

PROPOSED -ZONING ORDINANCE

Bath, New Hampshire

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PROPOSED ZONING ORDINANCE

Bath, New Hampshire

SECTION I: AUTHORITY

In pursuance of authority conferred by New Hampshire Revised Statutes Annotated, Chapter 674, Section 16, and in order to put into effect the policy and proposals of the Town's Master Plan, the following Ordinance is hereby enacted by the voters of the Town of Bath.

SECTION II: TITLE

This Ordinance shall be known and may be cited as the Town of Bath, N. H. "Zoning Ordinance 1989".

SECTION III: PURPOSE AND INTENT

A. This Ordinance is enacted for the following purposes:

1. To promote the health, safety, general welfare, and moral and economic well-being of the Town.
2. To secure safety from fires, panic, and other dangers.
3. To prevent the overcrowding of land; avoid undue concentration of population; and to insure adequate light and air.
4. To protect and preserve natural resources and the natural and scenic beauty.
5. To retain and protect agricultural and silvicultural lands, wildlife habitat and recreational opportunity.
6. To encourage the most appropriate use of land throughout the Town without unreasonable expenditure of public funds for provision of services.
7. To lessen traffic congestion and hazards.
8. To implement the Bath Master Plan.

B. The intent of this ordinance is directed to the preservation of the unique character of Bath which is an assimilation of the diverse elements of climate, geography, topography, land uses, natural and human resources and historical heritage to name a few.

1. Ridge line and hillside areas, and scenic areas contribute significantly to the town's character and should be-protected
2. Viewscapes should be preserved by siting new building so as not to significantly interfere with views from nearby lots.
3. Historic integrity should be preserved by architecture that is appropriate for its location throughout the Town.

SECTION IV: EXISTING USES

Any lawful building, or use of a building, or land, or parts thereof in existence at the time of the adoption of this Ordinance, or of any amendment thereto, may be continued although such building or use does not comply with the provisions herein. Such building or use shall be lawful if there was compliance with existing Regulations in effect. This Zoning Ordinance shall not apply to existing structures or to the existing use of any building or land. It shall, however, apply to any alteration of an existing structure or for a use which is substantially different from the existing use or from the existing structure prior to alteration.

SECTION V: NON-CONFORMING USE:

- A. A non-conforming use may be expanded only upon approval of the Zoning Officer which shall first find such expansion or extension does not create a greater nuisance or detriment.
- B. Any non-conforming use, which has been discontinued for a period of two (2) years shall not thereafter be resumed.

- C. A non-conforming use, which has been damaged or destroyed by fire, accident, or other causes may be repaired or reconstructed, provided an application for a permit to restore is made and such work as needed is undertaken within two (2) years after such damage or destruction.

SECTION VI: GENERAL PROVISIONS

A. LAND AND LOTS

- 1. Village/Business 2 acre minimum
- 2. Commercial/Industrial 2 acre minimum
- 3. Upper Village 2 acre minimum
- 4. Rural/Agricultural District 2 acre minimum
- 5. Steep Slope Conservation
District 6 acre minimum
- 6. All districts shall have the following yard requirements:
 - a. Minimum frontage on roads or water: 150'^{**}
 - 1. In relation to required lot size ratio
 - b. Minimum front-yard: 50' from center line of traveled way
 - c. Minimum side yard; 25'
 - d. d. Minimum rear yard: 25'
- 7. Accessory building: 10' from all boundaries

^{**}All lots shall front on a regularly maintained public street (Class V highway), or on a street planned, built and maintained to Town specifications and standards and shown on the subdivision plan.

- 8. Ratio of lot dimensions: 3.5 to 1
- 9. Septic Systems; 125' from surface water; 100' from wetland areas.
- 10. A minimum of 200' required along a waterway for more than one dwelling unit with deeded access to said waterway.
- 11. Earth removal: Not allowed on flood plain or aquifer areas. Areas to be restored to no less than a 2 to 1 slope with a buffer.

B. DEVELOPMENT PROVISIONS

- 1. All buildings and land uses shall have an approved zoning permit and, if applicable, adhere to the Bath Subdivision Regulations. The Construction of said buildings shall conform to town building codes. The Conservation Commission shall serve as advisees when construction will result in significant alteration of any natural resource including, but not limited to, waterways, wildlife habitats, and forests.
- 2. All driveways, excluding those in subdivisions, that intersect a town highway must be approved by the Selectmen through the Road Agent as provided in RSA 236:13 as amended or such similar statute. If the driveway intersects a state highway, then a permit must be obtained from the N. H. Public Works and Highway Department as provided by law.
- 3. Building Height: Maximum of 2 1/2 stories and not to exceed 35 feet from average finished grade to ridge pole. Agricultural buildings are exempt.
- 4. On-site Temporary Trailers or Structures: May be used in conjunction with, and during, construction work for a period not to exceed one year.
- 5. Parking: Single dwelling units must have a minimum of two off-street spaces. All occupied buildings shall have adequate parking space for the use of said building. Minimum parking space: 12' x 18'. For commercial/industrial building recommended/ space per 250 sq. ft. of gross area and at least one additional space per two employees.
- 6. Signs: Neon and/or flashing light signs are not allowed. No more than two off-premise signs and no more than two on-premise signs not larger than 32 square feet each are allowed. Location of sign to be no more than 12 feet (measured from base of sign) higher than the existing edge of traveled way. Height of building sign cannot exceed building height. Permitted signs shall be limited to those advertising a place of business located

within the Town of Bath. All signs are to be properly maintained or removed.

7. Lots in two Zoning Districts: If a district boundary runs through any lot and such lot is of sufficient size to permit conforming lots in each district, the lot may be subdivided so as to create lots in each district, subject to the approval of the Bath Planning Board and in accordance with the Bath Sub-division Regulations. If no subdivision is sought or obtained, the entire lot shall be deemed to be in the more restrictive district.
8. A lot or parcel of at least ten (10) acres or more may establish not more than two dwelling units of less than the required minimum size provided water supply and sewage disposal can be accommodated on such lots or are served by off- site facilities, and that said lots are at least 2 acres in size. More than two lots will be governed by the established lot size for the district or by Cluster Development regulations.

C. CAMPGROUNDS

1. Campgrounds shall have a dumping station for sewage disposal and a water supply source meeting all state and local law regulations.
2. A vegetated buffer may be required bordering public roads or abutting properties.

