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CHAPTER 19 - ZONING ORDINANCE

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ADOPTED BY SOMERSWORTH CITY COUNCIL - AUGUST 30, 1989

AMENDED:

MARCH, 1990	OCTOBER, 1995	OCTOBER 21, 2002
AUGUST, 1990	JANUARY, 1996	MAY 3 2004
SEPTEMBER, 1990	JULY 15, 1996	MARCH 21, 2005
JANUARY, 1991	JUNE 2, 1997	
APRIL, 1991 MAY,	APRIL 6, 1998	
1991	JUNE 1, 1998	
SEPTEMBER, 1991	JANUARY 18, 1999	
MAY, 1992	OCTOBER 19, 1999	
SEPTEMBER, 1992	JANUARY 10, 2000	
JULY, 1993	APRIL 17, 2000	
SEPTEMBER, 1993	AUGUST 14, 2000	
FEBRUARY, 1994	DECEMBER, 2000	
APRIL, 1994	MARCH, 2001	
JULY, 1994	MAY 21, 2001	
FEBRUARY, 1995	OCTOBER 7, 2002	

CITY OF SOMERSWORTH
CHAPTER 19 ZONING ORDINANCE

Amended March, 1990:

Pages 1, 2, 3, 13, 14, 52, 56, 60 through 74, 83, 84, 85. Also, tables 4.A.1; 4.A.2; 4.A.3; 4.A.4; 4.A.5. Note #5; 5.A.1.; 5.A.2.

Amended August, 1990:

Section 7, pages 16 thru 23.

Amended September, 1990:

Section 17, pages 63 thru 67, Table 5.A.1 and Table 5.A.1 Notes.

Amended January 7, 1991:

Section 20, page 89 - Zoning Board of Adjustment.

Amended April 1, 1991:

Section 18.C.4.e. - Political Signs.

Amended May 20, 1991:

Section 3.D., Page 5 - Commercial/Industrial District; Table of Uses, Tables 4.A.2; 4.A.3; 4.A.4; 4.A.5; 5.A.1.

Amended September 16, 1991:

Section 12, pages 46 thru 54 - Wetlands Conservation Overlay District.

Amended May 4, 1992:

Section 13, pages 53 thru 58 - Historic District.

Amended September 21, 1992:

Section 8, pages 24, 26 and 28 - Home Occupations.

Amended July 26, 1993:

Section 21, page 93 - Definitions; Table 4.A.4.

Amended September 7, 1993:

Section D.2., page 5 - Commercial/Industrial District.

Amended February 28, 1994:

Section 3. D.2., pages 5 & 6 - Commercial/Industrial District. Section 14, pages 60 thru 62 - Sexually Oriented Businesses (new). Section 18, page 71 on (19 pages) - Sign Regulations. Table of Uses - Table 4.A.5 (at end of chapter)

Amended April 4, 1994:

Table of Uses - Table 5.A.1 and Table 5.A.1 Notes.

Amended July 18, 1994:

Sections 11.B.4. & 11.B.5. (page 39); 11.B.8.f.& 11.B.9. (Pages 42 & 43); 11.c.(Pages 45 & 45A).

Amended February 21, 1995:

All pages renumbered to correspond with section numbers.

Table of Contents.

New Section added - "Section 15, Commercial Node District" (pages 15.1 thru 15.3).

Section 15 through Section 23 renumbered to Section 16 through Section 24.

Add Section 3.B.16. (page 3.3).

Add Section 3.D.8. (page 3.9).

Section 20.A.1. (page 20.1).

Section 20.B.3. (pages 20.1 & 20.2).

Section 20.B.3.h. (page 20.3).

Section 22 (pages 22.1 thru 22.9).

Tables 5.A.1&5.A.2

Amended October 2, 1995:

Added new Section 11 - Excavation of Earth Products (pages 11.1 to 11.4)

Section 11 through Section 24 renumbered to Section 12 through Section 25.

Amended January 10, 1996:

Add Section 3.B. 15 (page 3.3).

Add new Section 16 - Recreation District (pages 16.1 thru 16.3).

Renumber all sections and pages after section 16 to reflect this change.

Section 24 (page 24.2).

Table 5.A. 1 Notes (page 8).

Amended July 15, 1996:

Delete Section 20 - Landscaping and Buffer Requirements, in its entirety.

Delete Section 22 - Circulation and Parking Regulations and replace with Section 21 - Circulation And Parking Regulations (page 21.1).

