures – Public utility substations and similar utility structures shall comply with the following:

- a) Facilities shall be surrounded by a fence set back from the property lines in conformance with the district regulations for front, side and rear yards.
- b) A landscaped area of at least twenty-five (25) feet wide shall be maintained in front, rear and side yards.

10. Rest Homes and Convalescent Homes – Rest homes and convalescent homes shall be located on a lot of at least two acres plus 2000 square feet of land area for each sleeping room or ward.

11. Schools – All schools shall be located on a lot of at least two acres, plus 2000 square feet of land area for each sleeping room.

12. Apartments – Shall comply with the following:

- a) Either primary residence or the apartment which is an accessory use to the primary residence must be owner-occupied.
- b) There shall be no more than one single-residence apartment per lot.
- c) When the square footage of the heated living space of the primary residence is greater than 1,285 square feet, the maximum square footage of the accessory apartment shall be proportional by a factor of 35% to the heated living space of the primary residence while maintaining a minimum square footage of 450 square feet.
- d) When the square footage of the heated living space of the primary residence is 1,285 square feet or less, the square footage of the accessory apartment shall be 450 square feet.

13. Multi-family Conversions

- a) No conversion of a building to use by more than two families shall be permitted in structures less than five years old nor in structures which were not served by wiring, heating, and plumbing (including sanitary facilities) during the previous five years.
- b) No dwelling unit may be less than 450 square feet in usable floor area.
- c) No more than four dwelling units shall be permitted in a building.

14. Sawmills – The Zoning Board of Adjustment may approve the application for the creation of a sawmill if all of the conditions required for a special exception can be met and the Board finds that the lot is of sufficient size and shape to assure that there will be no unreasonable emission of dust, noise, glare, fumes, vibrations or smoke beyond the lot line.

The ZBA may also:

- a) restrict the hours of operation of any sawmill;
- b) require a plan for disposal of sawdust;
- c) require that the mill be set back a minimum of 500 feet from any dwelling unit;
- d) require that the mill, collection and disposal areas be setback from any water body, water course or wetland in order to assure protection of water quality;
- e) require a vegetative buffer between the mill and any structure or road in order to minimize visual and audio impact.

15. Day Care Facility

- a) The ZBA shall not approve the application for a day care facility unless the applicant can show the location permits safe and convenient access for emergency vehicles.
- b) The ZBA may require that the outdoor play area to be fenced.
- c) There must be a safe off-street loading and unloading facilities.
- d) Not withstanding other provisions of this ordinance, all day care facilities must comply with applicable State and Federal statutes and regulations.

16. Cluster Development

- a) Objective. Cluster development permits flexibility of design in subdivisions. By allowing reduced lot sizes, housing areas can be developed so as to promote the most appropriate use of land, facilitate economical and efficient provisions of public services, allow land use patterns which preserve agricultural soils, trees, outstanding natural topographic and geologic features; prevent soil erosion; and preserve the nature and scenic qualities of the open land in Town for conservation and recreation.
- b) Density. The maximum number of homes in a cluster development shall be established by the Planning Board and shall be equal to the maximum number of lots which would be created in an economically feasible conventional subdivision of the property in question meeting all of the requirements of the Cornish Subdivision Regulations and this Ordinance, in both cases as amended to the date of such determination plus a bonus of one buildable lot for every five lots that would be created in said economically feasible conventional subdivision.
- c) Other Requirements. The approved cluster development shall be protected through the grant of a conservation easement to a conservation organization or government agency approved by the Planning Board. The conservation easement shall prohibit development in excess of the development permitted by the approved plan and shall otherwise be in a form and substance satisfactory to the Planning Board. When cluster development is requested, minimum road frontage, and front, rear and side setbacks will be established by the Planning Board.

17. Multi-Use Conversion

Uses and Change of Use. The use in a multi-use conversion shall include only those uses permitted or allowed by special exception as listed in Table 4.1 in the district in which the conversion is proposed. Any change of use in a multi-use conversion shall be reviewed and approved by the ZBA and by the Planning Board prior to the issuance of a zoning permit. In the conversion of an existing residential building to business use, a minimum of 25% of the floor area of the building shall be retained for residential use.

18. Home Occupation – Home occupations are permitted uses in the village, residential and rural districts. The Administrator must find that the following conditions can be met prior to issuance of a permit:

- a) There will be no visible change in the outside appearance of the dwelling;
- b) Traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood shall not be generated;
- c) The home occupation will not create a hazard to any person or property, will not result in electrical interference and will not become a nuisance; and
- d) There is no outside storage or display of anything except for a sign which shall not exceed eight (8) square feet in size.
- e) Noise emanating from any use shall not be of such volume or frequency as to be unreasonably offensive at or beyond the property line. Unreasonable offensive noises due to intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

19. Cottage Industry – A cottage industry is allowed by special exception in the village, residential and rural districts. A cottage industry shall not materially disturb the total residential environment and shall comply with the criteria listed below. When a cottage industry grows beyond these limits, it shall be required to seek facilities other than the home. If more than one business is conducted upon the premises, all businesses together shall not exceed these criteria.