D. CEMETERIES

1. No new construction within 100' of existing cemeteries and no enlargements of existing structures and roadways within 30' of existing cemeteries.

E. TELECOMMUNICATION FACILITIES

1. Height – Any telecommunication facility constructed in the Town of Bath shall not exceed 180' in height or such height as to require lighting by the Federal Aviation Administration whichever is less. Any such telecommunication facility shall be sited so as not to interfere with natural scenic views or vistas.
2. Fall Zone – In order to insure public safety, the minimum distance from the ground mount of a telecommunication facility to any property line, road, habitable dwelling, business or institutional use or public recreational area shall be 121% of the height of the facility including any antennas or other appurtenances. This setback is considered the “fall zone”.
3. Removal
 - a. Security for Removal - The Board of Selectmen shall set the form and the amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event the a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with 3b. The amount of security shall be based upon the removal cost plus 15% and must be provided before issuance of a construction permit.
 - b. Removal - Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the telecommunication facility within (90) days from the date of abandonment or discontinuation of use. “Physically remove” shall include, but not be limited to:

-Removal of antennas, tower, mount equipment shelters and security barriers from the subjected property.

- Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

- Restoring the location of the telecommunication facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

F. RECREATIONAL VEHICLES

1. It shall be unlawful to park a recreational vehicle except in accordance with the

following regulations:

- A. In a campground, which meets all state standards.
- B. (1) The owner of a recreational vehicle or tent may place it on his own lot and use it for living quarters on a temporary basis without a permit, provided that there is a dwelling unit or mobile home on the lot which has adequate provision for sanitary disposal of sewage waste and refuse. Normal setback requirements as found in Section VI, A shall apply. An exception may be made by the Board of Selectmen if a functioning State approved septic system has been installed and a residence is under construction.

(2) Any other recreational vehicle or tent may be placed on a lot and used for living quarters on a temporary basis, provided such temporary structures are not permitted to remain occupied more than 180 days in any one calendar year. The Board of selectmen may grant a 60 day permit which may be renewed two times per calendar year. No more than two recreational vehicles or tents will be permitted on a lot. The permit shall be prominently displayed on such recreational vehicle or tent. The application shall be signed by the land owner and the owner of the trailer or tent, and shall demonstrate to the satisfaction of the Board of Selectmen that adequate provisions have been made for sanitary disposal of sewage, waste and refuse, either in a existing residence or thru a self-contained unit. Normal setback requirements as found in Section VI, A shall apply.
- C. The Board of Selectmen shall grant a special event permit for a period of no more than seven days for a landowner that will have more than two recreational vehicles or tents on their property for a limited time. The landowner shall demonstrate to the satisfaction of the Board of Selectmen that adequate provisions have been made for sanitary disposal of sewage, waste and refuse, either in a existing residence or thru a self- contained unit.
- D. All recreational vehicles must be registered as required by the motor vehicle laws of the State of New Hampshire.
- E. Recreational Vehicles shall include, but not to be limited to, the following (as defined in RSA 216-1:1 Vffl):
 - (1) Motorhome or van
 - (2) Pickup camper
 - (3) Recreational Trailer
 - (4) Tent Trailer

SECTION VII: DEFINITIONS

Accessory building or use - A building or use subordinate and incidental to the main building or use.

Aquifer - A geologic formation(s) or part thereof capable of yielding quantities of potable water.

Bed and Breakfast - A lodging facility which is primarily a residential use but includes lodging facilities as an accessory use.

Building - A shelter for persons, animals, or property having a roof and permanently located on the land.

Building Height - Vertical distance from finished grade to highest point of the roof.

Campground - A place where tents, camping trailers, recreational vehicles, and the like, are placed on a transient basis.

Clinic - An office building used by members of the medical profession for the diagnosis and outpatient treatment of human ailments.

Cluster Development - A residential subdivision of a tract where, instead of subdividing the entire tract into house lots of minimum lot area, a similar number of single family dwelling units may be clustered on lots of reduced dimensions. The remaining land in the tract which has not been built upon shall be reserved as open space.

Condominium - A form of individual ownership with joint responsibility for maintenance and repairs. In a condominium, each unit is owned outright by its occupant(s), and each occupant owns a share of the land and other common property of the building.

Cottage Industry - A profession, occupation, or business conducted by no more than three (3) full-time employees on the residential premises of at least one of those employees. Such occupation or business must not change the existing character of the neighborhood.

Development - The division of a parcel of land into 2 or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land.

Dwelling, Multi-Family - A residential building designed for and occupied by two or more families with the number of families in residence not exceeding the number of dwelling units.

Dwelling, Single-Family - A detached residential dwelling unit other than manufactured housing, designed for and occupied by one family only.

Dwelling Unit - A room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease, and physically separated from any other rooms which may be in the same structure, and containing independent cooking, sanitary, and sleeping facilities.

Earth Removal - Commercial taking of sand, gravel, rock, soil, or construction aggregate.

Frontage - That portion of a lot bordering on a highway, street, right-of-way, or water.

Groundwater - Water within the earth.

Home Occupation - Any use conducted entirely within a dwelling or its accessory buildings and carried on only by the residents which use is clearly incidental and secondary to the residential use of the property and does not change the residential character thereof, and in connection with which there is no display and no outside storage of equipment, machinery, or materials.

Industry - Manufacture or assembly of small parts or products.

Junkyard - Any business or any place which has stored or deposited two or more unregistered motor vehicles no longer intended or in condition for legal use on the public highways.

Light Commercial - An operation of a commercial nature which includes professional and business offices, financial institutions, retail stores, light assembly, and fabricating operations, facilities for the storage of construction equipment and/or building supplies, service establishments, and personal service businesses.

Lodging Facilities - (Motels, hotels, and inns) A building which contains living accommodations and may constitute the temporary abode for a person or persons whose primary residence is elsewhere.

Lot - A parcel of land at least sufficient in size to meet the minimum requirements for use, coverage, area, and to provide such yards and other open space as are herein required.

Lot of Record - A lot, tract or parcel of land with specific boundaries deeded to the owner(s) prior to the date of adoption of this Ordinance and recorded in the Grafton County Registry of Deeds. Roads and waterways do not separate lots.

Manufactured Home Park/Subdivision - An area containing 2 or more manufactured homes or space for manufactured homes and the necessary community and utility areas for extended occupancy or residence which is governed by the provisions of this Ordinance, the Town's Subdivision Regulations and any other regulations that may pertain.

