

# TOWN OF LANDAFF, NH

# ZONING ORDINANCE

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|         | 3/14/06 |
|         | 3/14/17 |
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ZONING ORDINANCE  
TOWN OF LANDAFF, N.H.

ARTICLE 1.

PREAMBLE AND TITLE

Pursuant to the authority conferred by RSA 674:16 and 17, New Hampshire Revised Statutes Annotated, 1984, as amended, for the purpose of promoting the health, safety, morals and general welfare of the Town of Landaff, New Hampshire, the following ordinance is hereby enacted by the voters of the Town of Landaff, New Hampshire. This ordinance shall be known and may be cited as the Town of Landaff Zoning Ordinance – hereinafter referred to as “This Ordinance.”

ARTICLE 2.

PURPOSE

This Ordinance is designed to promote the health, safety and general welfare of the inhabitants of Landaff, to protect the value of property, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provisions of other public requirements.

A combination of all or a number of factors, (topographical, climatological, geological, historical, and geographical) create an environment in the Town of Landaff which is and can be of specific appeal to residential, agricultural, and conservation based developments. This Ordinance, therefore, is particularly designed to protect, preserve and encourage such developments.

ARTICLE 3.

DEFINITIONS

SECTION 301, GENERAL. Unless otherwise expressly stated, words shall, for the purpose of this Ordinance, have the meaning indicated in Section 302. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word “person” includes the word “structure.” The word “shall” is mandatory, not directory.

SECTION 302. SPECIFIC.

- (a) Accessory use. A use subordinate to and incidental to the principal use of land and building, including signs.

- (b) **Accessory Dwelling Unit.** A residential living unit that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit is accompanies. See Section 601 (i)
- (c) **Building.** Any structure enclosed and isolated by finished (four) walls constructed or used for residence, business, industry, other public or private purposes, or accessory thereto.
- (d) **Dwelling.** A room or group of rooms, with its own sanitary and kitchen facilities, forming a habitable unit for one family, used or intended to be used for living, sleeping, eating, cooking and sanitation.
- (e) **Special Exception.** An exception is a use that would not be appropriate generally or without restriction throughout a particular zone, but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in a particular zone as an exception only if specific provision for such exception is made in this Ordinance, after review by the Board of Adjustment.
- (f) **Junk Yard.** Any place of storage or deposit, whether in connection with another business or not, where two (2) or more unregistered or secondhand vehicles, no longer intended or in condition for legal use on the public highways, are held.
- (g) **Lot.** A parcel of land occupied or to be occupied by a building, together with such open spaces as are required by the provisions of this Ordinance.
- (h) **Manufactured Housing.** Any structure transportable in one or more sections, which in the travel mode is 8 body feet or more in width and 40 body feet or more in length, or when erected on site is 320 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 systems contained therein.
- (i) **Rear Yard.** The distance between the nearest portion of a building on a lot and the rear property line of the lot.
- (j) **Recreational Travel Trailer.** A portable or self-propelled vehicular dwelling to be used for travel, recreation, or vacation use.
- (k) **Setback.** The distance between the nearest portion of a building on a lot and a street right-of-way.

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- (l) Side Yard. The distance between the nearest portion of a building on a lot and a side property line of the lot.
- (m) Sign. A structure which advertises or which is used as an outdoor display for the advertising of a property, establishment, enterprise or other matter.
- (n) Street. A thoroughfare, road, highway or public way open and available to public use. "Street" shall mean the entire width of the right-of-way. Where the width of a street is not established or cannot be determined, the right of way line shall be considered to be 25 feet from the center of the street
- (o) Structure. Anything constructed or erected with a fixed location on the ground. Structures include but are not limited to buildings, swimming pools, manufactured housing, garages, barns, signs, etc. It shall not include minor installations such as fences less than four feet high, agricultural and safety fences, mail boxes, and flag poles.
- (p) Variance. A permit authorizing a use of property, which is contrary to this Zoning Ordinance. Variances may be granted by the Zoning Board of Adjustment in accordance with RSA 674:33, in cases where, owing to specific conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done.
- (q) Driveway. An access way serving not more than two lots.
- (r) Frontage. The distance that a front yard borders on a public street or a street that has been approved by the Planning Board in a subdivision.
- (s) **Biosolids. Solid or semi-solid residue generated during the treatment of domestic sewage in a municipal treatment plant.**

ARTICLE 4.