- a) The activity from which revenue is derived shall be conducted principally on the residential premises.
- b) The business shall be carried on by a person or persons within the dwelling serving as his, her or their primary residence, or within an accessory structure.
- c) The business shall not occupy an area greater than 25% of the finished floor area of the dwelling or 1500 square feet in an accessory building.
- d) The business shall employ no more than four full-time employees or their equivalent working on the premises other than family members living in the dwelling. In no case shall the business have more than four (4) employees, excluding family members working on the premises at any one time.
- e) The business shall not have window displays, window advertising or any other advertising except a sign which shall not exceed eight square feet in size.
- f) The business shall not:
 - i) Generate non-residential level of vibration, glare, smoke, dust, fumes, odors or heat.
 - ii) Produce noise of such volume or frequency as to be unreasonably offensive at or beyond the property line. Unreasonable offensive noises, due to

- intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to adjacent use.
- iii) Generate more than an average of one (1) vehicle trip per hour to the premises for each hour the business is open or peak of three (3) vehicles per hour excluding employee commuters.
- iv) Require the use of on street parking.
- v) Require more than four (4) off street parking spaces beyond those required by the dwelling.
- vi) Utilize exterior spaces of residential structure or yard for storage, display or occupational activities.
- vii) Involve the overnight parking of more than two business cars or other business vehicles on the premises.
- g) Restaurants, sandwich shops and on site commercial recreation are not allowed as a cottage industry.

19a Expanded Cottage Industry – An expanded cottage industry is allowed by special exception in the village, residential and rural districts and must have frontage and access on a state maintained road. An expanded cottage industry shall not materially disturb the total residential environment and shall comply with the criteria listed below. When an expanded cottage industry contemplates growing beyond these limits, it shall be required to seek facilities other than the residence. If more than one business is conducted on the premises, all business together shall not exceed these criteria.

- a) The business shall be conducted principally on the residential premises.
- b) The business shall be carried on by a person only within the building used by him or her as his or her private residence, or within accessory structure(s).
- c) The business shall not occupy:
 - i) Accessory building(s) built after March 1996 within a total footprint greater than 2800 square feet;
 - ii) An area within the private residence and the accessory building(s) in excess of a total of 5600 square feet;
 - iii) An area greater than 25% of the finished floor area of the residence except for structures in existence on March 12, 1996.
- d) The business shall employ no more than eight full-time employees or their equivalent working on the premises other than family members living in the dwelling, and shall have no more than a total of ten employees, excluding family members, working on the premises at any one time.
- e) The business shall not have window displays, window advertising or any other advertising except a sign which shall not exceed eight square feet in size.
- f) The business shall not:
 - i) Generate non-residential levels of vibration, glare, smoke, dust, fumes, odors or heat.
 - ii) Produce noise of such volume or frequency as to be unreasonably offensive at or beyond the property line. Unreasonable offensive noises, due to

intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to adjacent use.

- iii) Generate more than an average of one (1) vehicle trip per hour to the premises for each hour the business is open or peak of three (3) vehicles per hour excluding employee commuters.
- iv) Require the use of on street parking.
- v) Require more than four (4) off street parking spaces beyond those required by the dwelling.
- vi) Utilize exterior spaces of residential structure or yard for storage, display or occupational activities.
- vii) Involve the overnight parking of more than two business cars or other business vehicles on the premises.
- g) Except for structures in existence on the date of the adoption of these amendments, no portion of the building(s) used for Expanded Cottage Industry shall be closer than 75 feet from the edge of the traveled way.
- h) The lot shall have frontage and access on a state maintained road.
- i) Restaurants, sandwich shops and on-site commercial recreation are not allowed as Expanded Cottage Industry.

20. Driveway and Wood Road Construction – The juncture of any new driveway or wood road with a Town right-of-way must be constructed in a manner consistent with safe vehicular travel and the prevention of damage by soil erosion, Prior to connecting any driveway or wood road to a Town right-of-way, the landowner shall apply for a permit from the Selectmen. Before issuing a permit the Selectmen shall determine that the proposed juncture does not create a traffic hazard or an unacceptable risk of damage through erosion.

21. Parking – Adequate off street parking space shall be provided for each use, in accordance with the following minimum standards:

- a) Residential Use – Two off street parking spaces for each dwelling unit
- b) Commercial Use – One square foot of off street parking space for every square foot of floor space.
- c) Public Assembly – Any church, theater, auditorium, hall, restaurant or other place of public assembly, shall have provision for one off street parking space for every four seats.
- d) Country Inn and Bed & Breakfast – One off street parking space for each lodging unit.
- e) All Non-Residential Uses – No off street parking area shall be located within a required front yard.