Manufactured Housing - Any structure, transportable in one or more sections built on a permanent chassis and designed to be used as a dwelling.

Non-Conforming Structure - A structure which was lawful prior to the adoption of this Ordinance which does not now conform to the dimensional regulations for the district in which it is located.

Non-Conforming Use - A use which was legal prior to the adoption of this Ordinance which does not now conform to the use regulations for the district in which it is located.

Office - A room or a group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

Open Space - Land area without roads or buildings.

Overlay - A district superimposed on the other districts or portion thereof in which the greater restrictions apply.

Pro-Site Built Housing - Any structure designed to be used as a dwelling wholly or in substantial part made in off-site manufacturing facilities.

Private Road - A highway, street, road, avenue, or way not open to public use as a matter of right for vehicular travel, the maintenance and repair of which shall be borne by the subdivider, abutting landowners, or an association of abutting landowners.

Race Track - Land area used for animals and/or mechanical competition.

Recharge - Water being added to an aquifer by the natural processes of infiltration of precipitation.

Retail Store - A shop used for the sale or repair of food, clothing, drugs, jewelry, scientific merchandise and other general wares.

Roadside Stand - A booth or stall adjacent to the road from which products are sold to the general public on a temporary basis.

Setback - Distance between the nearest portion of a building and a lot or right-of-way line, whichever is closer.

Special Exception - A use of a building or lot or other requirement allowed under this Ordinance only by the issuance of a special exception by the Zoning Board of Adjustment. The landowner has the burden of establishing that the proposed requested special exception meets the requirements of general and/or specific standards for the issuance of that special exception as contained in this Ordinance.

Trailer - Equipment for travel, camping, vacation, and recreational use;

- a. Travel trailer - a vehicular portable structure built on a chassis,
- b. Pick-up coach - a structure mounted on a truck chassis.
- c. Tent trailer - a canvas folding structure mounted on wheels.
- d. Motor camper - a portable dwelling constructed as an integral part of a self-propelled vehicle.

Traveled Road - A road or highway maintained by the town or state for normal traffic usage. For the purposes of this Ordinance, the end of the maintained portion of the road is the end of the road.

Variance - A waiver of the strict letter of this Ordinance without sacrifice to its spirit or purpose.

Warehouse - A structure for the storage of merchandise or commodities.

Water Mining - Withdrawal of water at a rate greater than the rate of recharge.

Watershed - The limits of an area from which water flows naturally in a given direction.

Wetland - Those areas where soils are poorly drained or very poorly drained. More detailed definition will be found in Section VIII F5.

SECTION VIII: DISTRICTS

A. PURPOSE: Land uses as authorized by this Ordinance are based on considerations of the unique characteristics of the Town of Bath including topography, soils, the lack of central sewer systems, the sources of water supply, and the historical and present character of the Town. Provisions are made for the conservation of historic values, scenic beauty, water quality, and agricultural base while allowing for growth and light commercial development. Unsightly strip development and incompatible land uses are not authorized.

B. The Town shall be divided as shown on the official zoning maps located at the end of this document:

1. Village/Business Districts

The Intent of these districts is to provide for a mixed use village character while preserving existing structures. Business and residential uses shall be allowed to co-exist in the New England tradition while meeting the everyday needs of the Town residents. New buildings, building renovations and signs should be consistent with the historical character of the area.

a. Bath Village

1. Boundaries: Starting on the South at the confluence of the Ammonoosuc River and the Wild Ammonoosuc River and proceeding North, bounded on the West by the Ammonoosuc River to the Bath Village covered bridge, through the covered bridge down the River Road to include property of Wright and Bailey. All property on Bridge Street up to intersection of Bridge Street and Pettyboro Road. North on Railroad Street to Downing's Brook, across Ammonoosuc River to the North Corner of the Bath Village Cemetery, across U. S. Rte. 302 to Include property on east side of High Street including Gilberts, to West corner of Bailey's abutting Johnson's, to Wild Ammonoosuc River on a line 1500 feet from U. S. Rte. 302, then follow Wild Ammonoosuc River to confluence with Ammonoosuc River.

b. Swiftwater Village

1. Boundaries; Starting at Swiftwater covered bridge, West on Rte. 112 to Include property of D'Agostino, Southwest on Morse boundary to Haverhill Town line, East on Haverhill Town line to property of Garvan, North on Young boundary to Wild Ammonoosuc River, down river to covered bridge. These boundaries exclude Commercial/Business District.

c. Getchell District

1. Boundaries; Starting at Haverhill/Bath covered bridge, North along Connecticut River to include property of Wilkins, J. Lackie, Bristol, Butson, Sraders, along Abbott Avenue to include property of Paradie, bounded on South by the Ammonoosuc River.

2. Commercial/Industrial Districts;

The intent of these districts is to prevent strip development while allowing commercial and light Industrial uses on a scale appropriate to the area. Allowed are any manufacture or industrial use including processing, fabrication and assembly, research, and wholesale operations with not more than 50 employees. Such uses need to be located in areas of good accessibility with the least effect on roads and traffic and must have proper soil conditions.

- a. Starting at H. G. Wood, North along East side of U.S. Rte. 302 to Bath/Landaff Town Line. Starting at junction of B & M Railroad and Ammonoosuc River North along West side of U S. Rte. 302 to property of Cushing.
- b. Property of Richardson, Including Pioneer Park, and Easterly along Rte. 112 on North side to first Intersection of Rte. 112 and Haverhill Town Line.
- c. Starting at intersection of Sawyer Hill Road and Rte. 112, West on Rte. 112 and South on U. S. Rte. 302, including property of Goldfield, South on U. R. Rte. 302 bounded by B & M Railroad on East side and the Ammonoosuc River on the West side to property of David Lang.

3. Rural/Agricultural District

The intent of the Rural/Agricultural District is to protect the existing pattern of land uses to maintain and foster agricultural pursuits and to encourage the most appropriate use of land. The existing character of the District shall be preserved with uses which will have a minimal demand on Town services with the goal of orderly growth while protecting the natural and environmental assets and the rural, small-town, open space atmosphere.

- a. Includes all lands except those specified in the Village/Business districts, and the Commercial/Industrial districts.

C. SPECIAL EXCEPTIONS

Certain uses of land and buildings may be allowed as a Special Exception only by approval of the Board of Adjustment. The Board of Adjustment shall first determine that the proposed use will conform to the following general standards unless otherwise specifically exempted by other provisions.

