

ZONING ORDINANCE

RYE BEACH VILLAGE DISTRICT

830 CENTRAL ROAD

RYE BEACH, N.H. 03871-0442

ADOPTED APRIL 1988

AMENDMENTS THROUGH

APRIL 2017

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SECTION I

AUTHORITY AND PURPOSES

1.1 AUTHORITY

This Ordinance is enacted in accordance with the authority conferred in Chapter 292 of the laws of 1937 and Chapter 673, 674, 675, and 677 of the Revised Statutes Annotated and subsequent amendments thereto and is hereby adopted by the voters of the Rye Beach Village District in official meeting convened.

1.2 PURPOSES

The purposes of this Ordinance are to promote the health, safety, convenience and general welfare of the inhabitants of the Rye Beach Village District, to protect and conserve the value of property, to encourage the most appropriate use of land throughout the District, and to promote the efficiency and economy in the process of development by securing safety from fire, panic and other dangers, by providing adequate areas between buildings and various rights-of-way, by preserving the character of the District, and by promoting good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means.

1.3 TITLE

This Ordinance shall be known as the “Zoning Ordinance of the Rye Beach Village District, Rye, New Hampshire”

1.4 RYE AND RYE BEACH

Within the Rye Beach Village District, one must comply primarily with the Rye Beach Village District’s Zoning Ordinance and, where it is silent, one must also comply with the Zoning Ordinance of the Town of Rye, NH. (Adopted 4/10/90)

SECTION II

DEFINITIONS

2.1 DEFINITIONS

Except where specifically defined herein, the words used in this Ordinance shall carry their customary meaning. The following words are specifically defined.

2.1.1 Abutter. Abutter means any person whose property adjoins or is directly across the street or stream from the land.

2.1.2 Accessory Use. A use of premises or a building for a purpose customarily carried on in connection with and subordinate to a use hereby permitted. An accessory building is a building such as a garage, tool shed, greenhouse, or other structure customarily built and used in connection with any building hereby permitted. The maximum dimensions of an accessory building shall be not greater than those customarily associated with a 3-car garage, nor shall the height of an accessory building exceed that of the dwelling unit. The combined area of the dwelling unit and accessory building shall not exceed the dimension limits set forth in section 4.2 of this Ordinance. (Amended 4/9/91)

2.1.2(a) Accessory Dwelling Unit. A residential living unit that is appurtenant to a single-family dwelling and that provides independent living facilities for one or more persons, including provision for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies. An accessory dwelling unit must be within or attached to the principal dwelling unit and that one of said units must be occupied by the Owner of the property. (Adopted April 2017)

2.1.3 Apartment. Any separate dwelling unit so offered or furnished for more or less permanent rental occupancy within an apartment house, motel, hotel or other building.

2.1.4 Apartment House. A building containing three or more separate dwelling units designed for, or used for, more or less permanent living quarters for persons or families on a rental or lease basis.

2.1.5 Building. Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal, or property of any kind. (Adopted 4/8/97)

2.1.6 Building Height. The vertical distance from the average existing ground level to the highest point of the building not including chimneys, steeples, or antennas.

2.1.7 Condominium. Any building or buildings or other use of land which shall be the subject of a submission to the provisions of RSA 356-B.

2.1.8 Dwelling, Single Family. A building and accessories thereto principally used, designed or adapted as a single dwelling unit.

2.1.9 Dwelling Unit. Any building or portion thereof, occupied, in whole or in part, by one family residing together, permanently or temporarily, containing or having access to customary living, sanitary, sleeping, garage, and storage facilities, and one area where those appliances and fixtures customarily associated with a kitchen are located. (Amended 4/9/91, 4/8/97)

2.1.10 Elevation, average existing ground. The mean location between the highest point and lowest point of the ground within 10 feet of the walls of the building.

2.1.11 Family. A family is: (1) an individual; (2) a primary unit of two or more persons related by blood, marriage, or adoption, or (3) not more than three persons not so related, provided that in each of the foregoing, all persons constituting any such group are normally living together and sharing the same dwelling unit. (Adopted 4/8/97)

2.1.12 First Story. The lowest story entirely above the ground level.

2.1.13 Frontage. All that continuous side of a lot or tract of land abutting on one side of a street, or proposed street, measured along the street line, from which principle access to the lot or tract of land will be obtained. A corner lot must satisfy the frontage requirements of the district in which it is situated on one of its two street sides, and the depth requirements on the other street side. (Adopted 4/10/90)

2.1.14 Home Occupation. An occupation conducted entirely within the dwelling unit and customarily incidental and secondary to the use of the structure for dwelling purposes and which does not adversely affect or undermine the residential character of the neighborhood. Such activities as dressmaking, hairdressing, tutoring, or the practice of the professions (i.e., medicine, dentistry, law, or architecture) are allowed provided that such activities are carried on by a person resident in the dwelling and not more than one other employee or assistant and further provided that such use involves no more than one third of the floor area of the premises, that there be no exterior storage of equipment, no display of products or advertising from the street, and there is no use of accessory buildings. The operation of a bed and breakfast establishment is not allowed under this definition.

2.1.15 Hotel. A building designed for, or used commercially as, more or less temporary living quarters for persons who are lodged with or without meals, in which are ten or more sleeping rooms usually occupied singularly or by families or transients.

2.1.16 Lot. A parcel of land legally constituted as a unit, which is or may be occupied by a building and its accessory building, including the open spaces require by this ordinance, and having a frontage upon a publicly accepted street only.

2.1.17 Lot, depth. The average distance from a street line of the lot to its opposite rear line, measured in the average general direction of the side line of the lot. The width of a lot is its average width measured at right angles to its depth.

2.1.18 Manufactured Housing. Manufactured housing means any structure, transportable in one or more sections, which, in the traveling 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 heating systems contained therein, per RSA 674:31.

2.1.19 Non-conforming building or use. A use or building which legally existed at the time of enactment of this Ordinance, or any of the amendments thereto, or pursuant to lawful permit issued prior to such enactment, which does not conform to the provisions of these regulations, for the district in which it is located.

2.1.20 Rear Lot Line. The lot line opposite to the street line, but in the case of a corner lot, the rear lot line may be elected by the owner, provided that it be indicated on the application for permit to build.

2.1.21 Setback Measurement. The shortest distance from a property line to a structure measured at right angles to the property line.

2.1.22 Structure. Any temporary or permanently constructed, erected or placed material or combination of materials in or upon the ground, including, but not limited to buildings, mobile homes, radio towers, sheds and storage bins, storage tanks, portable carports, auxiliary power generators and accompanying fuel storage facilities, swimming pools, tennis courts, parking lots, and driveways with a man-made surface but not subsurface waste disposal facilities. Fences, stonewalls and driveways are structures, but are exempt from dimensional requirements of this Ordinance. (Adopted 4/8/97)

2.1.23 Swimming Pool. Any tank or basin constructed in whole or in part of any building material which is used or designed or intended to be used for swimming.

2.1.24 Trailer. A non-powered vehicle used for transportation of other objects such as boats, snowmobiles, motorcycles, rubbish, etc.

2.1.25 Travel Trailer. A mobile home designed to be used for temporary occupancy for travel, recreational or vacation use, with the manufacturer's permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed forty-five hundred (4,500) pounds, or being of any weight provided its overall length does not exceed twenty-eight (28) feet.

2.1.26 Yard, Front. A required open unoccupied space within and extending the full width of the lot, between the street property line and the parts of the main building nearest to such street line.

2.1.27 Yard, Rear. A required open unoccupied space, the full width of the lot, between the rear wall of the building throughout its height and the rear line of the lot. In the case of a triangular lot with only one side fronting on a street, the rear yard shall be the open unoccupied space between the rear wall of the building, and a line halfway between such rear wall and the point of intersection of the side lines of the lot.

2.1.28 Yard, Side. A required open unoccupied space within the lot between the side lot line, not a street line, and the parts of the building nearest to such lot line.