22. Regulatory Flood Plain District – the following regulations apply to the Regulatory Flood Plain Districts.

- a) The placement of all new structures, buildings, dwellings, manufactured homes and recreational vehicles for more than 180 consecutive days (See Cornish Camping

- Permit Regulations) shall be prohibited in the Regulatory Flood plain District. The expansion of existing structure or use shall be governed by Article VII Nonconforming Lots, Uses or Structures, Paragraph B. Nonconforming Uses and Paragraph C. Nonconforming Structures. Recreational vehicles must be fully licensed and ready for highway use.
- b) Along water courses 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 hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during base flood discharge.
 - c) Until a Regulatory Floodway is designated along watercourses no new construction, substantial improvements, or other development, including fill, shall be permitted within zones A1-30 and AE of the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 - d) In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Administrator, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Administrator including notice of all scheduled hearings before the Wetlands Board.
 - e) The applicant shall submit to the Administrator, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
 - f) The Administrator shall obtain, review, and reasonably utilize any floodway data 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.”

D) Additional Standards and Use Provision for Conservation Overlay Districts

1. Wetlands Conservation Overlay District

- a) **Permitted Uses.** Permitted uses are those which do not involve the erection or construction of any structures, do not alter the natural surface configuration by the addition of fill or by excavation or dredging and are uses that are otherwise permitted by this Ordinance. Such uses include the following:

- i) Forestry and tree farming using best management practices to protect wetlands from damage from soil erosion and otherwise.
 - ii) Agriculture using best management practices to protect wetlands from damage from soil erosion and otherwise.
 - iii) Wildlife refuges.
 - iv) Parks and outdoor recreation uses consistent with the objectives of the District.
 - v) Conservation areas and nature trails.
- b) Special Exceptions. Special exceptions may be granted by the ZBA permitting the uses listed below. Special exceptions are limited to:
- i) Water impoundments, but only if the ZBA finds that the impoundment does not unreasonably interfere with the functioning of natural systems or that the environmental benefits of the impoundment outweigh the adverse impacts.
 - ii) Non-commercial, non-residential water dependent uses, such as docks and boat houses. Such uses shall be located and constructed so as to cause the least practicable damage to the wetland.
 - iii) Access ways including boardwalks, logging road and driveways with a maximum width of 15 feet and rights-of-way for overhead power and telephone lines located and constructed so as to cause the least reasonably practicable damage to the wetland and only if there is no feasible alternative location.
 - iv) Wells and water lines.
- c) Additional Provisions.
- i) No use which utilizes, stores, processes or disposes of toxic substances which may pose a threat to surface or ground water.
 - ii) No underground fuel storage tanks are permitted.

2. Shoreland Conservation Overlay District

- a) Permitted Uses. Permitted uses are those which do not involve the erection or construction of any structures, do not alter the natural surface configuration by the addition of fill or by excavation or dredging and are uses that are otherwise permitted by this Ordinance. Such uses include the following:
- i) Forestry and tree farming using best management practices to protect water courses and water bodies from damage from soil erosion and otherwise.
 - ii) Agriculture using best management practices to protect water courses and water bodies from damage from soil erosion and otherwise.
 - iii) Parks and outdoor recreation uses consistent with the objectives of the District.
 - iv) Conservation areas and nature trails
 - v) Wells and water lines.
- b) Special Exceptions. Special exceptions may be granted by the ZBA permitting the uses listed below. Special exceptions are limited to:

- i) Water impoundments, but only if the ZBA finds that the impoundment does not unreasonably interfere with the functioning of natural systems or that the environmental benefits of the impoundments outweigh the adverse impacts.
 - ii) Non-commercial, non-residential water dependent uses, such as docks, boat houses and access points. Such uses shall be located and constructed so as to cause the least practicable damage to the water course or water body.
 - iii) Road crossings of water courses with a maximum width of 20 feet.
 - iv) Access ways including boardwalks, logging roads, and driveways with a maximum width of 15 feet and rights-of-way for overhead power and telephone lines located and constructed so as to cause the least reasonably practicable damage to the water course or water body and only if there is no feasible alternative location
- c) Additional Provisions.
- i) No use which utilizes, stores, processes or disposes of toxic substances which may pose a threat to surface or ground water quality is permitted.
 - ii) No underground fuel storage tanks are permitted.

3. Connecticut River Shoreline Conservation Overlay District

- a) Permitted Uses. Permitted uses are those which do not involve the erection or construction of any structures, do not alter the natural surface configuration by the addition of fill or by excavation or dredging, do protect water courses and water bodies from damage from soil erosion and are uses that are otherwise permitted by this Ordinance. Such uses include the following:
 - i) Agricultural using best management practices to protect water courses and water bodies from damage from soil erosion and otherwise.
 - ii) Wildlife refuges.
- b) Special Exceptions. Special exceptions may be granted by the ZBA permitting the uses listed below. Special exceptions are limited to:
 - i) Forestry and tree farming using best management practices to protect water courses and water bodies from damage from soil erosion and otherwise.
 - ii) Parks and outdoor recreation uses consistent with the objectives of the District.