- 1. Such proposed Special Exception use shall not adversely affect;
 - a. The character of the area in which the proposed use will be placed.
 - b. The highways and sidewalks or use thereof located in the area.
 - c. Town services and facilities.
- 2. Such proposed Special Exception use shall comply with all other applicable specific standards in this Ordinance.
- 3. All dwellings and structures shall conform in general value to other structures and dwellings in the neighborhood and shall be in keeping with the general and economic welfare of the neighborhood. No structure shall be erected or business conducted which

depreciates the value of existing properties in the neighborhood.

4. If the Board of Adjustment, approves an application for a Special Exception, it shall have the authority to impose relevant conditions as to the use of the land as it finds reasonable and appropriate to safeguard the neighborhood or otherwise serve the purposes of this Ordinance, including, but not limited to, the following;
 - a. Yards larger in area or in any specified dimension than those required by the Ordinance.
 - b. Screening of all or part of the premises of the proposed use of walls, fencing, or planting.
 - c. Off-street parking facilities greater than those otherwise required under this Ordinance.
 - d. Limitation of the number of occupants or employees upon the premises, and restrictions of the method and/or time or occupation and use.
 - e. Limitations upon the size, location, and/or lighting of signs more restrictive than otherwise imposed by this Ordinance.

Legend: P—Permitted; S—Special Exception; X—Not Allowed

Village/ Business <u>1</u>	Commercial/ Industrial <u>2</u>	Rural/ Agric. <u>3</u>	Upper Village <u>4</u>
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D. Type of Land Use

Above ground storage for volatile fuels in excess of 550 gallons	X	S	S	X
Agriculture	S	P	P	P
Bed and Breakfast	P	P	P	P
Campgrounds	S	P	P	X
Cemeteries	P	P	P	P
Cluster Housing	P	P	P	X
Cottage Industries	P	P	P	X
Earth Removal	X	P	P	X
Forestry	P	P	P	S
Hazardous Waste Disposal Site	X	X	X	X
Home Occupations	P	P	P	P
Indoor/outdoor commercial recreational	S	P	S	S
Industrial	S	P	X	X
Light Commercial	P	P	P	S
Lodging Facilities	S	P	X	X
Manufactured Home	P	P	P	X
Manufactured Home Park	S	P	P	X
Medical Clinic, Nursing Home, Hospitals & Sanatoriums	S	P	S	S
Multi-Family Dwelling which may include condominium ownership	S	S	S	S
New Buildings for Clubs, Lodges, and Fraternal Organizations	S	P	X	X
Office	P	P	P	S

Public Parks and Playgrounds	P	P	P	S
Race track	X	X	X	X
Restaurant	S	P	X	X
Roadside Stand	P	P	P	S
Single Family Dwelling which may include condominium ownership	P	P	P	P
Warehouse	S	P	S	X

Any type of land use not specified shall be treated as a variance in all districts.

E. Historical Overlay Districts (zoning map located at the end of this document)

The unique character and architectural integrity of the historical settlement known as Upper Village shall be preserved and maintained with compatible land uses. Additionally, Bath has many structures of historical significance whose integrity is to be preserved. The historical overlay shall encourage efforts to preserve and enhance significant architectural and historical resources; in the Town. Buildings and land uses shall be architecturally and aesthetically compatible with the Colonial Era presently exhibited within these boundaries.

1. Upper Bath Village boundaries are as follows: Bounded on the North by the brook North of the village, on the West by the Ammonoosuc River, on the East by the present tree-top line, and on the South by an East-West line just South of property presently owned by Kryger marked by the 800' contour line.

2. Part of the Bath Village District. Boundaries are as follows: Starting at the Northern boundary of the Bath Village Cemetery proceeding South on the Westerly side of U. S. Rte. 302 and bounded by the Ammonoosuc River down to, and including, the Bath Village covered bridge, continuing down to Simonds Brook, including Charles Diamond's Old Red Barn, but excluding Charles Diamond's mill yard property. On the easterly side of U. S. Route 302, starting at the intersection with High Street, including the land 200' back from center line of U. S. Route 302, proceeding southward to Simonds Brook.

F. Conservation Overlay Districts

Conservation overlay districts comprise those areas with characteristics that require conservation and land management practices, which minimize environmental degradation. The restrictions within each district are designed to permit uses appropriate to the area while protecting the health, safety, and general welfare of the Town and its citizens. Where any provision of these District Ordinances is in conflict with the underlying district regulations or other local ordinances or with New Hampshire State law, the more stringent provision shall apply. All maps relating to the following conservation districts are on file in the Town Office. The most recent maps will be applicable.

1. Aquifer conservation

a. Purpose: An adequate supply of potable water is essential to the health, welfare, safety, and convenience of every citizen. This Ordinance, pursuant to the authority granted by RSA 674:16-21 is adopted to protect, conserve and maintain existing and potential water resources for present and future generations.

b. Locations:

1. Areas shown on the map entitled "Availability of Ground Water in the Middle Connecticut River Basin: West Central N.H." by John E. Cotton dated 1976.

2. Areas of village water source and storage facilities as surveyed by Rutherford Survey and Mapping dated July 1988 and recorded at the Grafton County Registry of Deeds.

3. Area of water source located on east side of existing Route 302 at Cate's Corner, so-called.

4. Any aquifer identified by a qualified hydrologist in the future shall be protected by this Ordinance.

c. Permitted Uses:

1. Activities designed for conservation of soil, water plants, and wildlife.
2. Outdoor recreation, nature study, fishing and hunting, where otherwise legally permitted, except those, which destroy surfaces of watershed areas.
3. Normal operation and maintenance of existing bodies of water, wells, dams, or other conservation devices.
4. Forestry uses provided that land is returned to its natural state in order to prevent erosion or alteration of normal drainage patterns and flow.
5. Farming, gardening, nursery, harvesting, and grazing provided that fertilizer, herbicides, pesticides, manure, and other leachables are used appropriately at levels that will not cause groundwater contamination

d. Prohibited Uses:

1. Disposal or storage, above or below ground, of petroleum or petroleum products, solid waste, liquid or leachable wastes, hazardous or toxic materials.
2. Excavation of sand, gravel or turf.
3. Drilling of wells or water mining of bedrock for bulk sale.