SECTION III

ESTABLISHMENT OF DISTRICTS AND USES

3.1 ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, Rye Beach Village district is hereby divided into the following districts:

District Name and Abbreviation

Low Density Residential	LDR
Medium Density Residential	MDR
Recreational	RCR

3.2 LOCATION

Said districts are located and bounded as shown on a map entitled Zoning Map, Rye Beach Village District, copies of which are on file and may be obtained in the District Offices. The Zoning Map, with all explanatory material thereon, is hereby made a part of this Ordinance and may be reissued by the Planning Board to incorporate such amendments as may be made by the District Meeting, This official Zoning Map shall be the final authority as to the current zoning status of the land in the District.

3.3 INTERPRETATION OF DISTRICT BOUNDS

The location of district boundary lines shown upon the Zoning Map shall be determined as follows:

3.3.1 Where a boundary is shown as following a street or utility, the boundary shall be the center line thereof unless otherwise indicated.

3.3.2 Where a boundary is shown outside of a street or utility and is approximately parallel thereto, it shall be deemed parallel to the nearest line thereof and the figure placed on the Zoning Map between the boundary and such line shall be the distance in feet between them, as measured at a right angle from such line unless otherwise indicated.

3.3.3 Where a boundary is shown as following a watercourse, the boundary shall coincide with the center line thereof as said center line existed at the date of the Zoning Map.

3.3.4 Where a boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as one existing at the time of this Ordinance.

3.3.5 Where a district boundary line divides a lot, either zoning district shall be interpreted as extending twenty (20) feet into the adjacent district.

3.3.6 In the case of uncertainty, the Planning Board shall determine the exact location of the boundary.

3.4 DISTRICT PURPOSES

The following purposes are hereby established for each of the districts and the Rye Beach Village Precinct in its entirety.

3.4.1 Low Density Residential. The intent of this district is to provide for predominantly low density residential development on individual lots which can be accommodated on the land without major disruptions of natural terrain, vegetation, watercourses or surface drainage.

3.4.2 Medium Density Residential. The intent of this district is to provide for medium density residential development on individual lots which, because of a connection to District sewer service or because of the natural terrain, can be permitted at greater densities.

3.4.3 Recreational. The intent of this district is to provide an area for recreational purposes such as a golf course, tennis club, park or similar facilities regardless of ownership characteristics.

3.4.4 Resource Protection. The intent for inclusion of this purpose is to provide protection for and appropriate use of lands which are delineated as beaches or poorly drained or very poorly drained soils identified by the U.S. Department of Agriculture, Soil Conservation Service, and shown on maps prepared by the S.C.S. or any tidal wetlands as defined in RSA 483A:1a(I). The intent of this inclusion is to promote the preservation of surface water quality, conserve and protect aquatic and terrestrial habitat associated with intertidal and riparian areas, preserve and enhance those aesthetic values associated with the natural shoreline and encourage those uses that can be appropriately located adjacent to the shoreline.

3.4.5 Flood Hazard. The intent for inclusion of this purpose is to prevent the unwise use of lands subject to flooding, to reduce future flood damage to structures, to prevent unnecessary expenditure of public funds in flood prone areas, and to prevent the obstruction of natural water flow during maximum flood levels.

3.5 USE REGULATIONS

3.5.1 The Table of Uses, Section 3.6, specifies the uses that are permitted by right, are permitted by special exception, or are prohibited. Permitted uses are designated in the Table with a P;] uses which require the granting of a special exception by the Board of Adjustment are designated with an S; and prohibited uses are designated with an X. The Resource Protection and Flood Hazard Purposes are guidelines for all of the Rye Beach Village District and shall be referenced by the Planning Board and the Board of Adjustment in the process of considering any and all requests. Allowed use information for such property is found in Section VIII.

Any use not specifically listed in the Table of Uses is deemed to be prohibited.

3.5.2 All uses illustrated in Section 3.6 shall be subject to the limitations delineated in other Sections of the Ordinance. In cases of conflict, the more restrictive interpretation shall apply.

3.5.3 All buildings or structures hereafter erected, reconstructed, altered, enlarged, or moved, or all future uses of premises in the Rye Beach Village District shall be in conformity with the provisions of this Ordinance. No building, structure, or land shall be used for any manner other than is permitted in the district in which it is located.

3.5.4 A permit for the construction, alteration, enlargement, moving or demolition or use of a building or structure shall not be issued by the Zoning Administrator unless the building or structure complies with this Ordinance and/or has been granted a variance or special exception by the Board of Adjustment

3.5.5 The demolition of any structure greater than 500 square feet gross floor area or any erected structure greater than 50 feet in height shall require a permit by the Zoning Administrator. As used here "demolition" means the act of pulling down, destroying. Removing or razing a building or part of a building, including commencing such action with the intent of completing the demolition. (Adopted 2011)

3.6 TABLE OF USES

USES

DISTRICTS AND PURPOSES

	LDR	MDR	RCR	RESOURCE PROTECTION	FLOOD HAZARD
<u>A. RESIDENTIAL USES</u>					
1. Single family detached dwelling	P	P	X	See Section VII.	See Section IX.
2. Home occupation in accordance with Sect. II. Para. 2.1.14	S	S	S		
3. Single accessory building in accordance with Sect. II. Para. 2.1.2	P	P	P		
4. Accessory dwelling unit in accordance with Sect. III. Subsection 3.7	P	P	X		
<u>B. OUTDOOR/RECREATIONAL USES</u>					
1. Public parks & playgrounds	P	P	P		
2. Golf course together with all supporting And complementary recreational uses including a club house with dining facilities, pro shop, maintenance facilities.	X	X	P		
3. Tennis Club or Courts other than for: Personal use by a residential use	X	X	P		
<u>C. INSTITUTIONAL USES</u>					
1. Places of worship including customary ancillary facilities	S	S	X		
2. Municipal buildings and public utilities	P	P	P		

Explanatory Notes to Table of Uses

All permitted uses are subject to all of the other provisions of this Ordinance.

All special exemptions are subject to the provisions of Section XI, the Board of Adjustments.

3.7.1 Requirements: In accordance with RSA 674:72, an accessory dwelling unit shall be allowed by special exception provided that the unit complies with the following minimum requirements:

- A. No more than one accessory dwelling unit shall be permitted on any property.
- B. Adequate provisions for water supply and sewage disposal shall be made for an accessory dwelling unit, but separate systems shall not be required for the principal and accessory dwelling units.
- C. Each accessory dwelling unit shall have a minimum floor area of 600 square feet or 40 percent of the living space of the principal dwelling unit, whichever is less, and a maximum floor area of 900 square feet and shall contain, at a minimum, a separate cooking area with a kitchen sink, one full bathroom, and not more than two bedrooms.
- D. Any two-bedroom accessory dwelling unit shall have no more than three (3) occupants and any one bedroom accessory dwelling unit shall have no more than two (2) occupants.
- E. Two off-street parking spaces shall be provided for any accessory dwelling unit in addition to such number of parking spaces required for the principal dwelling unit.
- F. The accessory dwelling unit shall be constructed and maintained in such a manner as to retain the appearance and character of the principal dwelling unit as a single family dwelling and to maintain aesthetic continuity with the principal dwelling unit. No additional entrance door shall face the street.
- G. The principal dwelling unit on the premises shall comply with the Dimensional Requirements of Subsection 4.2.
- H. An approval shall be obtained from NHDES relative to the adequacy of the on-site waste disposal system.
- I. An approval shall be obtained from the applicable supplier of public water or certification of a well of adequate capacity shall be provided.
- J. Rye Sewer Commission approval shall be required for an accessory dwelling unit served by town sewer.
- K. If an accessory dwelling unit is rented, it shall be for a term greater than six (6) months.