ARTICLE V DIMENSIONAL STANDARDS

- A. Summary Table. The dimensional controls set forth in this Ordinance and in Table 5.1 establish minimum lot size, road frontage, yard dimensions, maximum building size, maximum lot coverage and minimum setbacks. Refer to the definition of lot size for purposes of determining lot size, building footprints and lot coverage.

Table 5.1

	Village	Residential	Rural
Minimum Lot Size (acres)	1	2	5*
Two Family Dwellings	2	4	6
Minimum Road Frontage (feet)	100	----suitable frontage*****---	
Minimum Front Setback (feet) measured from road r.o.w.	30	30	30
Minimum Side & Rear Setback measured from property line	10	30	30
Maximum Building Footprint**	10%	6%	2%
Maximum Lot Coverage***	20%	12%	4%

** As a percentage of lot size but not to exceed 4500 square feet in the Village District or 7000 square feet in other districts, other than agricultural buildings in the Rural District and except as otherwise permitted by special exception in connection with cluster development and mixed use development.

*** As a percentage of lot size but not to exceed 9000 square feet in Village Districts or 14,000 square feet in the other districts, other than agricultural buildings in the Rural District and except as otherwise permitted by special exception in connection with cluster development and mixed use development. Driveways do not apply in calculating in the Rural District.

***** See RSA 674:41

B. Lot Shape and Boundaries

1. Lot Shape – Lot shape shall be as regular as practicable so as to accommodate uses consistent with those permitted in the zoning district given the character of the land.
2. Boundaries – For the purpose of this Ordinance, a lot of land divided by a public highway or right of way cannot be considered as more than one lot.

C. Setback

1. The minimum distance between sewage disposal systems and water bodies, watercourses and wetlands shall be: The minimum distance between sewage disposal systems and water bodies, watercourses and wetlands shall be: a) 100 feet measured from the mean high water mark of the water feature; b) 100 feet measured from the top of the bank; or c) the edge of the Regulatory Flood Plain, whichever distance provides the greatest setback from the water feature.
2. The minimum distance between roads, drives and parking areas and water bodies, water courses and wetlands shall be 100 feet except as permitted by special exception.

3. The setback requirements with respect to sewage disposal systems, water bodies, water courses and wetlands shall not be reduced except in accordance with the provisions of Section VII C-5.
4. Any yard adjoining a road shall be considered a front yard for purposes of the setback requirements of this ordinance.

D. Height Regulations

1. No new building except windmills, silos, barns and church towers shall be constructed to a height of more than 2 ½ stories or 35 feet above average ground level, at the site, whichever is less, nor shall any existing building be altered or modified so as to increase its height to more than 2 ½ stories or 35 feet above ground level except as provided in this section.

2. Height Regulations for Telecommunication Facilities

	<u>New Tower Construction</u>	<u>Co-location on Preexisting Tower</u>	<u>Co-location on Existing Structure Which is not a Tower</u>
Rural District	Tower and antenna combined shall be no more than 20 feet above the average tree canopy height as measured by inventorying the height above ground level for the tallest 10% of trees within a radius of 150 feet around the proposed tower; or 20 feet above the tallest point of the nearest manmade structure, excluding other towers and antennae, within 100 feet of the proposed tower; or a height of 40 feet, whichever is greater.	Antenna shall not increase height of existing tower	Current height of existing structure plus 5'
Village and Residential	NO	Antenna shall not increase height of existing tower.	Current height of existing structure plus 5'

ARTICLE VI SIGNS

Business signs shall be permitted in connection with any legal business or industry located on the same premises, if they meet the following requirements:

1. Each home occupation and cottage industry is permitted one sign not to exceed (8) square feet in size.
2. Two signs are permitted for any legally established business, one free standing and one attached to the building.
3. Signs are not to exceed thirty-two (32) square feet, or in the case two signs are erected, their combined square footage shall not exceed sixty-four (64) square feet.
4. Signs shall not extend above the roof or parapet of the building. The top of a free standing sign shall not exceed twenty (20) feet from the ground.

5. Illuminated signs shall be shielded in such a way so as to produce no glare, undue distraction, confusion, or hazard to the surrounding area or to vehicular traffic.
6. Signs shall not project over public right of way or property lines.
7. Any sign which comes into disrepair must be removed upon order of the Administrator if not repaired after thirty (30) days notice. Any new sign erected must conform to all regulations.
8. Signs off site may be permitted by special exception for businesses, churches, or service organizations located in Cornish only if necessary for directional purposes.

ARTICLE VI-A TELECOMMUNICATION FACILITIES

A. Purpose and Goals

This article establishes guidelines for the siting of telecommunications towers and antennas and to enhance and fulfill the following goals:

1. Preserve the authority of Cornish to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
2. Reduce adverse impacts such facilities may create, including, but not limited, to impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
3. Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.
4. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
5. Require cooperation and co-locations, to the highest extent possible, between telecommunication service providers in order to reduce cumulative negative impacts upon Cornish.
6. Provide constant maintenance and safety inspections for any and all facilities.

7. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns. Provide a mechanism for Cornish to remove these abandoned towers to protect the citizens from imminent harm and danger.
8. Provide for the removal or upgrade of facilities that are technologically outdated.