Renumber Section 23 through Section 26 to Section 22 through 25.

Amended June 2, 1997:

Section 8.D. (page 19:18)

Section 8.F.3. (page 19:18)

Section 8.F.6. (page 19:19) delete second paragraph

Table 4.A.3 & Note #6 (page 19:77)

Amended April 6, 1998:

Section 23 - Definitions (pages 68 and 70)

Table 4.A.3 and 4.A.5

Amended June 1, 1998:

Section 20 Sign Regulations - page 60.

Amended January 18, 1999:

Table 4.A.4 and 4.A.5

Amended October 19, 1999:

Added new Section 23 Naming of Public Streets and Rights of Way -- pages 72-75

Renumbered Section 23 Definitions to Section 24 - pages 76-82. Renumbered Section 24 Administration & Enforcement to Section 25 - page 83. Renumbered Section 25 Interpretation, Conflicts & Separability to Section 26 - pages 84&85.

Amended January 10, 2000:

Section 8 Home Occupations - pages 18,19 & 21.

Section 10 Groundwater Protection District - pages 25 & 26.

Amended April 1, 2000:

Section 8 Home Occupations - pages 18,19 & 21.

Amended August 14, 2000:

Section 9 - Manufactured Housing District - pages 23 thru 24C. Table 4.A.5-
pages 91 &92.

Amended December 11, 2000:

Section 12 - Flood Plain District - pages 32 thru 38A.

Amended March 19, 2001:

Section 3.A. - Districts - page 1.

Section 3.B.7. (deleted) - page 2.

Section 3.D.10. and 3.D.10.a. - (new) - page 7.

Section 24.NN. and 24.PP (delete) - page 79 and 80.

Tables 4.A.1. through 5.A.2 - pages 86 through 94.

Amended May 21, 2001:

Section 19.3.A. - Districts - page 1.

Section 19.3.B.14. - Purpose of Districts - page 3.

Section 19.3.D.11. - District Boundaries - page 7.

Section 19.3.D.12. - District Boundaries - pages 7 & 8.

Section 19.21. - Circulation & Parking Regulations - page 70.

Tables 4.A.1,4.A.2,4.A.3,4.A.4,4.A.5,5.A.1 - pages 85 thru 92.

Amended October 7, 2002:

Added new Section 24 Common Driveway Subdivision -- pages 78 and 79.

Renumbered Section 24 thru Section 26 to Section 25 thru Section 27.

Amended October 21, 2002:

Table 4.A.3. -- page 90

Amended 5/03/2004:

Section 7, Cluster Subdivision – pages 12 thru 17. Changed Cluster Subdivision to read Conservation Residential Development throughout Section.

Sections 20.D.2.a, 20.D.2.e, 20.D.2.f – page 68.

Section 20.D.4 – page 70.

Section 25, Definitions – pages 80 thru 84.

Added new Section 26, Telecommunication Facilities – pages 86 thru 93.

Amended Table of Uses (Table 4.A.3), page 98.

Amended Table of Uses (Table 4.A.5), pages 101 & 102.

Amended 3/21/2005:

Section 19.12.A. Flood Plain District, Applicability – page 34.

Section 19.14.H.2. Historic District, Appeal Process – page 52.

Section 19.20.B.13. Sign Regulations, Flashing Sign – page 61.

Section 19.20.C.2.e. Sign Regulations – page 63.

Section 19.20.C.4.a. Sign Regulations – Banner Signs – page 64.

Section 19.25.Y. Definitions, Dwelling Unit – page 82.

Section 19.25.DD. Definitions, Frontage – page 82.

Section 19.27.C. & 19.27.E. Administration & Enforcement – page 94.

Table 4.A.1. – page 96.

Section 10 Groundwater Protection District

19.10.A. AUTHORITY. In accordance with New Hampshire Revised Statutes Annotated (RSA) Chapter 4-C:22 III, as the same may be subsequently amended, the City of Somersworth hereby adopts the following Groundwater Protection District.

19.10.B. PURPOSE. The purpose of this ordinance is, in the interest of public health, safety and general welfare, to protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the known aquifer from adverse development, land use practices or depletion, and to allow for the restoration of degraded ground water by the establishment of a "Ground Water Management Zone".¹

19.10.C. LOCATION.