- L. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.
- M. No accessory dwelling unit shall be permitted unless within, or attached to, the principal dwelling unit.
- N. The principal dwelling unit and the attached dwelling unit may not be separated from each other in any way except in conformity with the subdivision regulations of the Rye Beach Village District.
- O. There shall be only one electric, one water, and one sewer utility metering, and billing, for both the single family dwelling and the accessory dwelling unit.
- P. All other zoning requirements that would apply to a single-family dwelling not accompanied by an accessory dwelling unit shall be met.

3.7.2 Applications: All applications for a special exception for an accessory dwelling unit shall include the following information to the Zoning Board of Adjustment at the time of application:

- A. A property layout showing the location of all buildings on the property, existing and proposed, including existing or proposed septic system.
- B. A parking plan for both the accessory dwelling unit and the principal dwelling unit.
- C. A floor plan of all rooms in both the accessory dwelling unit and the principal dwelling unit.
- D. Plans for access and egress from both the accessory dwelling unit and the principal dwelling unit.
- E. Approval of the Fire Chief.
- F. Building elevation views whenever exterior changes to the principal dwelling unit are proposed.
- G. Such other information as the Zoning Board of Adjustment may require.

3.7.3 Recertification: Every two years after approval as an accessory dwelling unit and when the property is sold, the owner of the principal dwelling unit and all adult occupants of the accessory dwelling unit shall file an affidavit with the Zoning Administrator certifying that the owner lives on the premises and that the occupancy of the accessory dwelling unit complies with Subsection 3.7.1 (D). Said affidavit shall include a \$100.00 fee.

SECTION IV

DIMENSIONAL REQUIREMENTS

4.1 GENERAL REQUIREMENTS

The following general requirements shall be met:

4.1.1 No building or structure shall be erected, Enlarged or moved, nor shall any use be authorized or extended, nor shall any existing lot be changed as to size except in accordance with the Table of Dimensional Requirements, Section 4.2.

4.1.2 A lot having frontage or an area less than required by Section 4.2 may be considered to be in compliance with such frontage and area requirements provided that:

- (a) The lot had received final subdivision approval prior to the enactment of this Ordinance or was shown on a recorded plan or deed filed prior to the enactment of Subdivision Regulations by the District.
- ~~(b) Contiguous lots in common ownership shall be combined to create a lot or lots consistent with or most nearly consistent with Section 4.2, and provided that,~~
- ~~(c) Contiguous lots in common ownership not in conformity with Section 4.2 shall not be separated or transferred in ownership subsequent to posting of first legal notice of public hearing on this Ordinance.~~

4.2 TABLE OF DIMENSIONAL REQUIREMENTS

The Table of Dimensional Requirements shall apply for all lots, uses of land, and developments within the various districts, unless modified by other sections of this Ordinance.

	<u>MINIMUM LOT DIMENSIONS (a)</u>		<u>MINIMUM YARD DIMENSIONS (a)</u>			<u>Max. Height of Structure</u>	<u>Max. % Bldg. Coverage /Lot</u>	<u>Min.% Open Space/Lot(c)</u>
	<u>Area</u>	<u>Continuous Frontage</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>			
Low Density Residential	60,000 s.f.	200	40(b)	25	30	35	20	60
Medium Density Residential	1 Ac.	150	40(b)	25	30	35	25	50
Recreational	5 Ac.	200	50(b)	30	30	35	20	60

- a. All measurements are in feet unless otherwise noted. The minimum lot size may be increased depending on the soil classification as defined by the Soil Conservation Service.
- b. Swimming pools shall have the same yard dimensions as the structures in each district, except that no swimming pool shall be located in a front yard of a lot.
- c. Open space is defined as land not covered by buildings or parking/driveway facilities. Such open space is land left in an open natural condition and/or landscaped with trees, grass and /or shrubs.
- d. There shall be sufficient area and frontage entirely within the District to satisfy the above requirement.

SECTION V

SUPPLEMENTARY REGULATIONS

5.1 NON-CONFORMING USES

5.1.1 Discontinuance. Any non-conforming use may be continued until discontinued for a period of two years, at which time it shall not be re-established, and any future use shall be in conformity with this Ordinance. For the purposes of this Section, “discontinued” shall mean the visible or otherwise apparent cessation of use, without any regard for the intent to cease or the intent to re-establish a non-conforming use. (Amended 4/11/95)

5.1.2 Changes. No building, structure, or use which has been changed from a non-conforming use shall be permitted to revert to a non-conforming use. There shall be no conversion from one non-conforming use to another non-conforming use.

5.1.3 Increases. No increase in the extent of a non-conforming use of a structure or land shall be made. No non-conforming structure can be enlarged or extended.

5.1.4 Rebuilding. A non-conforming structure or use damaged by fire or other causes shall be repaired or rebuilt within one year of the damage and there shall be no increase in footprint, height, or floor space of the structure.

5.2 CERTAIN PROHIBITIONS

The following prohibitions shall be observed in the Rye Beach Village District:

5.2.1 Fire Ruins. No owner or occupant of land in any district shall permit fire or other ruins to be left on a site, but within six months shall remove such ruins and fill any excavation with solid fill to ground level, or shall repair, replace, or rebuild the structure within one year of the fire or natural disaster.

5.2.2 Nuisances. Any use that may be obnoxious or injurious by reason of production or emission of odor, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that is dangerous to the comfort, peace, enjoyment or health or safety of the community, or tending to its disturbance or annoyance, is prohibited.

5.2.3 Safety Protection. No privy, cesspool, septic tank, lagoon or other sewage disposal area shall be constructed or replaced unless designed in accordance with the most recent manual published by the New Hampshire Water Supply and Pollution Control Commission (WSPCC) and plans of such system are approved by the Zoning Administrator of Rye Beach Village District, and if necessary, by the Water Supply and Pollution Control Commission. No leaching field or sewage drain facility shall be located closer than 75 feet from a well or 100 feet from a natural water body.

5.2.4 Dumping or Disposal of Garbage and Other Refuse. No land in any district shall be used for a dumping place for garbage and refuse from either private or commercial or industrial sources. Roll-off and other mechanically handled refuse containers shall be prohibited unless: (1) it is in conjunction with any construction for which a zoning permit is required and has been issued, or (2) it is not visible from the street or abutting properties. In any event the container shall be kept covered and secure.

5.2.5 Unregistered Vehicles. No unregistered vehicle may be parked outdoors for more than 30 days in any calendar year.

5.2.6 Yard Lighting. Any light used to illuminate the grounds, buildings, or signs, walks, or drives of any property shall be so arranged and/or shielded as to direct light away from adjacent street and neighboring properties.

5.2.7 Vehicular Parking. The habitual parking of unregistered vehicles out of doors is prohibited. The habitual parking of vehicles other than passenger cars out of doors is prohibited, except that a truck not exceeding $\frac{3}{4}$ ton capacity and used by the resident occupant is allowed. All other vehicles, including but not limited to boats, trailers, campers, airplanes and helicopters, must be garaged or parked so as not to be visible from the street.

5.2.8 Pets and Livestock. The keeping of animals other than ordinary household pets and horses, is prohibited. Horses are prohibited unless stabled not less than 100 feet from the nearest lot line. No storage of manure or other odor-producing material is permitted that is less than 100 feet from the nearest lot line. Farm animals are prohibited.

5.2.9 Partial Construction. Any building or structure in the process of being constructed shall be completely enclosed and secured from unauthorized entry within one year of the issuance of a permit by the Zoning Administrator. The owner of a partially constructed building or structure may apply to the Zoning Administrator for an extension of up to six months in the event there is a practical difficulty in complying with the one year time limit. The owner shall state in writing the practical difficulty which requires an extension of time. Such extension will not be granted unless the Zoning Administrator finds that the granting of an extension will not be injurious to the public safety or welfare.

5.3 CONDOMINIUM CONVERSIONS

5.3.1 Permitted by Special Exception. In any district conversion of existing dwelling units to condominium ownership shall be permitted as a special exception granted by the Board of Adjustment, only if all provisions herein are met.

5.3.2 Plan Requirements. A complete set of site plans and floor plans, as well as a complete set of all condominium documents must be filed with the Board of Adjustment upon application for the special exception.