B. Principle or Secondary Use

Antennas, towers and other telecommunication facilities may be considered either principal or secondary uses. An existing use or an existing structure on the lot shall not preclude the installation of an antenna, tower or other telecommunications facility on such lot. For purposes of determining whether the installation of a tower, antenna or other telecommunications facility complies with the dimensional standards set forth in Article V and this article, the telecommunication facilities may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance, shall not be deemed to constitute the expansion of a nonconforming use or structure. Nor shall such facilities be deemed to be an “accessory use.”

C. Performance Requirements

1. Aesthetic and Lighting – The guidelines in this subsection (A), shall govern the location or all towers, and the installation of all antennas.
 - a) Towers shall maintain a galvanized steel finish, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness.
 - b) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend with the natural setting and built environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements.
 - c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - d) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the abutters and travelers on town roads.
 - e) Towers shall not support any permanent or temporary signs, writing, symbols, or any other graphic representation of any kind.
2. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, FCC, and other agency of federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the

effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal, in accordance with Section E, of the tower or antenna, as abandoned, at the owners' expense through the execution of the posted security.

3. **Building Codes – Safety Standards.** To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with Section E of the tower or antenna, as abandoned, at the owner's expense through execution of the posted security.
4. **Additional Requirements for Telecommunications Facilities –** These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict.
 - a) **Setback and Separation**
 1. Towers must be setback a distance equal to 125% of the height of the tower from the boundary line of abutting land.
 2. Tower, guys, and accessory facilities must satisfy at least the minimum zoning district setback requirements.
 3. Towers over 35 feet in height shall not be located within one-quarter mile of any existing tower that is over 35 feet in height.
 - b) **Security Fencing –** Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
 - c) **Landscaping**
 1. Towers and associated structures shall be landscaped with a year-round buffer of plant materials that effectively screens the view of the tower and associated structures from adjacent residential property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound.
 2. In locations where the visual impact of the tower and associated structures would be minimal, the landscaping requirement may be reduced or waived entirely.
 3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

D. Bonding and Security Insurance

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Zoning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with E. Bonding and surety shall be consistent with the provision in the Subdivision Regulations. Furthermore, the Zoning Board shall require the submission of proof adequate insurance covering accident or damage.

E. Inspections and Removal

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Zoning Board shall require the quarterly reports based on on-site inspections of the structural integrity of the tower be submitted to the Zoning Administrator. If the Zoning Administrator does not receive a report in any given six month time period, lack of such report shall be grounds to initiate abandonment proceedings.

The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, notice per (RSA 676.4-3), with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower. The remaining users shall assume responsibility for quarterly inspections or the tower shall be removed.

ARTICLE VII NONCONFORMING LOTS, USES OR STRUCTURES

A. Nonconforming Lots

1. A lot of land (vacant or developed) in existence as of the effective date of this Ordinance (1974) which does not meet the area requirements of this Ordinance need not comply with such area requirements, if it complies with a use permitted in that district or a special exception is made for its use by the ZBA, provided:
 - a) setback provisions can be met;
 - b) a septic system can be designed in accordance with all applicable Town and State regulations; and
 - c) suitable access can be safely located.
2. Lots which are nonconforming by virtue of their size may be reduced in size as a special exception if the ZBA finds that as a result of the reduction there is a significant conservation, public safety or other public purpose benefit to the Town and the proposal meets the provisions and conditions set forth in Section X-F.

B. Nonconforming Uses

1. Any lawful nonconforming use in existence at the time of passage of this Ordinance may continue and may be expanded or changed with the approval of the ZBA if that board finds that:
 - a) the expansion is a natural activity, closely related to the manner in which the property was used at the time of the enactment of the Ordinance;
 - b) the expansion is not substantial and may not render the premises or property proportionally less adequate;
 - c) the expansion will not have a substantially different impact on the abutting lands or neighborhood; and
 - d) the expansion increases intensity or incorporates a new technology but does not substantially enlarge in area.
2. A nonconforming use may not be changed to a different nonconforming use.
3. A nonconforming use which has been abandoned or discontinued for one year may not be re-established unless a) such use is made to conform to the requirements of this Ordinance or b) the owner can show that there was no willful intention to abandon the use and a failure to act to restore the use.
4. If a nonconforming use is superseded by a permitted use or a use permitted by special exception, it shall thereafter conform to the regulations of the district and the nonconforming use shall not be resumed.
5. Any proposed expansion of a nonconforming use located partially or completely within the Regulatory Flood plain Overlay District may be permitted as a Special Exception subject to the provisions of Section X-F and to the following requirements.
 - a) such expansion will not significantly violate the objectives of the Regulatory Flood plain Overlay District;
 - b) such expansion cannot reasonably be located outside the Regulatory Flood plain Overlay District;
 - c) such expansion would not constitute a substantial improvement;
 - d) 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 in flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding;
 - e) such expansion shall comply with Article VII Nonconforming Lots, Uses or Structures, Paragraph B, Nonconforming Uses, Sections 1 through 4;

- f) such expansion shall comply with Article IV Use regulations and General Provisions, Paragraph 22. Regulatory Flood Plain Overlay District, Section b) through e);
- g) if the existing nonconforming use is also a nonconforming structure, such expansion shall also comply with Article VII Nonconforming Lots, Uses or Structures, Paragraph C. Nonconforming Structures, Section 1 through 4 and Section 6.