APPLICATION OF REGULATIONS

SECTION 401. No buildings, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations specified herein for the zone in which it is located.

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SECTION 402. No part of a yard or other open space or off-street-parking space required about or in connections with any structures for the purposes of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking space similarly required for any other building.

ARTICLE 5.

PRESENT USES

SECTION 501. Every use being made of land, structures or buildings in the Town of Landaff, on the effective date of this Ordinance may be continued, and such uses are not affected by the provisions of Article 6 of this Ordinance.

SECTION 502. Nonconforming uses permitted by Section 501 may be expanded only upon approval of the Board of Adjustment which shall first find: (1) such expansion or extension does not create a greater nuisance or detriment; (2) the expanded uses are in conformity with the requirements of Article 7, 8, and 9 of this Ordinance.

SECTION 503. A nonconforming use permitted by Section 501 may be changed to another nonconforming use only upon approval of the Board of Adjustment, which shall first find that such use is no more objectionable in character than the old use.

SECTION 504. Any nonconforming use permitted by Section 501, which has been discontinued for a period of two years shall not thereafter be resumed.

SECTION 505. A nonconforming use, permitted by Section 501, which has been damaged or destroyed by fire, accident, or other causes, may be repaired or reconstructed to its condition prior to such damage or destruction, provided such work is undertaken and completed within two (2) years after such damage or destruction.

ARTICLE 6.

FUTURE USES

For the purposes of this Ordinance, the Town of Landaff is divided into two Districts, the Commercial District and the Rural Residential District. The Commercial District consists of all lands within 800 feet south of the center line of the existing Route 302 from the Lisbon town Line west to Mill Brook Road. All other lands in the Town of Landaff shall be in the Rural Residential District.

SECTION 601. The following uses, and no other, shall be permitted in the Rural Residential District:

- (a) One and Two Family Dwellings.

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- (b) Farm Dwellings.
- (c) Accessory uses customarily incidental to the permitted use. Such uses include buildings for housing, automobiles, equipment, supplies, pets or animals.
- (d) Church, parish house, or other religious use.
- (e) Schools.
- (f) Community center, hall, lodge, park, or playground operated by a governmental unit or non-profit organization.
- (g) Agriculture, which shall include farming, dairying, pasturage, horticulture, animal and poultry husbandry.
- (h) Storage of one recreational trailer on a lot with an existing dwelling.
- (i) One Accessory Dwelling Unit of up to two bedrooms within or attached to a single-family dwelling under certain conditions, including but not limited to, the requirements that the ADU shall not exceed 750 square feet; either the ADU or the principal dwelling unit shall be occupied by the owner as his or her principal place of residence, adequate parking must be provided; and adequate provisions must be made for water supply and sewage disposal.
- (j) Manufactured housing as provided in Article 9 of the Ordinance.

SECTION 602. The following additional uses may be permitted in the Rural Residential District as a special exception by the Board of Adjustment under Section 1103 of this Ordinance:

- (a) Nursery schools.
- (b) Clinic, hospitals, or nursing homes or rest homes.
- (c) Public utility buildings.
- (d) Fire stations, municipal buildings and libraries.
- (e) Park and recreation areas.
- (f) Cemeteries.
- (g) Greenhouses.
- (h) Private Clubs.
- (i) Golf courses.
- (j) Riding Stables.
- (k) Swimming Pools, public or private.
- (l) Motels, hotels, tourist homes with ancillary eating and drinking facilities.
- (m) Antiques shops, gift shops.
- (n) Home occupations as provided in Section 801.
- (o) **Land application of biosolids, provided it meets the standards in the publication “Manual of Best Management Practices for Land Application of Biosolids”, published by the UNH Extension Services, as amended.**

SECTION 603. The following uses, and no other, shall be permitted in the Commercial District:

- (a) Retail businesses under 5000 square feet.
- (b) Hotels and Motels.
- (c) Offices.