- A. The plans shall show the location of all utilities on the site and shall indicate the location of all water connections and locations where the shutoff valve will be located for each particular unit in the case of a condominium project containing more than one unit. The

plans shall indicate whether or not additional meters other than those existing or additional lines from the street will be required as a result of the condominium conversion.

- B. In the case of seasonal properties, the condominium declaration and other documents which are recorded in the Registry of Deeds shall indicate on their face that the property may only be used for seasonal purposes and the months when the property may be used shall be indicated in the documents.

5.3.3 Criteria for Special Exceptions.

- A. The dwelling units which are subject to the request for condominium conversion must, at the time of the request for condominium conversion, exist as legal dwelling units pursuant to the ordinances of the Rye Beach Village District. This means that units in buildings such as motels, hotels, lodging houses and tourist camp cabins and/or housekeeping cabins and other dwelling units located in buildings that are used principally for non-residential purposes shall not be approved as condominium conversions. The burden shall be on the petitioner to demonstrate that the units sought to be converted have legal status.
- B. Each dwelling unit of the condominium shall contain a minimum of nine hundred and sixty (960) square feet of floor area.
- C. The off-street parking requirements of the Rye Beach Village District existing as of the date of the request for condominium conversion must be met.
- D. The proposed conversion of the existing dwelling unit to condominium ownership shall not adversely affect the values of surrounding properties.
- E. The proposed conversion to condominium ownership must not be injurious or detrimental to the neighborhood or village.
- F. The septic system and/or private sewer system standards of the New Hampshire Water Supply and Pollution Control Boards and the Rye Beach Village District existing as of the date of the request for condominium conversion, must be met or exceeded by all systems used by the dwelling units associated with the condominium conversion, and a certificate to that effect must be filed with the Board of Adjustment; based on review of Town and Village records by the building Inspector or an on-site inspection of systems and soil conditions by a professional engineer.
- G. The condominium conversion shall be a true “conversion” of the existing dwelling unit, rather than a replacement of it. This means that the dwelling unit offered for condominium ownership must be essentially the same dwelling unit that existed prior to the application for conversion. Remodeling and enlargement are allowed, if the enlargement isn’t necessary to meet the 960 sq. ft. minimum floor requirements, but the architectural characteristics, structural elements, and living space arrangement that existed prior to the application must be readily identified and dominant in the dwelling unit offered for condominium ownership.

5.4 SITE PLAN REVIEW

The Planning Board is empowered to review and approve or disapprove site plans for the development of tracts for non-residential uses or for multi-family dwelling units (defined as any structure containing more than two dwelling units), whether or not such development includes a subdivision or re-subdivision of the site. (Adopted 4/11/95)

SECTION VI

PARKING REQUIREMENTS

6.1 OFF-STREET PARKING

On and after the effective date of this Ordinance, all new structures and developments as well as additions to or changes in use or intensification of use in existing structures shall be provided with off-street parking spaces in accordance with the following specifications in Section 6.2

6.2 REQUIRED SPACES

<u>Type of use</u>	<u>Minimum Number of Required Spaces</u>
(a) Churches or other places of public assembly.	One (1) parking space for each four (4) seats based on a maximum seating capacity.
(b) Residential dwelling	1.5 Parking spaces per dwelling unit.

6.3 PARKING SPECIFICATIONS

The following specifications shall apply for parking lots with more than six parking spaces. They shall not apply to single family residential units.

6.3.1 Size. Each required parking space shall be not less than 9 feet wide and shall have a minimum area of one hundred eighty (180) square feet, exclusive of drives or aisles.

6.3.2 Travel Lanes. Travel Lanes shall not be less than: 22 feet wide for 90 degree angle parking, 18 feet wide for 60 degree angle parking, 12 feet wide for 45-degree angle parking and 10 feet wide for 30 degree angle parking.

6.3.3 Surface. All parking areas and access drives and aisles shall be surfaced with bituminous binder, concrete, asphalt, compacted, or crushed stone placed in order to prevent erosion and raising of dust. If paved, the lots shall be striped to delineate parking spaces.

6.3.4 Landscaping. All parking lots shall have at least ten (10) percent of the lot area landscaped with trees, shrubs, and similar plant materials.

SECTION VII

SIGNS

Amended April 2011

7.1 PURPOSE

The intent of this Section is to allow the erection of signs, for the purpose of providing information and advertising, in an orderly, effective, and safe manner. Restrictions on type, location and size of signs protect the public from hazardous and distracting displays and create an attractive environment which is conducive to residential and recreational use.

7.2 GENERAL REGULATIONS

7.2.1 Sign Table. Table 7.3 lists the types, sizes, and locations of permitted signs according to the use of property and zoning districts. Any sign type not specifically listed shall not be permitted. The following exceptions are permitted.

- (a) **Government Signs.** Signs erected by the municipal, State, or federal government which are required for the public safety and welfare shall be allowed.
- (b) **Service/Civic Association Signs.** Service and civic associations, defined as organizations established by local citizens and which have a non-profit tax status, may apply to the Board of Adjustment for a special exception to erect signs in the municipality providing that the following conditions are met. (1) an individual sign is no larger than four (4) square feet, (2) the organization has written permission for placement of the sign from the landowner, and (3) the sign will not cause a safety hazard or have an adverse visual effect on the surroundings.
- (c) **Directional Signs.** In any Zone signs not exceeding two square feet per sign in area to point direction to residences, business, other allowed uses or meeting places or for directing traffic into or out of a site are permitted.
- (d) **Temporary signs.** On-premises: Temporary signs shall pertain to the activity taking place on-site and may be used for no longer than thirty days. Off-premises: Temporary signs may be used off-site for non-profit, charitable, or civic groups or events. These off-site signs shall be allowed for no more than 15 days before an event and must be removed no more than five days after the event.

7.2.2 SIGN PERMITS: Except for temporary signs as provided for in Section 7.2.1. (d). no sign shall be erected or placed without a sign permit issued by the Zoning Administrator in accordance with the provisions of this Ordinance or upon a decision by the Board of Adjustment.

7.2.3 Prohibited Signs. The following signs are prohibited.

- (a) Signs, any part of which moves or flashes or on which the lights appear to travel or are animated.
- (b) Signs, which by reason of location, size, color, or design interfere with public traffic or are confused with or obstruct the view or effectiveness of any official traffic signal or traffic marking.
- (c) Signs which are located off the property that they are advertising.
- (d) Signs located on the roof of any structures.
- (e) Signs with luminescent or reflecting paints.

7.2.4 Maintenance and Obsolescence: All signs and sign structures shall be properly maintained and kept in a neat and proper state of maintenance and appearance. All signs of any type and located within any district which are found by the Zoning Administrator to be in a state of disrepair or are considered dangerous, shall be repaired or removed by order of the Zoning Administrator and upon failure to comply with this order within the time specified within the order, the Zoning Administrator is hereby authorized to cause removal of this sign and any expense resultant thereto shall be borne by the owner/lessee. Signs associated with activity that has been discontinued shall be removed. The Zoning Administrator shall have the authority to determine when such uses have been discontinued.

7.2.5 Non-conforming Signs. Legally existing non-conforming signs may continue but may not be altered or relocated on the same premises unless they are brought into conformance with this ordinance.

7.3 PERMITTED SIGNS

Type of Use	Max. Aggregate Area (s.f.)	Attached Sign Max. Area (s.f.)	Projecting			Free-Standing			
			Max. Area (s.f.)	Height: Min. – Max (s.f.)	Min. Ft. to Curb	Max. Area (s.f.)	Max. Height	Min. Ft. to Curb	External Illumination?
Dwellings and home occupations	4	4	4	8-12	N/A	X	X	X	No
Public, educational, historical and Institutional uses	4	4	1	8-12	N/A	4	8	20	Yes
Directional Signs	2	2	2	8-12	N/A	2	5	N/A	No
Temporary real estate, contractor And other temporary signs	4	4	N/A	N/A	N/A	4	5	20	No

Note: There shall be only one sign allowed on each lot.