C. Nonconforming Structures

1. Any lawful nonconforming structure in existence when this Ordinance was passed may continue unchanged but may not be altered or substantially expanded in any way which will result in a new or increased violation, except as provided herein.
2. A nonconforming structure may be replaced by a nonconforming structure provided the replacement is of the same general size and character as the original structure.
3. An alteration or replacement of a nonconforming structure shall not increase the nonconformity.
4. A nonconforming structure which has been destroyed by fire, flood, or other casualty, and has not been rebuilt within one year may not be re-established unless
 - a) such structure is made to conform to the requirements of the Ordinance; or
 - b) the owner can show that there was no willful intention to abandon the structure and a failure to act to restore the use.
5. The expansion of existing structures either within or into the Conservation Overlay Districts as defined in Sections III A:3.a)-c) may be permitted as a special exception subject to the provisions of Section X-F and to the following requirements:
 - a) such expansion will not significantly violate the objectives of the Conservation Overlay Districts;
 - b) such expansion cannot reasonably be located outside the Conservation Overlay District;
 - c) the footprint of the proposed expansion will not be larger than 50% of the footprint of the existing building footprint; and
 - d) such expansion will not involve a significant increase in sewage loading or other pollutants within the Wetlands, Shoreland, and Connecticut River Shoreline Conservation Overlay Districts.
6. Any proposed expansion of a nonconforming structure located partially or completely within the Regulatory Flood Plain Overlay District may be permitted as a Special Exception subject to the provisions of Section X-F and to the following requirements:
 - a) such expansion will not significantly violate the objectives of the Regulatory Flood Plain Overlay District;

- b) such expansion cannot reasonably be located outside the Regulatory Flood Plain Overlay District;
- c) such expansion would not constitute a substantial improvement;
- d) 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;
- e) such expansions shall comply with Article VII Nonconforming Lots, Uses or Structures, Paragraph C. Nonconforming Structures, Sections 1 through 4;
- f) such expansion shall comply with Article IV Use Regulations and General Provisions, Paragraph 22. Regulatory Flood Plain Overlay District, Sections b) through e);
- g) if the existing nonconforming structure is also a nonconforming use, such expansion shall also comply with Article VII Nonconforming Lots, Uses or Structures, Paragraph B. Nonconforming Uses, Sections 1 through 5.

ARTICLE VIII PROHIBITED USES

Uses Not Permitted – In all districts the following uses are not permitted:

Junk yards, machinery wrecking yards, commercial bulk storage of fuel oil, butane, propane, gasoline, manufacturing or processing of goods or materials not housed in a building, and commercial water extraction.

ARTICLE IX ADMINISTRATION & ENFORCEMENT

- A. Administrator – The Selectmen of the Town of Cornish or their designee are hereby empowered and authorized to administer this Ordinance.
- B. Certificate of Compliance or Permit Required – On or after the effective date of this Ordinance, it shall be unlawful to change the nature or extent of the use of any structure or lot, erect any structure, sign or building, or relocate any building (except an accessory farm building, or a structure not for human occupancy) in any district without first obtaining a certificate of compliance or a permit from the Administrator. The applicant may be required to notify all owners of record of abutting parcels of land of each proposed change or extension of use prior to the issuance of a certificate of compliance under this section.
- C. Certificates of Compliance – The Administrator shall view the area site of each proposed change or extension of the use of any lot or structure, and shall review any plans, maps, or diagrams describing the proposed use, and if such proposed use is permitted under this Ordinance, he shall issue a certificate of compliance upon the payment of the applicable fee.
- D. Permits – After approval of authorization as required by this Ordinance, the Administrator shall issue any permit required by this Ordinance, upon payment of the applicable fee.
- E. Remodeling – No permit is required under this Ordinance for remodeling, or repairing where the purpose for which the building or structure is to be used is not changed, or the building is not enlarged or the use extended (But see the Cornish Building Code)
- F. Enforcement – The Administrator shall enforce the provisions of this Ordinance, and shall be entitled to recover reasonable attorney’s fees, as well as all other costs, where they prevail.
- G. Fee - A fee schedule shall be set by the Administrator, the Planning Board and the Board of Adjustment..
- H. Violations – Upon determination of the Administrator that this Ordinance is being violated, the Administrator shall take immediate steps to enforce the provisions of this Ordinance. If necessary, the Board of Selectmen shall seek an injunction in the Superior Court or by any other legal action enforce the provisions of this Ordinance
- I. Lapse of Zoning Permits – The Administrator shall, at the expiration of 12 months during which no earnest or substantial effort has been made to complete or carry out the construction or alterations authorized in a zoning permit, declare and send notice to the holder thereof that said permit has lapsed.