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- (d) Personal services businesses.
- (e) Wholesale businesses under 5000 square feet.
- (f) Public facilities.
- (g) Eating and drinking establishments.
- (h) Roadside stands.
- (i) Single and Two family dwellings.
- (j) Multifamily housing.
- (k) Accessory uses.

SECTION 604. The following additional uses may be permitted in the Commercial District as a special exception by the Board of Adjustment as provided in Section 1103 of this Ordinance:

- (a) Light manufacturing.
- (b) Wholesale businesses over 5000 square feet.
- (c) Commercial excavation.
- (d) Retail businesses over 5000 square feet.

SECTION 605. All commercial, industrial and multi-family housing developments must meet the requirements of the Landaff Site Plan Review Regulations. They must also fit in with the existing neighborhood and not have a negative impact on the public health, safety and welfare as determined by the Planning Board, after environmental studies have been completed. All costs for such studies shall be borne by the applicant.

## ARTICLE 7.

### AREA REGULATIONS

SECTION 701. LOT SIZE. Each lot shall be a minimum of 90,000 square feet.

SECTION 702. FRONTAGE. Any lot situated on a state or town road shall have a minimum frontage thereon of 250 feet.

SECTION 703. SETBACK. Every structure placed on a lot shall be at least 25 feet from the nearest edge of the right-of-way on any road.

SECTION 704. SIDE AND REAR YARDS. Every structure placed on a lot shall be at least 25 feet from the side and rear property lines.

SECTION 705. HEIGHT. No structure erected on any lot shall exceed 35 feet in height, except that this restriction shall not apply to farm buildings.

SECTION 706. BUILDING PERMITS. No building permit for any residence or commercial structure shall be granted for a lot that is not situated:

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- (a) On a maintained state or town (Class V or better) road having a minimum frontage thereon of 250 feet from which it shall derive its access, or
- (b) A lot on a road within a subdivision, the plat for which shall have been approved by the Planning Board, and construction of which shall have been approved by the Board of Selectmen as having been completed in accordance with the specifications of the Landaff Subdivision Regulations.

ARTICLE 8.

GENERAL REGULATIONS

SECTION 801. HOME OCCUPATIONS. The Board of Adjustment may grant a special exception for any home occupations such as art studios, dressmaking, teaching, or such as the professional office of a physician, lawyer, dentist, architect, or accountant upon finding that the requirements for a special exception as set forth in Section 1103 hereof have been met and if (1) the home occupation is carried on wholly within the principal or accessory structure and/or on the same property, and (2) objectionable noise, vibrations, smoke, dust, electrical disturbance, odors, heat or glare shall not be produced.

SECTION 802. OFF-STREET PARKING. Adequate off-street parking shall be provided for all uses.

SECTION 803. SIGNS.

- (a) One sign per lot shall be permitted in conjunction with the use or sale of the land upon which the sign is located. Signs are not to exceed 10 square feet in size.
- (b) One off-premise directional sign shall be allowed per lot not to exceed 3 square feet in size.
- (c) No signs or directional signs shall project over public rights-of-way.

SECTION 804. ILLUMINATIONS. Flashing signs are prohibited and no sign or structure shall be illuminated in a manner, which causes distraction, confusion, or hazard to vehicular traffic.

SECTION 805. TEMPORARY STRUCTURES. On site temporary structures or trailers used in conjunction with construction work are permitted only during the period that construction work is in progress and in no event longer than six months. This period may be extended by the Zoning Officer upon application. A recreational travel trailer may be used as a temporary dwelling during the construction of a permanent dwelling for a period not to exceed six months upon issuance of a building permit by the Zoning Officer. The applicant must show the use to be temporary and must provide for the safe and legal disposal of all waste waters and sewage. The permit may be renewed by the Zoning Officer for an additional six months.



SECTION 806. ACCESS ROADS. Every person who sells or attempts to sell a parcel of unimproved land for use, now or in the future, as a building lot, shall, if said parcel does not have direct access to a state, town or other public road, first submit to the Planning Board plans or blueprints showing the parcel to be sold as well as all roads and/or rights-of-way giving access to said parcel from a road open to public use. If such roads, or rights-of-way provide, in the opinion of the Planning Board, a means of practical, usable access to the parcel for the owner and for the supplying of municipal services, the Planning Board shall approve the same.