SECTION VIII

RESOURCE PROTECTION PURPOSE

8.1 AUTHORITY

This Section is enacted in accordance with the provisions of RSA 674:16-17 and RSA 674:20-21.

8.2 PURPOSE

The purpose of these Resource Protection provisions is to protect and promote environmental quality, public health, resource conservation and the general welfare of the public, with particular attention to the special cultural and ecological significance of the shoreland property along the Atlantic coast. The regulations of this area are also intended to provide guidance for the use of areas of the land with standing water or extended periods of high water or shoreland.

8.2.1 To control the development of structures and land uses on shorelands or naturally occurring wetlands which, if developed, could contribute to the pollution of surface and ground water by sewage.

8.2.2 To prevent the destruction of shorelands or natural wetlands which can provide flood protection, recharge the groundwater supply and the augmentation of stream flow during dry periods.

8.2.3 To prevent unnecessary or excessive expenses to the District which arise because of unwise use of wetlands or shorelands.

8.2.4 To encourage those uses that can be appropriately and safely located in wetlands or shoreland areas.

8.2.5 To preserve wetlands for other ecological reasons such as those cited in RSA 483-A:1-b.

8.2.6 To preserve and enhance those aesthetic values associated with shorelands or wetlands of this District.

8.2.7 To promote the preservation and maintenance of surface water quality in Rye Beach Village District.

8.2.8 To conserve and protect aquatic and terrestrial habitat associated with intertidal and riparian areas.

8.2.9 To encourage those uses that can be appropriately located adjacent to shorelines.

8.3 AREA

8.3.1 The Rye Beach Village District Resources Protection Purpose areas are defined as those areas of The District that contain marshes, ponds, bogs, lakes, beaches, rocky shores as well as soils that are defined as poorly or very poorly drained by the National Cooperative Soil survey conducted by the USDA Soil Conservation Service.

The Rye Beach Village District Resource Protection Purpose areas shall also include the borders of tidal marshes within the District. Said borders are hereby defined as those areas adjacent to the tidal marshes with elevation of eight (8) feet or less above mean sea level. (National Geodetic Vertical Datum of 1929).

For a detailed explanation of soil types, refer to the Rockingham County Soil Survey by the Soil Conservation Service in Exeter, N.H. (A copy of the Rye Beach soil data is on file with the Planning Board.

8.3.2 In all cases where Resource Protection purpose areas are determined to exist within another district in the Rye Beach Village District, the area whose regulations are the most restrictive shall apply.

8.3.3 In case the Zoning Administrator questions the validity of the boundaries of a Resource Protection Purpose area on any piece of property, or upon the written petition of the owner or any abutter of the said property to the Planning Board, the Board may call upon the services of a qualified soil scientist to examine said area and report his/her findings to the Planning Board for their determination of the boundary. A qualified soil scientist is interpreted to mean a person qualified in soil classifications and who is recommended or approved by the Rockingham County Conservation District Supervisor. The cost of such soil scientist is to be borne by the petitioner.

8.3.4 Wetlands Buffer (Adopted 4/10/90)

- A. Buffer Description. The Wetlands Buffer shall include all land within 100 feet of:
- (1) The edges of all tidal marshes as defined by the highest flooding of the ocean tides,
 - (2) The edges of Eel Pond, and Burke's Pond as defined by the high-water mark; and
 - (3) The edges of all natural, perennial streams and freshwater marshes as defined by vegetation.
- B. Buffer Restrictions. The following restrictions shall apply in the Wetlands Buffer. Where such restrictions conflict with other requirements of this ordinance, the stricter regulation shall apply.
- (1) Surface alteration by the addition of fill, excavation or dredging is prohibited.
 - (2) Septic systems are prohibited.
 - (3) Uses permitted by 8.5 are permitted, provided that there is no surface alteration by the addition of fill, excavation or dredging.
 - (4) Signs that identify historic, conservation or wildlife areas are permitted.
 - (5) (A) Forestry and wood lot management is permitted in accordance with sound forestry

management practices provided that no more than fifty percent (50%) of the basal area shall be cut.

(B) In other situations, thinning of existing brush and trees is permitted providing that there shall be no:

1. Clear cutting; or
 2. Cutting of live trees greater than four and one-half inches (4 ½”) in diameter, measured at the height of four and one-half feet (4 ½’) above ground level.
- (6) Uses permitted by Special Exception pursuant to 8.6 and 8.7 may be permitted by Special Exception in the Wetlands Buffer, subject to the requirements of 8.6 and 8.7.
- (7) The borders within fifty feet (50’) of the wetlands described in paragraph 3.4A are designated wetlands and cannot be included in lot sizing.
- (8) All other uses are prohibited.

8.4 DEFINITIONS

The following definitions specifically apply to this Section of the Zoning Ordinance:

8.4.1 Shoreland. The land areas east of Route 1A to mean low water of the Atlantic Ocean in that area.

8.4.2 Shoreline. The water’s edge at mean high water.

8.4.3 Tidal Marsh. As defined in the Administrative Rules of the New Hampshire Wetlands Board as amended, pursuant to RSA 483 A.

8.4.4 Mean High Water. As determined according to the published tables and standard of the Natural Ocean Survey, adjusted to the locality from such tables.

8.5 PERMITTED USES

8.5.1 Permitted uses in areas containing poorly drained soils and within the tidal marsh borders as herein defined are as follows:

- (a) Any use otherwise permitted by the Zoning Ordinance and State and Federal laws that does not involve the erection of a structure or that does not alter the surface configuration of the land by the addition of fill or by dredging except as a common treatment associated with a permitted use in this Section.
- (b) Agriculture, including grazing, hay production, truck gardening and silage production provided that such use is shown not to cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion.

- (c) Forestry and tree farming to include the construction of access roads for said purpose. In areas herein defined as tidal marsh borders, the cutting of trees shall be limited to fifty percent (50%) of live trees over 4 and one-half feet (4½') above ground level. (Amended 4/10/90)
- (d) Wildlife habitat development and management.
- (e) Passive recreational uses consistent with the purpose and intent of this Section.
- (f) Conservation areas and nature trails.
- (g) Water impoundment and the construction of well water supplies.
- (h) Drainage ways to include streams, creeks, or other paths of normal runoff water and common agricultural land drainage.

8.5.2 Permitted uses in areas containing very poorly drained soils, marshes, bogs, open water and major streams are as follows:

- (a) Uses specified under Section 8.5.1, (a-h) shall be permitted except that no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure, except as provided for in Section 8.5.2 (b) below, shall be permitted.
- (b) The construction of fences, footbridges, catwalks and wharves only, provided; 1) said structures are constructed on posts or pilings so as to permit the unobstructed flow of water; 2) structures do not obstruct navigation on tidal creeks; 3) the natural contour of the wetland is preserved; and 4) the Planning Board has reviewed and approved the proposed construction.

8.6 CONDITIONAL USES

8.6.1 A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 11) for the construction of roads and other access ways, and for pipelines, power lines, and other transmission lines provided that all of the following conditions are found to exist.

- (a) The proposed construction is essential to the productive use of land not within the Wetlands/Shorelands Conservation District.
- (b) Design and construction methods will be such as to minimize detrimental impact upon the wetland/shoreland.
- (c) The proposed construction design of power lines, pipelines or other transmission lines Include provisions for restoration of the site as nearly as possible to its original grade and condition.
- (d) No alternative route which does not cross a wetland or shoreland or has less detrimental

impact on the wetland/shoreland is feasible.

(e) Economic advantage alone is not reason for the proposed construction.

8.6.2 Prior to the granting of a Conditional Use Permit under this Section, the applicant shall agree to submit a performance security to the Board of Commissioners. The Security shall be submitted in a form and amount, with surety and conditions satisfactory to the Commissioners and approved by Rye Beach Village District Counsel, to ensure that the construction has been carried out in accordance with the approved design. The Security shall be submitted approved prior to issuance of any permit authorizing construction.