2. Protection of Village Water Supply

This Ordinance establishes a protective radius of 200 feet to prevent pollution of the aforementioned water supply through surface or underground sources. Hereafter, and as long as the premises are used for a water supply system, the area shall be subject to the interests of the water supply and all persons served by such supply. No use of this protected area shall be permitted which directly or indirectly affects the quality or quantity of the water supply in a detrimental manner. Examples of such detrimental uses include: disposal of industrial or domestic waste water, disposal of solid waste, application or storage of fertilizer, pesticides, other hazardous chemicals and gasoline or oil, and/or any other uses which would be detrimental as determined by the Water Supply and Pollution Control Commission. No change in use of the area may be undertaken without written approval of the New Hampshire Water Supply and Pollution Control Commission and the Town of Bath Zoning Board of Adjustment.

3. Flood Plain Conservation

Development occurring in flood plain areas causes property damage and poses safety risks to residents of housing located within flood plain boundaries. No development shall be allowed within the boundaries of the Flood Hazard Area as delineated on Bath's Flood Insurance Rate Map (FIRM).

4. Steep Slope Conservation District

- a. Purpose and Intent: For the purpose of this Ordinance, a steep slope is any area with a dominant slope greater than 15%. These areas are especially subject to erosion and excess runoff.

The purpose of the Steep Slope Conservation District is to protect the public health, safety, natural resources, and general welfare by controlling and guiding the use of land with slopes greater than 15%.

It is intended that the provisions of this Ordinance shall;

1. Promote the general health, safety, and welfare of the community through restrictions on the uses of within the Steep Slope District;

2. Reduce damage to streams and lakes from erosion, runoff of storm water caused by improper or excessive construction, or effluent from improperly sited sewage disposal systems;
3. Preserve vegetative cover, wildlife habitat, scenic views, and. protect unique and. unusual natural areas and maintain ecological balance;
4. Permit those uses of land which can be harmoniously, appropriately, and safely located on steep slopes.

b. Delineation

1. District Delineation; The Steep Slopes Conservation District includes all areas shown as having steep slopes on the Slopes Map of the Town of Bath.

c. Uses Permitted By Owners or Agents:

1. Recreation: Steep slope areas may be used for recreation purposes; such as hiking, hunting, cross country skiing and other which do not alter the natural surface configuration or vegetative cover of the land.
2. Agriculture: Steep Slope areas may be used for agricultural purposes which can be and are conducted in a manner consistent with optimum soil conservation practices.
3. Logging: Logging is permitted subject to the provisions of RSA 149, Section 8-a, to minimize soil erosion or long-term damage to the area.
4. Development:
 - a. 15-25% Slope: Low density, single-family residential development is permitted if detailed on-site investigation determines that sewage disposal systems and access roads can be constructed and maintained without having an adverse impact on the ecology of the area.
 - b. 25% +: No residential development shall be allowed on slopes exceeding 25%.

d. Special Conditions:

1. Lot Size: The minimum lot size in the Steep Slope Conservation District is 6 acres.
2. Development: Any proposal for construction or development within the Steep Slope Conservation District shall include:
 - a. A plan indicating how the proposed development will provide adequately for storm water runoff;
 - b. A plan for maintenance and/or reclamation of vegetative cover. These plans must be approved by the Planning Board before any Permits can be issued. In addition, the Selectmen may require a performance bond to assure that the approved plans are implemented.
3. Reclamation: In all situations where construction or use has caused a disturbance of the natural terrain and/or vegetative cover, such terrain/cover shall be restored as closely as feasible to the original condition by the owner/agent and maintained until conditions are stabilized.

5. Wetlands Conservation

- a. Purpose and Intent: The purpose of this Ordinance is to protect the public health, safety, and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables for extended periods of time.

It is intended that this Ordinance shall:

1. Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and ground water by sewage;
2. Prevent the destruction or significant changes to natural wetlands which provide flood protection;

3. Protect unique and unusual natural areas;
4. Protect residents against the dangers of increased flooding;
5. Protect wildlife habitats and maintain ecological balances}
6. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
7. Prevent unnecessary or excessive expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.
8. Encourage those low-intensity uses that can be harmoniously, appropriately, and safely located in wetlands.

b. Wetlands Definition

1. The Wetland Conservation District is defined as those areas which are delineated as poorly drained, or very poorly drained, soils by the United States Department of Agriculture, Soil Conservation Service, in the Soil Survey of Grafton County and Town of Bath, New Hampshire, dated September 1981.
2. Wetlands are areas where a significant part of the vegetational community and land and soil types consist of, but do not necessarily include, all of the following;
 - a. SWAMPS are areas where the water table is at or near the ground surface for a significant part of the year. The vegetational community may consist of trees and woody shrubs; such as: black winterberry, speckled alder, arrow wood, black ash, high-bush blueberry, buttonbush, coast white cedar, red maple, sweet pepperbush, rhodora, spicebush, black bog spruce, blackarch tamarack, balsam, black and bog willows.
 - b. MARSHEs are treeless wetlands, dominated by soft-stemmed herbaceous -plants. The surface of the marsh is covered with water year round, though seasonal fluctuations in water depth can be expected. Marshes range from the 'wet meadow' variety to deep marshes that can be covered with several feet of water. Vegetational communities may be made up of some or all these species: arum, bladderwort, bulrush, burr reed, cat-tail, duckweed, delgrass, frog'sbit, horsetails, leatherleaf, pickerel weed, rushes, sedges (incl. cotton), grass, and wool grass, smartweed, sweet gale, water lilies, water milfoil.
 - c. BOGS consist of peat or muck deposits of significant depths and are characterized by a distinct group of trees and plants that are adapted to the highly acidic conditions. Water in a bog is practically devoid of oxygen and nutrients. Bogs usually develop in undrained glacial depressions. Typical plants; bog/buck bean, bladderwort, high-bush blueberry, coast white cedar, swamp laurel, leatherleaf, sphagnum moss, pitcher plant, rhodora, bog rosemary, cotton grass and wool grass sedges, bog/swamp spruce, sundew, sweet gale, and tamarack.
 - d. Soil Series and land types commonly associated with wetlands include the following: Very poorly drained soils: rippowam fine sandy loam #5, searsport fine sandy loam #15, rumney fine sandy loam #105, medomak silk loam #106, limerick silt loam #109, walpole-binghamville complex #114A; 0-5% slopes: greenwood mucky peat #295, stissing silt loam #341A&B; 0-8% slopes, very stony, lye, and moosilauke soils #347A; 0-8% slopes, very stony, chocurua mucky peat #395, binghamville silt loam #534; 0-3% slopes, Kinsman sand #614A; 0-5% slopes, pemil silt loam #633; 0-3% slopes, pillsbury fine sandy loam #647A&B; 0-8% slopes,

very stony, lyme-peacham #717; 0-8% slopes, very stony, peru- pillsbury #723B; 0-15% slopes, very stoney, waumbek-lyme #729B; 0-15% slopes, very stony, peacham and ossipee #731; 0-3% slopes, very stony.

- e. Permitted Uses: (For poorly and very poorly drained soils)
 - 1. Any use 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.
 - 2. Agriculture, Including grazing, hay production, truck gardening, and silage production provided that such use is shown not to cause significant increases in surface or ground water pollution by heavy metals, pesticides, or toxic chemicals and that such use will not cause or contribute to soil erosion.
 - 3. Forestry and tree farming to include construction of access roads using best management to protect streams from damage and to prevent sedimentation.
 - 4. Water impoundments and construction of well water supplies.
 - 5. Drainage ways to Include streams, creeks, or other paths of normal runoff water and common agricultural land drainage provided such use is otherwise permitted in the Use District which this District overlays.
 - 6. Wildlife habitat development and management.
 - 7. Parks and such recreation uses as are consistent with the purpose and Intentions of Article A.
 - 8. Conservation areas and nature trails.
 - 9. Open space as permitted by subdivision regulations and other sections of this Ordinance.

f. Special Exceptions

- 1. Special exceptions may be granted by the Board of Adjustment, after proper public notice and public hearing, for undertaking the following uses in the Wetlands Conservation District when the application has been referred to the Planning Board, Conservation Commission, and to the Health Officer or review and comment at least twenty (20) days prior to he hearing.
 - a. Streets, roads and other access ways and utility right- f-way easements. Including power lines and pipe lines, f essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetland.
 - b. Water impoundments, beaches, fences and foot bridges.
 - c. The undertaking of a use not otherwise permitted in the Wetlands Conservation District, if it can be shown that such proposed use is not in conflict with any and all of the purposes and intentions listed above in this Ordinance.
 - d. Wetlands excluded from subdivided lot area
- 1. No part of a wetland may be considered as part of the area required to meet the minimum area standards as stated in the Zoning Ordinance and/or Sub- division Regulations.

G. Incorrectly Designated Areas*

- A. When the actual boundary of any Conservation District is in dispute by any owner or abutter affected by said boundary, the Planning Board may, at the complainants request and expense, engage a professional geologist, hydrologist, or soils scientist to determine a precise boundary. The Planning Board shall make whatever boundary adjustment is required upon receipt of written documented evidence. The Board shall

reserve the right to withhold action on any plat pending the results of on-site inspection and shall approve or disapprove the adjustment within 90 days of appeal or such further time as deemed necessary but not to exceed an additional 90 days.

- B. Any area meeting the criteria for a given Conservation District that was omitted from the mapping will be added upon receipt of adequate supporting evidence and on-site inspection with preliminary notice to the land owner(s).

SECTION IX: CLUSTER DEVELOPMENT

1. Purpose

Clustering is designed to protect private property rights while preserving the long term needs of future generations. It encourages use of secondary and marginal lands for development while preserving primary agricultural and forest lands for productivity. It is a means of maintaining the rural character of Bath while providing for growth.

The intent of this Ordinance is to preserve productive and potentially productive agricultural and forest lands, wetlands, wildlife habitat, streams, natural and scenic features of the town. To achieve these goals, dwellings are concentrated in the most appropriate areas of a site to avoid development of sites which should be preserved for production purposes and those which may have poor soil conditions, high water tables, flooding potential, or excessively steep slopes.

2. Requirements

Cluster development shall be the land use policy on agricultural and forest land of local, state, and national importance. Prior to Planning Board approval, the potential of land for productive use shall be determined by the United States Department of Agriculture Soil Conservation Service analysis and their Land Evaluation and Site Assessment criteria. The importance of the land in the operation of any farm unit, whether presently active or potentially active, shall be given priority. Cluster development shall adhere to applicable Bath Subdivision Regulations.

- a. All dwellings, roads, and other developmental measures shall be located so as to minimize the impact on continued agricultural or silvicultural use of the land and adjacent properties.
- b. Residential sites on agricultural/forest land shall be grouped according to soil capability with maximum size of one acre and clustered together according to a. development site plan.
- c. A density bonus of one extra residential site for every ten sites is allowed if less than 30% of the Agricultural/Forest land is developed.
- d. The number of residential family dwelling units will be 1 for each lot size required by the zoning district involved. The remaining acreage shall be permanently protected for agriculture or silviculture. They may remain in ownership of farmer, forester, or by homeowners' association or private individual who agrees to conservation restrictions and covenants placed on it in the deed.
- e. Land unsuitable for development shall not be included. This includes ponds, lakes, perennial streams, or surface waters.
- f. No building shall be erected within 25' of an abutter's property line.
- g. Road frontage requirements shall be adaptable to the site as determined by the Planning Board.
- h. The maximum number of single family dwelling units attached by a common wall shall be limited to two.
- i. Deleted

- j. Woodlands shall have adequate access and shall be managed appropriately for the natural factors.
- k. Water sources and sub-surface sewer systems may be located off the building site if within the project area.
- l. There shall be a vegetative buffer to provide an adequate transition between the development and existing town roads and abutters.
- m. Cluster development in the commercial/industrial district is strongly recommended to avoid potential strip development.

SECTION X: MULTIPLE DISTRICTS

Where one district is superimposed over another, the more restrictive regulations shall apply.

SECTION XI: ADMINISTRATION AND ENFORCEMENT

A. Zoning Officer

The administrative and enforcement officer for this Ordinance shall be known as the Zoning Officer and shall be the Board of Selectmen or their designee. The Zoning Officer shall administer the Zoning Ordinance literally and shall not have the power to permit any use of land or buildings which is not in conformance with this Ordinance.

B. Zoning Permit

Written application for a zoning permit must be filed with the Town for any of the following, and except as provided in applicable statutes of the State of New Hampshire, until a permit has been obtained from the Zoning Officer (or, if the permit is denied, until the Zoning Board of Adjustment has directed that a permit be issued), none of the following shall be commenced:

- 1. The erection or use of any new building, exterior sign, or other structure.
- 2. Any construction or moving of any building or a part thereof, which involves a change as to the location of the building on the lot.
- 3. Any use of the premises which would constitute a departure from the terms of this Ordinance including a change in the nature of the use of any building or premises to a non- conforming use or any change in lot size or shape which would result in a violation of area or dimensional regulations.