SECTION 807. NEW RESIDENCES. All new residences shall be required to have a state-approved septic system. This shall not apply to existing residences.

## ARTICLE 9.

### MANUFACTURED HOUSING

SECTION 901. DEFINITION. Any structure transportable in one or more sections, which in the travel mode is 8 body feet or more in width and 40 body feet or more in length, or when erected on site is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling when connected to required utilities, which include plumbing, heating and electrical systems contained therein.

SECTION 902. PURPOSE. An important purpose of this Article is to provide safe and healthful living conditions for all the inhabitants of the Town of Landaff.

SECTION 903. PERMITTED USES.

- (a) Manufactured housing is allowed on individual lots in all residential districts in the Town of Landaff provided the lots meet all requirements for single family dwellings, and the manufactured home is constructed and installed in conformance with all State Codes and Regulations.
- (b) All manufactured housing units installed on undeveloped or unoccupied lots must meet the most recent specifications and standards established by the United States Department of Housing and Urban Development (HUD). An existing unit that fails to meet the applicable HUD standards may be replaced with a newer unit that also fails to meet these standards upon submission to the Zoning Board of Adjustment for, and approval of, a Special Exception.

SECTION 904. LIMITATION OF NUMBER OF MANUFACTURED HOUSING IN THE TOWN OF LANDAFF. The number of manufactured housing units in the Town of Landaff will be limited to three (3) percent of the total dwellings (as defined in Section 302) located within the town.

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- (a) Permits shall be issued by the Zoning Officer on a yearly basis based on the aforementioned percentage and shall be renewable each succeeding year on April first, but shall not be transferable.
- (b) Application for such permit shall be made in writing to the Zoning Officer. The applicant shall state the location of the proposed manufactured housing and proposed method of sewage and waste disposal.
- (c) Permits shall be transferable to replacement manufactured housing provided they meet with the requirements stated in (g) of Section 302.

**Section 905. Restricted Use: Manufactured home parks and trailer coach parks shall not be allowed.**

ARTICLE 10.

WETLANDS CONSERVATION DISTRICT

SECTION 1001. PURPOSE AND INTENT. The purpose of this Ordinance is to protect the public health, safety and welfare of the people of Landaff by guiding the use of land areas, which have been found to be subjected to high water tables for extended periods of time. It is the intent of this Ordinance to:

- (a) Prevent the development of structures and land uses on naturally occurring wetlands, which will contribute to pollution of surface and groundwater by sewage;
- (b) Prevent the destruction or significant change to natural wetlands which provide flood protection;
- (c) Protect unique and unusual natural areas;
- (d) Protect wildlife habitats and maintain ecological balances;
- (e) Protect potential water supplies and existing aquifers and aquifer recharge areas.
- (f) Prevent unnecessary or excessive expenditure of municipal funds for the purposes of providing and/or maintaining essential town services and facilities, which might be required as a result of misuse or abuse of wetlands.
- (g) Encourage low-intensity uses that can be safely and harmoniously located in wetlands.

1002. DISTRICT BOUNDARIES.

- (a) Wetlands Definition. The Wetland Conservation District is defined as those areas of Landaff, which are delineated as having poorly drained or very poorly drained soils by the United States Department of Agriculture, Soil Conservation Service in the Soil Survey of the Town of Landaff, New Hampshire dated March 1989.
- (b) Relation to Other Districts. In areas where the Wetlands Conservation District corresponds with another zoning district, the more restrictive regulations shall apply.
- (c) Incorrectly Delineated Wetlands. In areas where wetlands have been incorrectly delineated or areas not designated as wetlands, which are subsequently found to meet the criteria for wetlands designation, the Landaff Zoning Board of Adjustment shall determine whether the regulations contained in this Ordinance shall apply. The ZBA shall make their determination under this section on the basis of onsite inspection by a Certified Soil Scientist that verifies that the information on the SCS Soil Survey is incorrect. All cost shall be borne by the applicant.