8.6.3 The Planning Board may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

8.7 SPECIAL PROVISIONS

8.7.1 Poorly drained soils may be used to fulfill twenty-five percent (25%) of the minimum lot size required by District ordinances, provided that the non-wetland area is sufficient in size and configuration to adequately accommodate all required utilities such as sewage disposal and water supply, including primary and auxiliary leach field locations.

8.7.2 No very poorly drained soils or bodies of water may be used to satisfy minimum lot size.

8.8 CONFLICTING PROVISIONS

8.8.1 In the event that the provisions of the Resource Protection Purpose are found to conflict with other provisions of the Rye Beach Village District Zoning Ordinance, the more restrictive shall apply.

ARTICLE IX
RYE BEACH VILLAGE DISTRICT FLOODPLAIN MANAGEMENT ORDINANCE

9.1 Purpose

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Rockingham, N.H." dated May 17, 2005, together with the associated Flood Insurance Rate Maps dated May 17th, 2005, which are declared to be a part of this ordinance and are hereby incorporated by reference, and any subsequent revisions thereto.

9.2 - Definition of Terms: The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Rye Beach Village District.

- 9.2.1** "Area of Shallow Flooding" means a designated A0, AH, or V0 zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.
- 9.2.2** "Area of Special Flood Hazard" is the land in the floodplain within the Rye Beach Village District subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as zones A, AO, AE, and V.
- 9.2.3** "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.
- 9.2.4** "Basement" means any area of a building having its floor subgrade on all sides.
- 9.2.5** "Building" - see "structure".
- 9.2.6** "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.
- 9.2.7** "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.
- 9.2.8** "FEMA" means the Federal Emergency Management Agency.

- 9.2.9** "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- a. the overflow of inland or tidal waters, or
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
- 9.2.10** "Flood Elevation Study" means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood - related erosion hazards.
- 9.2.11** "Flood Insurance Rate Map" (FIRM) means the 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 Rye Beach Village District.
- 9.2.12** "Flood Insurance Study" - see "Flood elevation study".
- 9.2.13** "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
- 9.2.14** "Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
- 9.2.15** "Floodway" - see "Regulatory Floodway".
- 9.2.16** "Functionally dependent use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
- 9.2.17** "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 9.2.18** "Historic Structure" means any structure that is:
- a. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - d. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior, or

(ii) directly by the Secretary of the Interior in states without approved programs.

- 9.2.19** "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- 9.2.20** "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.
- 9.2.21** "Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- 9.2.22** "New construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 9.2.23** "100-year flood" - see "base flood"
- 9.2.24** "Recreational Vehicle" is defined as:
- a. built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. designed to be self-propelled or permanently towable by a light duty truck; and
 - d. designed primarily **not** for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- 9.2.25** "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Insurance Rate Map.
- 9.2.26** "Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on the FIRM as zone A, A0, AE, or VE (See "Area of Special Flood Hazard")
- 9.2.27** "Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- 9.2.28** "Start of Construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first

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

9.2.29 "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

9.2.30 "Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

- a. the appraised value prior to the start of the initial repair or improvement, or
- b. in the case of damage, the value of the structure prior to the damage occurring.

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

9.2.31 "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

9.3 - Construction Requirements:

The Rye Beach Village District Zoning Administrator, in conjunction with the Rye Building Inspector, shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- a. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- b. be constructed with materials resistant to flood damage,
- c. be constructed by methods and practices that minimize flood damages,
- d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

9.4 - Water and Sewer Systems:

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Rye Beach Village District Zoning Administrator and with the Rye 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.

9.5 - Certification:

For all new or substantially improved structures located in Zones A, AE or A0 the applicant shall furnish the following information to the Rye Beach Village District Zoning Administrator and the Rye Building Inspector:

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

For all new construction or substantially improved buildings located in the VE Zone the applicant shall furnish the Rye Beach Village District Zoning Administrator and the Rye Building Inspector, records indicating the as-built elevation of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) in relation to NGVD and whether or not the structure contains a basement.

The Rye Beach Village District Zoning Administrator, in conjunction with the Rye Building Inspector, shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

9.6 - Other Permits:

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

9.7 - Watercourses:

9.7.1 In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Rye Beach Village District Zoning Administrator and the Rye Building Inspector, 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 Rye Beach Village District Zoning Administrator, in conjunction with the Rye Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

9.7.2 The applicant shall submit to the Rye Beach Village District Zoning Administrator and the Rye Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

9.7.3 The Rye Beach Village District Zoning Administrator and the Rye Building Inspector, shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

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

9.7.4 Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

9.7.5 Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and 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 the base flood discharge.

9.8- Special Flood Hazard Areas:

9.8.1 In special flood hazard areas the Rye Beach Village District Zoning Administrator, in conjunction with the Rye Building Inspector, shall determine the 100-year flood elevation in the following order of precedence according to the data available:

- a. in zones AE and VE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM.
- b. in unnumbered A zones the Rye Beach Village District Zoning Administrator, in conjunction with the Rye Building Inspector, shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
- c. in zone A0 the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least 2 feet.

9.8.2 The Rye Beach Village District Zoning Administrator's, in conjunction with the Rye Building Inspector's, 100 year flood elevation determination will be used as criteria for requiring in zones A, AE, and VE that:

- a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation.

- b. All new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
 - (i) be floodproofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
- c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- d. All recreational vehicles placed on sites within Zones AE and VE shall either:
 - (i) be on the site for fewer than 180 consecutive days;
 - (ii) be fully licensed and ready for highway use; or
 - (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.
- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 - (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - (ii) the area is not a basement;
 - (iii) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- f. Proposed structures to be located on slopes in special flood hazard areas, zones AH and A0

shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.

9.9 - Coastal High Hazard Areas:

The following regulations shall apply to coastal high hazard areas, designated VE on the Flood Insurance Rate Map:

- 9.9.1 All new construction or substantial improvements are to be elevated on pilings and columns so that:
 - a. the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
 - b. the pile or column foundation and structure attached thereto is anchored to resist floatation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

- 9.9.2 A registered professional engineer or architect shall develop or review the structural design, specifications and plans for construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this item.

- 9.9.3 The space below the lowest floor must be free of obstructions or constructed with non-supporting breakaway walls, open lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Such enclosed space shall be usable solely for the parking of vehicles, building access, or storage.

- 9.9.4 The use of fill for the structural support of buildings is prohibited.

- 9.9.5 Man-made alterations of sand dunes that would increase potential flood damage are prohibited.

- 9.9.6 All new construction or substantial improvements within zones VI-30, VE, and V on the FIRM shall be located landward of the reach of mean high tide.

9.10 - Variances and Appeals:

- 9.10.1 Any order, requirement, decision or determination of the Rye Beach Village District Zoning Administrator, in conjunction with the Rye Building Inspector, made under this ordinance may be appealed to the Rye Beach Village District Zoning Board of Adjustment as set forth in RSA 676:5.

- 9.10.2 If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:

- a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
- b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
- c. the variance is the minimum necessary, considering the flood hazard, to afford relief.

9.10.3 The Rye Beach Village District Zoning Board of Adjustment shall notify the applicant in writing that:

- a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- b. such construction below the base flood level increases risks to life and property.

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

9.10.4 The community shall:

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

SECTION X

ADMINISTRATION

10.1 POWER AND AUTHORITY

For the purposes of this Ordinance, the Rye Beach Village District Commissioners are hereby given the power to appoint a Zoning Administrator who shall perform the duties of his/her office as designated in the various provisions of this Ordinance and shall report all violations to the Commissioners. In the absence of a Zoning Administrator, Commissioners shall be given the Zoning Administrator's powers enumerated herein.

10.1.1 Zoning Administrator. The duty of administering and enforcing the provisions of this Ordinance and Subdivision Regulations is hereby conferred upon the Zoning Administrator. It shall be the duty of the Zoning Administrator to:

- (a) Review all applications for zoning or other use permits to determine that the purpose for which the permit is sought will conform to the provisions of these Sections and issue permits if appropriate.
- (b) Investigate promptly all possible Zoning Ordinance violations and report his/her findings in writing to the Commissioners.