Application for a zoning permit shall be upon an appropriate form to be prescribed by the Town and shall be accompanied by such of the following as the Zoning Officer may require:

- 1. Plans, drawn to scale, showing the actual shape, dimensions, and location of the lot to be used, of existing building upon it, or alterations pro-nosed for existing buildings, and of proposed new buildings.
- 2. Information as to the existing and intended use of each building, lot, or part thereof, and as to the number of families, lodgers, or other occupants any building upon the premises is designed to accommodate.
- 3. Any other information with respect to the lot and the applicant's use thereof, as well as relative to other lots n the neighborhood which, in the judgment of the Zoning Officer, is necessary to determine whether the action or use for which a permit is sought is a. conforming action or use under the terms of this Ordinance.

The Zoning Officer shall determine whether an application for permit is in compliance with a permitted use or action as defined by this Ordinance. If the Zoning Officer determines that it is, the application for permit shall be granted. If the Zoning Officer determines that it is not or is uncertain, the application shall be denied. The Zoning Officer shall act upon any application within 30 days after it has been filed.

A zoning permit shall become void if a building permit is not issued and construction is not begun thereunder within twelve (12) months from the date of issue of the zoning permit, or, if no building permit is required, a zoning permit shall become void if the rights conferred thereby are not exercised within twelve (12) months from the date of issue of the zoning permit. Zoning permits may be extended for no more than additional 12 months by the Zoning Officer on receipt of a written request for extension at least fourteen (14) days prior to the expiration of the original permit. On approval by the Zoning Board of Adjustment of a Variance or Special Exception, the zoning officer shall issue a zoning permit.

C. Zoning Board of Adjustment

The Zoning Board of Adjustment shall consist of five members who shall be residents of the Town and shall be appointed in a manner as prescribed by the local legislative body. The initial terms of members first appointed shall be staggered so that no more than two appointments occur annually, except when required to fill vacancies. The Board of Adjustment shall have the following powers as conferred by law:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Officer in the administration of this Ordinance.
2. To hear and decide Special Exceptions to the terms of this Ordinance upon which the Board of Adjustment is required to pass as provided herein.
3. To authorize upon appeal in specific cases such Variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship and so that the spirit of the Ordinance will be observed and substantial justice done. In so doing, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community.
4. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm wholly or in part or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and to that end shall have all the powers of the Zoning Officer from whom the appeal is taken.
5. The concurring vote of a simple majority of the membership of the Board of Adjustment shall be necessary to reverse any action of the Zoning Officer or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Ordinance or to affect any variation in this Ordinance.

D. Variance

The Board of Adjustment may, on an appeal, grant a Variance from the provisions of this Ordinance, if the Board determines that the following five requisite standards are met, namely:

1. No diminution in value of surrounding properties would be suffered;
2. Granting the permit would be of benefit to the public interests;
3. Denial of the permit would result in unnecessary hardship to the owners seeking it;
 - a. Hardship exists when an ordinance unduly restricts the use that may be

made of land. Special conditions of the land must exist that make it unique from surrounding property.

4. By granting the permit, substantial justice will be done;
5. The use must not be contrary to the spirit of this Ordinance.

In determining whether or not these standards are met, the Zoning Board of Adjustment shall find the following facts and so specify in their decision;

1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot, size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located.
2. That because of such physical circumstances or conditions the property cannot be used in strict conformity with the provisions of this Ordinance and that the authorization of a Variance is therefore necessary to enable the reasonable use of the property.
3. That the Variance if authorized will not diminish the value of surrounding properties.
4. That the Variance if authorized will represent the minimum Variance that will afford reasonable relief.

In authorizing a Variance, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community, as to the use of the land.

SECTION XII: PENALTIES

In case of violation of this Ordinance, the Selectmen of the Town of Bath may institute any appropriate action or proceedings to prevent, restrain, abate, or correct such unlawful action. Any person, firm, or corporation that violates any of the provision of this Ordinance shall be punishable by a fine of not more than One Hundred dollars (\$100.00) each day that such violation occurs.

SECTION XIII: CONFLICTING PROVISIONS

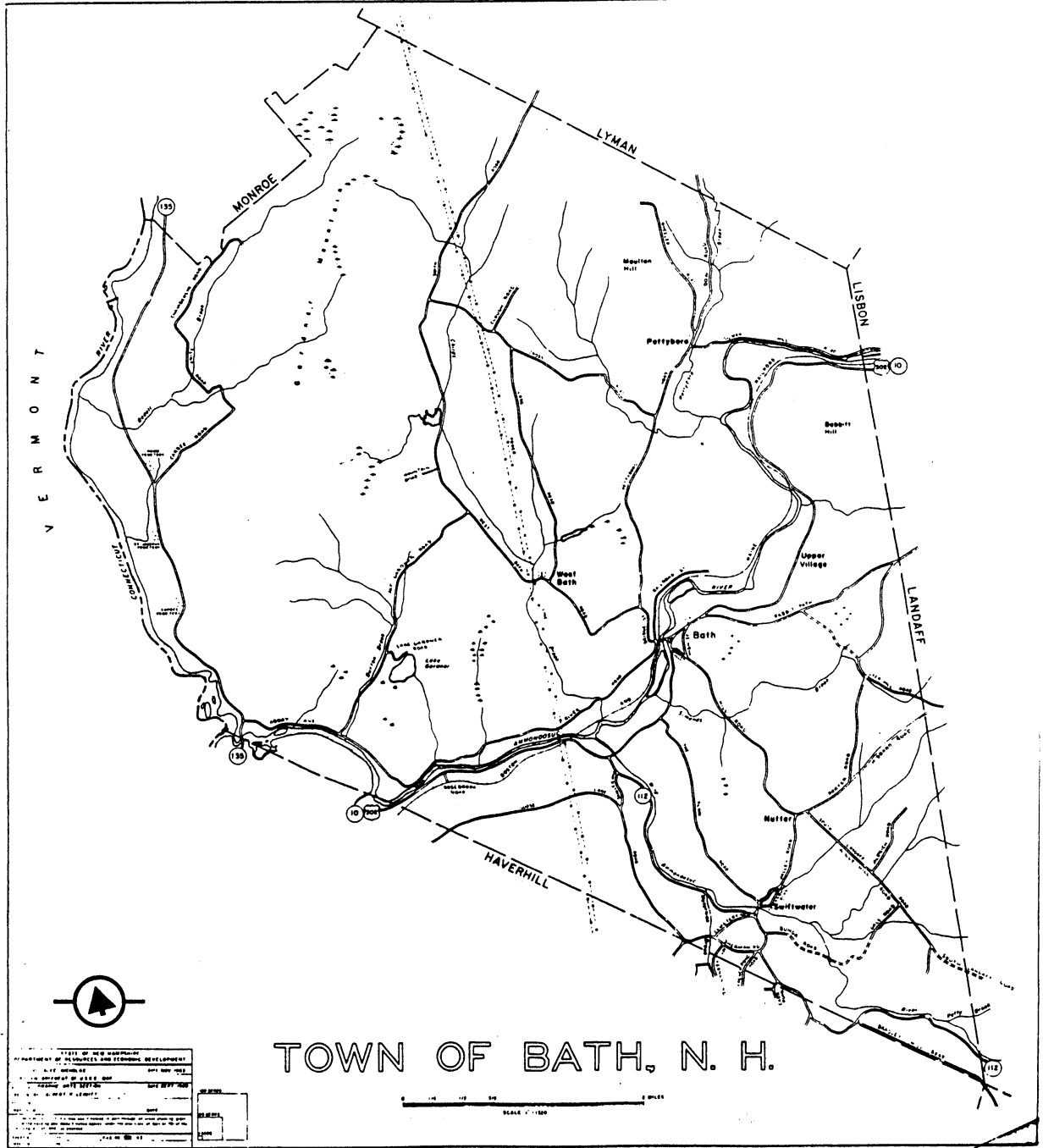
Whenever the regulations of this Ordinance differ from those prescribed by any statute, ordinance, or other regulation, including deeds or covenants, that provision which imposes the greater restriction or the higher standard shall govern.