19.10.C.1. The boundaries of the Groundwater Protection District shall be the outermost edge of the out wash deposits of the "Lily Pond Aquifer", as designated in the "Report on Aquifer Definition Lily Pond Aquifer Somersworth, New Hampshire," prepared by BCI Geonetics, Inc., and included in the Water Master Plan Update dated June 1984. The Ground Water Management Zone is designated by the Ground Water Management Zone Overlay Map included in the Preferred Remedial Action 100% Design and Demonstration of Compliance Plan prepared by Beak International, Inc. and Geo Syntec Consultants International, Inc.²

19.10.C.2. When the actual boundary of the Groundwater Protection District is in dispute by any owner or abutter actually affected by said boundary, the Planning Board, at the owner/abutter's expense and request, may engage a professional geologist or hydrologist to determine more accurately the precise boundary of said Groundwater Protection District.

19.10.D. APPLICABILITY.

19.10.D.1. All land use activities and development conducted within the Groundwater Protection District shall be regulated by the standards established herein.

19.10.D.2. The standards established herein shall constitute the rules of an overlay zone and shall be superimposed over other zoning districts or portions thereof. The provisions herein shall apply in addition to all other applicable ordinances and regulations. In the event of a conflict between any provision herein and any other ordinance or regulation, the more restrictive requirement shall control.

19.10.E. DEFINITIONS.

19.10.E.1. Animal Feed Lots. A plot of land on which 25 livestock or more per acre are kept for the purpose of feeding.

19.10.E.2. Groundwater. Water in the subsurface zone at or below the water table in which all pore spaces are filled with water.

19.10.E.3. Groundwater Management Zone (GMZ). The subsurface volume in which ground water contamination associated with a discharge of a regulated contaminant is contained. (State of NH Groundwater Protection Rules - Env - WS410.)²

¹ Amended 1/10/2000.

² Passed 1/10/2000

- 19.10.E.4. Hazardous and Toxic Materials. Those materials that pose a present or potential hazard to human health and the environment when improperly stored, transported or disposed of. These materials include those listed in the New Hampshire Hazardous Waste Regulations, Third Edition, Appendixes 1-4, 1985, New Hampshire Dept. of Environmental Services, Concord, as the same may be subsequently amended.
- 19.10.F.5 Impervious Surface. A surface covered by any material (such as pavement, cement, roofing) that prevents surface water from penetrating the soil directly.
- 19.10.E.6. Leachable Wastes. Waste materials including solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing waterborne contaminants to the surrounding environment.
- 19.10.E.7. Solid Waste. Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.
- 19.10.F PROHIBITED USES. The following uses are expressly prohibited from the Groundwater Protection District:
- 19.10.F.1. Within the Lily Pond Aquifer¹
- 19.10.F.1.a. The disposal of solid waste including landfills and sewage lagoons, excepting disposal of stumps and brush;
- 19.10.F.1.b. Storage of road salt or other deicing chemicals except in a property constructed shelter for use on site;
- 19.10.F.1.c. Dumping of snow containing road salt or other deicing chemicals;
- 19.10.F.1.d. Motor vehicles service or repair shops;
- 19.10.F.1.e. Junk and salvage yards;
- 19.10.F.1.f. Animal feedlots;
- 19.10.F.1.g. Commercial or industrial handling, disposal, storage or recycling of hazardous or toxic materials or wastes; and
- 19.10.F.1.h. Underground storage of petroleum or any refined petroleum product. All existing underground tanks, including those under 1,100 gallons, must be registered with the Somersworth Fire Department within six months of the enactment of this regulation. Existing tanks over 1,100 gallons are subject to Water Supply and Pollution Control Commission regulation, pursuant to New Hampshire Code of Administration No. W5411.
- 19.10.F.2. Within the Groundwater Management Zone:
- 19.10.F.2.a. The requirements, restrictions, and prohibition of the underlying Zoning District shall continue to apply to the extent that they are not inconsistent with the provision of this section; and
- 19.10.F.2.b. Pumping of ground water from any well, trench, sump or other structure for residential, irrigation, agricultural or industrial purpose is prohibited
- 19.10.G. SPECIAL CONDITIONS. The following conditions shall apply to all uses in the Groundwater Protection District:

Added 1/10/2000.
Passed 1/10/2000.

- 19.10.G.1. A lot shall not be rendered more than ten percent (10%) impervious. A proposed development plan which will incorporate a stormwater drainage plan, approved by the City of Somersworth Planning Board and prepared by a professional engineer certified to practice in the State of New Hampshire shall be provided. The plan shall provide for the on-site retention and percolation of all development generated stormwater runoff from a ten (10) year storm. Furthermore, the stormwater drainage plan shall provide for the filtering of parking area runoff to remove oil, gasoline and other impurities prior to retention and percolation of the runoff;
- 19.10.G.2. Development or land use activities proposed within the Groundwater Protection District shall be connected to the municipal sewage disposal system and the municipal water system;
- 19.10.G.3. Any use retaining less than thirty percent (30%) of lot area, regardless of size, in its natural vegetative state with no more than minor removal of existing trees and vegetation shall require a special permit;
- 19.10.G.4. Mining operations, including sand and gravel removal, shall require an Earth Removal Permit, pursuant to New Hampshire Revised Statutes Annotated Chapter 255:1 which is herein incorporated by reference. Such excavation or mining shall in no case be carried out within eight (8) vertical feet of the seasonal high water table; and
- 19.10.G.5. The storage of petroleum or related products in a freestanding fuel oil tank within or adjacent to a residential structure which is used for the normal heating of said structure shall be permitted pursuant to the conditions outlined in subsection (f) below, and all applicable state regulations. All tanks shall be protected from internal and external corrosion and shall be of a design approved by the Somersworth Fire Department. All freestanding tanks shall be placed on an impermeable surface such as a concrete pad. No tank may be abandoned in place. A tank shall be disposed of after emptied of all hazardous materials if it has been out of service for a period in excess of twelve (12) months. The product and the tank shall be disposed of by the property owner as directed by the Somersworth Fire Department and all applicable state laws. All leaking tanks must be emptied by the owner or operator within twelve (12) hours after detection of the leak and removed by the owner and or operator as per above.
- 19.10.H. ADMINISTRATION.
- 19.10.H.1. Development or land use activities proposed within the Groundwater Protection District that require a special permit, as provided in subsection (c) above, shall be reviewed by both the Planning Board and the Somersworth Conservation Commission. The Planning Board shall either approve, conditionally approve or disapprove a special permit only after it determines that the proposed land use development and or activities comply with the purpose of this regulation. In making such a determination, the Planning Board shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to groundwater quality if the control measures failed.
- 19.10.H.2. Development or land use activities proposed within the Groundwater Protection District that require subdivision or site plan approval from the Planning Board shall also be reviewed by the Somersworth Conservation Commission. The Planning Board and the Conservation Commission shall verify that the proposed activity will conform to the provisions of this regulation ordinance prior to action by the Planning Board to approve, conditionally approve or disapprove the application.

- 19.10.H.3. The Building Inspector shall not issue a building permit for development or land use activities until such time as he/she verifies that the proposed activity will conform to the provisions of this ordinance. The Building Inspector may consult with the Planning Board and or Conservation Commission as he/she deems necessary.
- 19.10.H.4. Land use activities that do not require the receipt of Planning Board approval or building permits shall nonetheless be subject to the requirements and standards established herein.
- 19.10.H.5. A hydrogeologic study may be required by the Planning Board and or the Conservation Commission to investigate the impacts a proposed development or land use activity will have on an existing or future groundwater supply. A qualified professional hydrologist or geologist shall be chosen by the City of Somersworth and the applicant for approval shall pay any and all costs incurred.
- 19.10.H.6. For all freestanding fuel oil tanks as permitted per Section 7.11, the property owner shall file with the City of Somersworth the following information prior to the installation of a tank:
- 19.10.H.6.a. The size of the tank;
 - 19.10.H.6.b. The type of tank;
 - 19.10.H.6.c. The type of material being stored and its quantity;
 - 19.10.H.6.d. The location of each tank on the premises, complete with a sketch map; and
 - 19.10.H.6.e. The age of each tank.
- 19.10.I ENFORCEMENT. If the Planning Board and or the Building Inspector finds that any of the requirements and standards established herein are in violation, the Building Inspector shall order the owner, in writing, to make such corrections as he/she deems necessary to bring the development and activities into compliance with the provisions of this ordinance. Such order shall be complied with within twenty-four (24) hours of the original notice to the owner. Where the owner fails to comply with the order of the Building Inspector, a fine of one hundred dollars (\$100) per day, or the maximum amount which is authorized by statute, may be levied against said owner. The fine shall be retroactive and shall begin to accrue on the date on which the property owner receives written notice from the Building Inspector that he/she is in violation of this ordinance.