10.2 PERMIT PROCESS

In order to erect or alter any building in the Rye Beach Village District, an applicant must apply for a Zoning and Planning Permit from the Rye Beach Village District Zoning Administrator and for a Building Permit from the Town of Rye in accordance with the following procedures:

10.2.1 Zoning and Planning Permit Required. Any person before commencing work on the erection or alteration of any building or structure must first obtain a Zoning and Planning Permit duly granted for such erection or alteration by the Zoning Administrator. Before a permit shall be issued by the Zoning Administrator, he/she shall determine whether the proposed construction or alteration conforms to all the conditions of this Ordinance.

10.2.2 Actions Limited. No excavation for foundation nor the erection, construction or structural alteration of any structure or part of any structure shall be undertaken until a permit is issued by the Zoning Administrator.

10.2.3 Approvals by the Town of Rye. Once an applicant has secured a Zoning and Planning Permit from the Rye Beach Village District Zoning Administrator, then the applicant must apply to the Town of Rye Building Inspector for a Building permit. No Building Permit may be issued until all necessary Zoning and Planning, subdivision, variance and/or special exceptions approvals are obtained from the appropriate Rye Beach Village District boards and/or officials.

10.2.4 Pending Changes. The Zoning Administrator shall not issue any Zoning and Planning Permit where application for such permit is made after the first legal notice of proposed changes in the

Zoning Ordinance has been posted pursuant to the provisions of RSA 674:16-18, if the proposed changes in the Zoning Ordinance would, if adopted, justify refusal of such a permit. After final action had been taken on the proposed changes in the Zoning Ordinance, the Zoning Administrator shall issue such a permit which has been held in abeyance pursuant to this Subsection if such changes are not adopted but shall not issue such a permit if such changes are adopted.

10.3 CERTIFICATE OF OCCUPANCY

The following procedures shall be followed for obtaining a Certificate of Occupancy.

10.3.1 Certificate Require. No vacant land shall be occupied or used and no structure hereafter erected, structurally altered or changed in use until a Certificate of Occupancy shall have been issued by the Town of Rye Building Inspector.

10.3.2 Coincident Application. A Certificate of Occupancy either for the whole or a part of a new building or for alteration of an existing building shall be applied for coincident with the application of a Building Permit and shall be issued within ten days after the erection or alteration of such building or part shall have been completed in conformity with the provisions of this Ordinance and the Town of Rye Building Code.

10.3.3 Approval Before Occupancy. A Certificate of Occupancy for the use or occupancy of vacant land or for a change in the use of the land or for a change in the use of an existing building shall be applied for and issued before any such land shall be occupied or used or such land or building changed in use and such certificate shall be issued within ten days after application had been made providing such proposed use is in conformity with the provisions of this Ordinance and the Town of Rye Building Code.

10.3.4 Compliance. No Certificate of Occupancy shall be issued for any premises unless the proposed use of the land, buildings and other structures thereon comply with:

- (a) The provisions of this Ordinance or the terms of a variance and/or special exception issued by the Board of Adjustment of the Rye Beach Village District.
- (b) The provisions of a subdivision and/or site plan review approval of the Rye Beach Village District Planning Board.
- (c) All applicable housing, health, fire, safety, building codes and ordinances.

10.4 PROCEDURES FOR PERMITS.

The following procedures shall be followed for a Zoning and Planning Permit, a Building Permit and/or Certificate of Occupancy.

10.4.1 Applications. Applications for a Zoning and Planning Permit must be made by the owner of the premises or his/her authorized agent. Applications for a Zoning and Planning Permit shall be written on forms prescribed by the Zoning Administrator. Applications for a Building Permit and Certificate of Occupancy shall be on forms prescribed by the Town of Rye Building Inspector.

10.4.2 Supporting Materials. All applications for a Zoning and Planning Permit shall be accompanied by a plat in duplicate drawn to scale showing the actual dimensions of each lot to be built upon. The size and location of each building to be erected upon each lot and such other information as may be necessary to enable the Zoning Administrator to determine whether or not the proposed structure and use of land will conform to the provisions of this Ordinance.

10.4.3 Records. A record of all Zoning and Planning Permits shall be kept on file in the office of the Zoning Administrator and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected. A copy of the Building Permits and Certificates of Occupancy shall be provided to the Zoning Inspector by the Town of Rye Building Inspector.

SECTION XI

BOARD OF ADJUSTMENT

11.1 POWERS

The Board of Adjustment shall have the powers and duties specifically granted to it under RSA 674:33.

11.2 MEMBERSHIP

The Board of Adjustment shall consist of five regular members and up to five alternate members who shall be appointed by the Commissioners and be residents of the community as provided by the New Hampshire Revised Statutes Annotated under RSA 673:3 and 673:6. One member of the Planning Board may serve as a member of the Board of Adjustment. (Amended 4/10/90)

11.3 RULES

The Board of Adjustment shall adopt rules and regulations governing meetings, hearings, fees, and other matters for the proper functioning of the Board. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings showing the vote, indicating such a fact and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and become a matter of public record.

11.4 MEETINGS

Meetings of the Board of Adjustment shall be held upon the call of the Chairman. All meetings shall be open to the public.

11.5 APPLICATIONS

Applications appealing an administrative decision, seeking a special exception, or requesting a variance shall be in writing, shall be signed by the property owner/applicant, shall be accompanied by such fees as the Board deems necessary to defray its costs in processing the application and shall be accompanied by a drawn to scale plan of the property in question. The property plan shall contain such information as the Board determines to be necessary for it to reach a decision. In appropriate cases the Board may require that the plan be prepared by a registered professional engineer or registered land surveyor. The application shall list the name and current mailing address of each abutter to the property in question.

11.6 HEARING NOTICE

The Board of Adjustment shall hold a public hearing on each application. Notice shall be given as follows:

11.6.1 Mail. The applicant and all abutters shall be notified of the public hearing by certified mail, stating the time and place of the hearing, and such notice shall be given not less than five days nor more than thirty days before the date fixed for the hearing of the appeal.

11.6.2 Public Notice. A public notice of the hearing shall be posted at the Precinct Building and one other public place and shall be published in a newspaper with a general circulation in the area, not less than five nor more than thirty days before the date fixed for the hearing of the appeal.

11.6.3 Costs. The cost of Advertising and the cost of mailing the notices shall be payable prior to the hearing by the person making the appeal.

11.7 HEARINGS.

Hearings before the Board shall be conducted by the Chairperson, or, in his/her absence the Acting Chairperson, who may administer oaths and compel the attendance of witnesses. At all hearings before the Board, the burden shall be upon the applicant to establish that the administrative decision appealed from is erroneous; or to show that the applicant has met the conditions established for a special exception; or to show that the applicant has met the criteria for granting a variance. Abutters and residents of the District shall be permitted to speak on behalf of or against the appeal and to present evidence orally and /or in writing in support of their position.

The Board in accordance with the provisions of this Ordinance shall reverse or affirm, wholly or partly, or may modify any such order, requirements, decision, or determination made by the Zoning Administrator. The concurring vote of three members of the Board shall be necessary to reverse or modify any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the appellant on any matter upon which it is required to pass or to affect any variance from the strict applications of the provisions of this Ordinance,

11.8 SCOPE OF REVIEW.

The Board of Adjustment shall hear and decide appeals de novo from the decisions or orders of the Zoning Administrator, requests for special exceptions as provided for in this Ordinance, and requests for variances to the terms of this Ordinance in accordance with the provisions delineated herein.

11.8.1 Administrative Appeals. The Board shall hear and decide appeals from the decisions or orders of the Zoning Administrator concerning administration or enforcement of this Ordinance.

11.8.2 Special Exceptions. The Board shall hear and decide requests for special exceptions provided for in this Ordinance. The Board shall grant requests for special exceptions which are in harmony with the general purpose and intent of this Ordinance and meet the standards of this Subsection. Appropriate conditions as set forth in Subsection 11.8.2 (b) may be placed on special exception approvals when necessary. The Board shall deny request for special exceptions that do not meet the standards of this Section.

(A) Special Exceptions shall meet the following standards:

- 1) Standards provided by this Ordinance for the particular use permitted by special exception.
- 2) No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

- 3) No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings or other structures, parking area, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.
- 4) No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.
- 5) No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protections, and schools.
- 6) No significant increase of storm water runoff onto adjacent property or streets.

(B) Special Exception approvals may be subject to appropriate conditions including the following:

- 1) Front, side, or rear yards in excess of the minimum requirements of this Ordinance.
- 2) Screening of the premises from the street or adjacent property by walls, fences, or other devices.
- 3) Modification of the exterior features or buildings or other structures.
- 4) Reasonable limitations on the number of occupants and methods and times of operation.
- 5) Grading of the premises for proper drainage.
- 6) Regulation of design of access drives, sidewalks, and other traffic features.
- 7) Regulation of the number, size, and lighting of signs more stringent than the requirements of this Ordinance.

(C) Should the purpose for which a special exception has been granted not be materially exercised within two years, the special exception is voided. Said two-year period is tolled during the pendency of any appeal of the decision of the Zoning Boards granting such special exemption. (Adopted 4/8/97)

11.8.3 Variances. The Board of Adjustment shall hear and decide requests to vary the terms of this Ordinance. At the hearing on the application, the applicant shall present testimony and other evidence to establish that all five conditions for a variance have been met. The decision of the Board shall be based on the evidence presented at the hearing, not on allegations contained in the application. Abutters and residents shall be entitled to present testimony and other evidence to establish that the applicant either has or has not met all five of the listed conditions below.

No variance shall be granted unless all of the following conditions are met.

- 1) A hardship must exist which is inherent in the land in question, and which is not shared in common with other parcels of land in the area.
- 2) The spirit and intent of the Ordinance will not be broken by granting the variance.
- 3) The granting of the variance will not adversely affect other property in the district.
- 4) Not to grant the variance would result in injustice.
- 5) Granting the variance would be of benefit to the public interest.

- (a) Should the purpose for which a variance has been granted not be materially exercised within two years, the variance is voided. Said two year period is tolled during the pendency of any appeal of the decision of the Zoning Board granting such variance. (Adopted 4/8/97)

11.9 FINDINGS OF FACT.

The Board of Adjustment shall present findings of fact for all its decisions and shall enter such findings in its records.

11.10 REPRESENTATIONS.

Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to Subsection 11.8.2 or 11.8.3 shall be deemed conditions upon such special exception or variance.

SECTION XII

AMENDMENTS

12.1 PROCEDURE.

The provisions of this Ordinance may be amended or changed at any regular or special District Meeting by a majority of the voters present as provided by the Revised Statutes Annotated of the State of New Hampshire except where a two-thirds vote is required under the provisions of RSA 675:5.

SECTION XIII

VIOLATIONS AND PENALTIES

13.1 Violations.

Upon information from the Zoning Administrator that the provisions of this Ordinance are being violated, the Commissioners shall take immediate steps to enforce the provisions of this Ordinance as provided by the Revised Statutes Annotated of the State of New Hampshire.

13.2 Penalties.

Any person, firm or corporation violating any of the provisions of this Ordinance shall for each violation, upon conviction thereof, pay a fine of not more than one hundred (\$100.00) dollars for each day such violation shall exist.

SECTION XIV

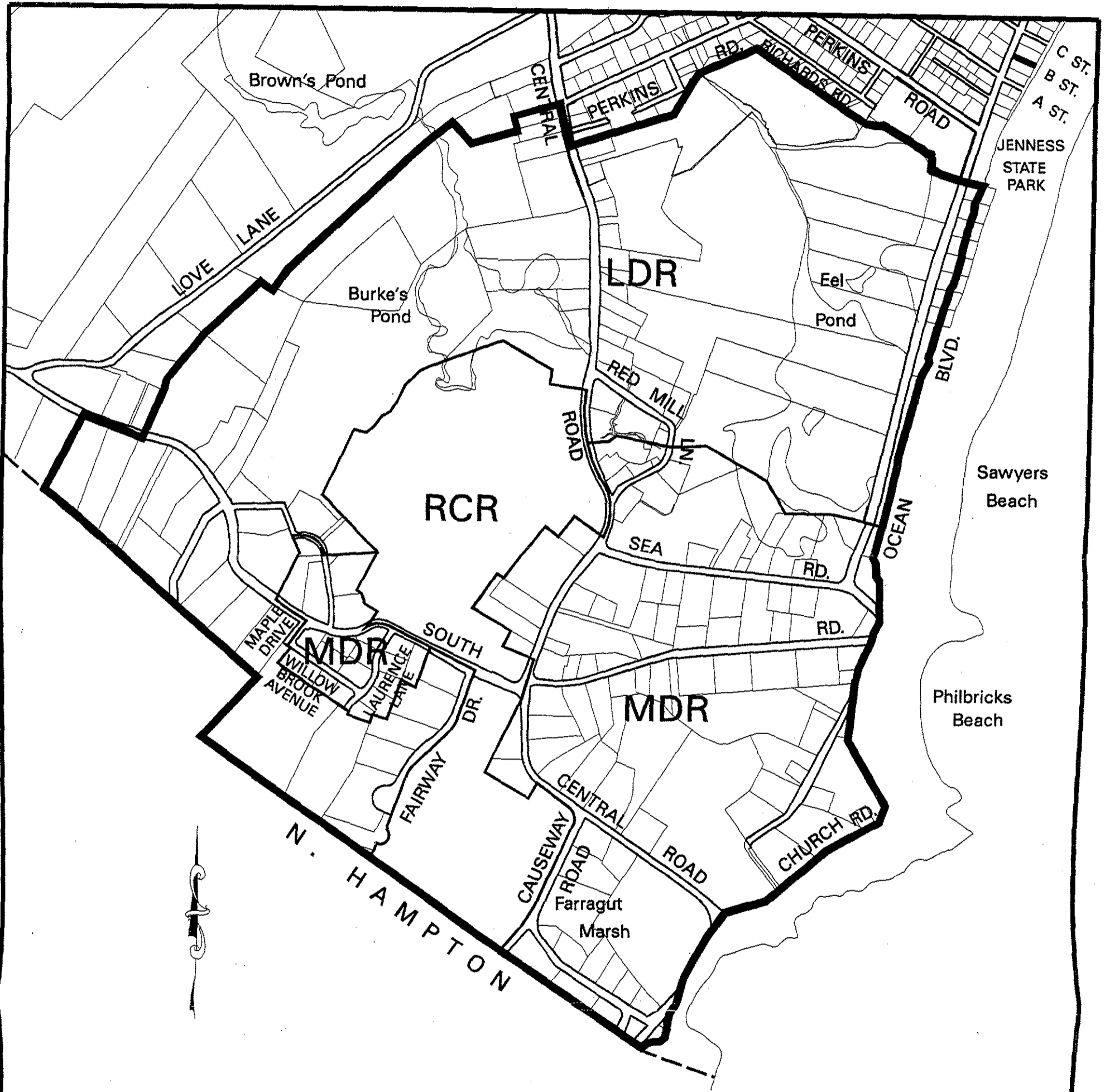
VALIDITY

14.1 DECLARATION.

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

14.2 DATE OF EFFECT.

This Ordinance and amendments shall take effect upon passage.



LEGEND

- LDR LOW DENSITY RESIDENTIAL DISTRICT
- MDR MEDIUM DENSITY RESIDENTIAL DISTRICT
- RCR RECREATIONAL DISTRICT

**RYE BEACH
ZONING MAP
TOWN OF RYE**

Note:
Zoning information was provided by
the town of Rye, N.H.