SECTION XIV: SEPARABILITY

Should any section, paragraph, or part of this Ordinance legally be declared invalid, it shall not affect the validity of the remainder of the ordinance.

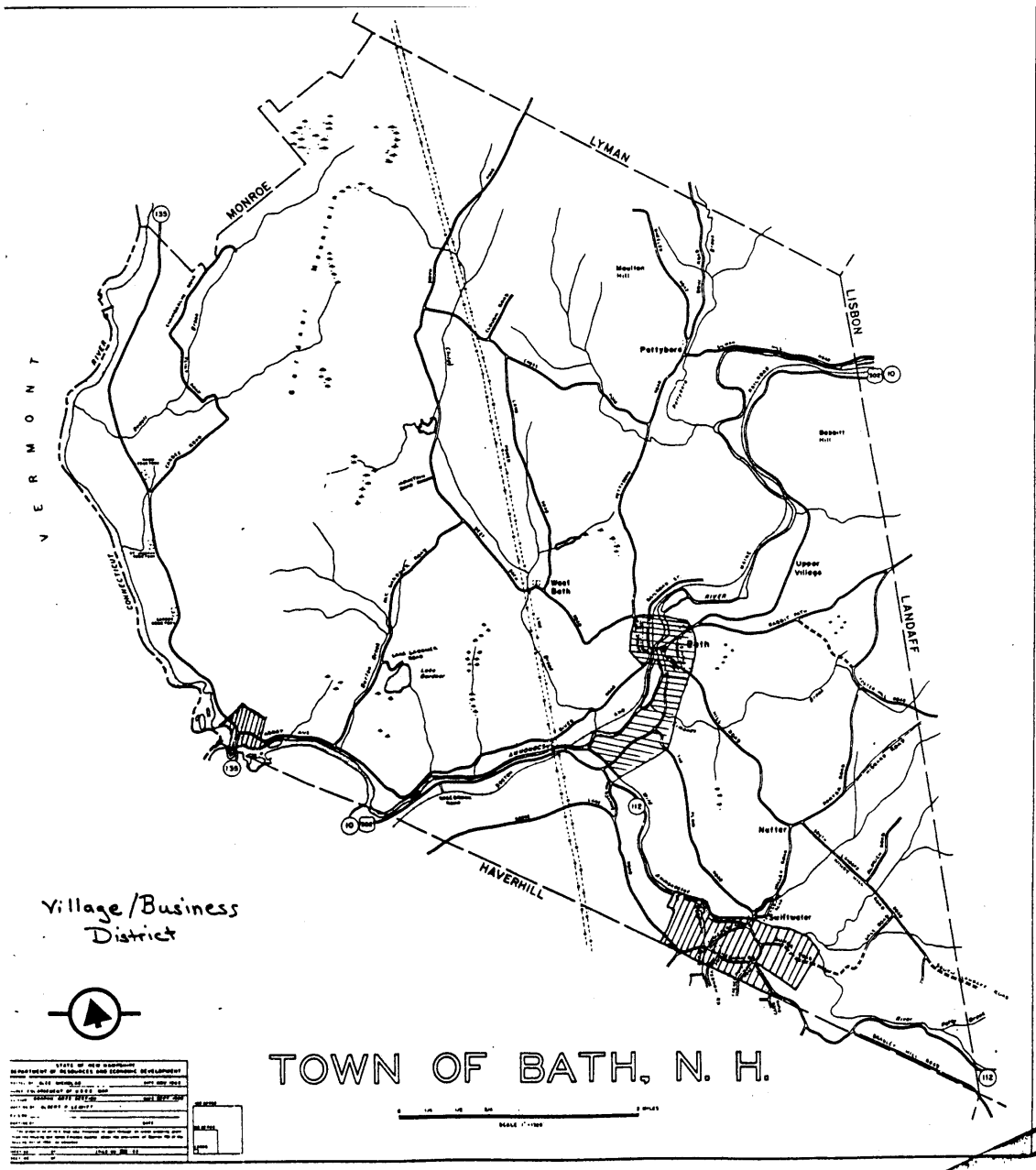
SECTION XV: EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption.



TOWN OF BATH, N. H.

SCALE 1" = 1 MILE



Village/Business District



STATE OF NEW HAMPSHIRE	
DEPARTMENT OF REVENUES AND ECONOMIC DEVELOPMENT	
DIVISION OF TAX SERVICES	
TAX MAPS SECTION	
TOWN OF BATH, N.H.	
DATE: 10/15/11	
BY: [Signature]	
FOR: [Signature]	
APPROVED: [Signature]	
DATE: 10/15/11	

TOWN OF BATH, N. H.