- J. Revocation of Zoning Permits – A violation of or variation from the terms, conditions or authorization of a zoning permit by the holder thereof or his agent, architect or contractor shall be cause for the revocation of said permit. Such revocation shall be made at the discretion of the Administrator. An appeal from such action may be made as provided in Article X.

ARTICLE X BOARD OF ADJUSTMENT

- A. Adoption of Rules – The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this Ordinance and the provisions of RSA Chapter 676 as amended.
1. The Board of Adjustment shall consist of five members appointed by the Town Moderator from a list of nominees containing at least two names for each position to be filled presented jointly by the Planning Board and the Board of Selectmen. Each member shall be appointed for a term of three years, and one or two members shall be appointed annually. In the event a vacancy occurs on the Board, the Moderator shall fill such vacancy by appointing a member to fill the unexpired term from a list of nominees submitted to him by the Planning Board.

Each member shall hold office until a successor has been appointed and qualified unless sooner removed. Members shall serve without compensation. In the first instance the members of the Board of Adjustment as it is presently constituted shall continue to serve for the balance of the terms to which members were appointed pursuant to the Town of Cornish Zoning Ordinance dated March 1955.
 2. The Planning Board and the Board of Selectmen shall also present to the Moderator in the same manner a list of nominees for the position of up to five alternate members of the Board of Adjustment as provided in RSA 673. Vacancies, including vacancies arising as a result of the appointment of an alternate as a regular member, shall be filled in the like manner for the unexpired term.
- B. Powers – The Board shall have the powers assigned to it by RSA 674:33 and any other powers assigned to it by statute, ordinance or vote of the Town Meeting. Such powers include the following:
1. Administrative Appeal. The Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official of the Town in the administration or enforcement of this Ordinance. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from, and to that end shall have all the powers of the official from whom the appeal is taken.

2. **Variances.** Provided that the conditions set forth in this Article are satisfied, the Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, if, owing to extraordinary conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done.
3. **Special Exceptions.** In appropriate cases and subject to appropriate conditions and safeguards, the Board may permit special exceptions to the terms of this Ordinance. All special exceptions shall be made in harmony with the general purpose and intent of this Ordinance and shall be in accordance with the general and specific rules in this Ordinance including the provisions of this Article.

- C. **Appeals** – Any aggrieved person, officer, department, board or bureau of the Town affected by any decision of the administrative officer may appeal to the Board. Appeals of denials shall be taken within 15 days and other appeals shall be taken within a reasonable period of time by filing with the Board a notice of appeal specifying the grounds for appeal.

An appeal stays all proceedings under the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceeding shall not be stayed unless a restraining order is granted by the Board or by the Superior Court.

- D. **Hearing** Prior to exercising its power to grant an administrative appeal, special exception or variance, the Board shall hold a public hearing with notice as described in RSA 676.
- E. **Administrative Appeal** To grant an administrative appeal, the ZBA must apply the strict letter of the law. It must find that the Administrator correctly or incorrectly interpreted a particular provision of the Ordinance. If it finds that the Ordinance was properly interpreted, it cannot grant an administrative appeal even if it feels relief might be in order.
- F. **Special Exceptions**

1. **General Provisions**

Certain uses of land and structures may be allowed as a special exception only by approval of the Board of Adjustment, if the standards contained in this Ordinance are complied with. Before allowing such special exception, the Board of Adjustment shall first determine that the proposed use will conform to such requirements as the following:

- a) **Required Plan.** A plan for the proposed development of a site for a special exception shall be submitted with the application and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives,

open spaces, landscaping, and any other pertinent information that the board may deem necessary to determine if the proposed use meets the requirements of this ordinance.

- b) Expiration. A permit for a special exception shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than one year for any reason, and a new application shall be submitted for restoration for such special exception.
- c) Existing violations. No permit shall be issued for a special exception for a property where there is an existing violation of this ordinance unless the granting of a special exception will correct the violation.
- d) Criteria for a special exception. In order for a special exception to be granted, the proposed use shall not adversely affect:
 - 1. The capacity of existing or planned community facilities
 - 2. The character of the area affected
 - 3. Traffic on roads and highways in the immediate vicinity
 - 4. Town services and facilities
 - 5. Neighboring land uses present and prospective
 - 6. Significant wildlife habitat, trails, natural, scenic or historic features.
- e) As a condition of granting a special exception, the ZBA must find that:
 - 1. The site is an appropriate location for the use, giving due regard to such factors as topography, soils, surface and groundwater, vehicular access including internal access and the public road system serving the site, significant wildlife habitat and trails, significant natural, scenic or historic features or sites.
 - 2. The use will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to any person or property, or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

2. Conditions Applicable to Special Exceptions

If deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole, the Board of Adjustment shall impose conditions in granting a special exception. These conditions may include the following:

- a) Increasing the required lot size or setback in order to protect adjacent property.
- b) Limiting the lot coverage, building footprint, gross floor area or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
- c) Controlling the location and number of vehicular access points or other traffic features.
- d) Increasing the street width adjacent to the property
- e) Increasing the number of on-site, off-street parking and loading spaces
- f) Limiting the number, location and size of signs

- g) Controlling exterior lighting and/or requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.
- h) Specifying a time limit for initiation and completion of construction
- i) Providing for a specific layout of facilities on the property such as location of the building, parking areas, access to the building so as to minimize effect on adjoining property
- j) Modification of the design of any building involved in the proposed use
- k) Limitation of the number of occupants or employees upon the premises, and restrictions of the method and/or time or operation and use.
- l) Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Board of Adjustment
- m) Specifying standards for operation of this special exception so that it will be no more objectionable to the neighborhood by reason of noise, odors, vibrations, flashing lights or hours of operation that will be the operation of a permitted use at the site.
- n) Requiring such additional, reasonable conditions and safeguards including conservation easements to limit or prohibit further development as it may deem necessary to implement the purposes of this Ordinance to protect the best interests of the surrounding property and the neighborhood

3. Conditions Applicable to Telecommunications Facilities

- a) Factors Considered in Review
 - 1. Height of proposed tower or other structure.
 - 2. Proximity of tower to residential development or zones.
 - 3. Nature of uses on adjacent and nearby properties.
 - 4. Surrounding topography.
 - 5. Surrounding tree coverage and foliage.
 - 6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - 7. Proposed ingress and egress to the site.
 - 8. Availability of suitable existing towers and other structures.
 - 9. Impact on views of ridges caused by tower location, tree and foliage clearing and placement of incidental structures.
 - 10. Availability of alternative tower structures and alternative siting locations.
 - 11. All special exception provisions listed in 1 and 2 above.
- b) Information Required- Each applicant for a special exception shall submit a plan prepared in accordance with the Town of Cornish Site Plan Review Regulations and further information, including a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to 200' from boundaries of the lot), and any other information deemed necessary by the Planning Board to assess compliance with this article. Furthermore, the applicant shall submit the following prior to any approval by the Board:

- i. The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
- ii. The applicant shall submit written proof that the evaluation satisfying the requirements of the National Environmental Policy Act (NEPA) rules further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirements.
- iii. Each applicant for an antenna and or tower shall provide to the Zoning Board of Adjustment an inventory of its existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location of the inventoried towers. The Zoning Board of Adjustment may share such information with other applicants applying for approvals or special exceptions under this article or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided however that the Zoning Board of Adjustment is not by sharing such information, in any way representing or warranting that such sites are available or suitable.

If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence can consist of:

- (a) Substantial evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
- (b) Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements and why.
- (c) Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) Substantial evidence that the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) Substantial evidence that the fees, costs or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- (f) Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
 - iv. The applicant proposing to build a new tower shall submit an agreement with the Town that maximizes the possibility of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant’s unwillingness to cooperate with the orderly and well-planned development of Cornish and grounds for denial.
 - v. The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Zoning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Costs for this review will be borne by the applicant.
- G. Variance – The Board of Adjustment may authorize the issuance of a permit for a variance from the terms of this Ordinance only where the Board finds that all of the following conditions apply:
- 1. The variance will not be contrary to the public interest;
 - 2. The spirit of the ordinance is observed;
 - 3. Substantial justice is done;
 - 4. The values of the surrounding properties are not diminished; and
 - 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 - a. For the 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 purposed of the ordinance provision and the specific application of the provision to the property; and
 - ii. The proposed use is a reasonable one.
 - b. If the criteria in this 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 reasonable used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of “unnecessary hardship” set forth in subparagraph (5) 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.

- H. Fees – Each application for a special exception or a variance shall be accompanied by payment of a fee of twenty dollars (\$20.00). The ZBA may also impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular application and appeals. Such fees may be imposed by the ZBA to cover fees and disbursements to consultants to the ZBA. Such fees shall be paid or provided for in advance to the satisfaction of the ZBA.

ARTICLE XI PENALTY

Any violation of the provisions of this Ordinance shall subject the violator to a fine of not more than one hundred (\$100.00) for each day such violation is found by a court of competent jurisdiction to continue after the date on which the violator receives written notice from the Town that he is in violation of this Ordinance.

ARTICLE XII EFFECTIVE DATE

This ordinance takes effect immediately upon its passage.

Appendix D
WETLAND SOILS

Poorly, somewhat Poorly and Very Poorly Drained Soils

Poorly & Somewhat Poorly Drained

Soils

Rumney (Ru)

Limerick (Lk)

Lyme-Moodilauke (Lu, Ly)

Naumburg (Na)

Raynham (Ra)

Stissing (Sh, Sg)

Pillsbury (Pg, Pl)

Very Poorly Drained Soils

Saco (Sa, Sb)

Chocura(Ch)

Ossipee (Ot)

Greenwood(Gw)

Borohemists, Poned (Bp)

Official Town of Cornish NH Zoning District Map of 2015