1003. PERMITTED USES. Permitted uses are those that will not require the erection of any structure and will not alter the wetland's natural surface configuration by the addition of fill or by dredging; and that are otherwise permitted by this Zoning Ordinance.

1004. SPECIAL EXCEPTIONS. Special exceptions may be granted for the undertaking of a use not otherwise permitted in the Wetlands Conservation District providing that each request for special exception shall include the findings of a review of the environmental effects of the use upon the subject wetlands and in accordance with the criteria listed in Section 1103 of this Ordinance. In addition, the ZBA must hold a public hearing concerning the request for special exception and must determine that the proposed use shall not pollute surface or groundwater, shall not adversely affect the ecological balance of the area and shall not increase the potential of flooding in Landaff or its environs.

**1005: Building Setbacks for surface waters. All buildings shall be setback a minimum of 50 feet from the normal high water mark of the following surface waters: Chandler Pond; Ammonoosuc River; Wild Ammonoosuc River; and, Mill Brook [from Chandler Pond to the Ammonoosuc River].**

ARTICLE 11.

BOARD OF ADJUSTMENT

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SECTION 1101. CREATION. There is hereby created a Board of Adjustment, and its members shall be elected at Town Meeting in accordance with, and shall have the terms and powers conferred by NH RSA 673, as it has been amended.

SECTION 1102. APPEALS. The Board of Adjustment shall hear and decide any case in which it is alleged there is an error in any order, requirement, decision, or determination made by any official in the enforcement of this Ordinance.

SECTION 1103. SPECIAL EXCEPTIONS. The Board of Adjustment may make a special exception, subject to appropriate conditions and safeguards as determined by it as prescribed in NH RSA 674:33.

- (a) The proposed use shall be one permitted by this Ordinance as a special exception;
- (b) The specific site is an appropriate location and of adequate size for such use;
- (c) The use will not adversely affect the adjacent area and there are no reasonable objections to the use by the owners of the abutting land;
- (d) The proposed use will promote the public health, safety, welfare, morals, order, convenience and prosperity of the adjacent area.

SECTION 1104. VARIANCES. The Board of Adjustment may authorize a variance from the terms of this Ordinance as prescribed in NH RSA 674:33, and particularly from the lot and yard requirements where it finds that all of the following apply:

- (a) There are special circumstances or conditions applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the property in question, or exceptional topographical conditions), which are peculiar to such requirements of this Ordinance as will deprive an owner of such property a reasonable use of it, and will impose upon such owner a hardship not shared by the owners of other property.
- (b) The granting of the variance will be in harmony with the general purposes and intent of this Ordinance, and with the convenience, welfare, and character of the area within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.

ARTICLE 12.

ENFORCEMENT

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SECTION 1201. ENFORCEMENT. It shall be the duty of the Board of Selectmen, and the Board is hereby given power and authority to enforce the provisions of this Ordinance.

SECTION 1202. ZONING OFFICER. This Ordinance shall be administered by a Zoning Officer who shall be nominated by the Planning Board and appointed by the Selectmen.

SECTION 1203. PERMITS.

- (a) After passage of this Ordinance, it shall be unlawful to erect any building, sign or directional sign or alter the bulk of any building, or relocate any building or sign in any district without first obtaining a building permit from the Zoning Officer.
- (b) No permit shall be required 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.

SECTION 1204. LEGAL ACTIONS. The Board of Selectmen is hereby authorized to institute or cause to be instituted in the name of the town, any and all actions, legal or equitable, that may be necessary or appropriate for the enforcement of this Ordinance.

SECTION 1205. PRIVATE ENFORCEMENT. Section 1204 shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provision of this Ordinance.

SECTION 1206. PENALTIES. Any person who violates any provision of this Ordinance may be fined not more than \$100 for each day such violation may exist.

ARTICLE 13.

AMENDMENTS

This Ordinance may be amended in accordance with the provisions of NH RSA 674 as it is or may be amended.

ARTICLE 14.

SEVERABILITY

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision.

ARTICLE 15.

EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage.