

For March 2020 Waterville Valley Town Meeting

Proposed Amendment No. 1

Amendment No. 1 would make several changes:

1. Changes to Articles III, IV, V, VI and VII to make language and requirements consistent as applied to structures, buildings, uses and setbacks, with most provisions of the zoning ordinance applying to all structures. Adds swimming pools and tennis courts to the definition of "structure." Allows the Selectboard to issue permits for signs and pedestrian amenities in the front setback.
2. In Article IV, substitute an allowance of one 150 sq. ft. accessory building 10 feet from the side or rear lot line for the provision that now allows accessory buildings in several Districts to be 6 feet from side and rear lot lines with the same height to setback ratio as principal buildings.
3. Remove 30-foot minimum distance between buildings, which is in conflict with setback language, from Article IV.
4. Move language regarding the 10-foot fence setback from Article V to Article IV with other setback provisions.
5. Minor nonsubstantive punctuation changes.

The sections proposed for change in each Article are shown below.

~~Language proposed for removal is shown struck out like this.~~

Proposed new language is shown underlined like this.

Amendment No 1 would change the introductory paragraph of Article III C) and the following specific Definitions as follows:

Article III - Interpretation, Application, and Definitions

- C) Definitions - For the purpose of this Ordinance certain terms, phrases, and words shall have the meaning given herein. Words used in the present tense include the future. The singular includes the plural, and the plural includes the singular. The word "used" shall be construed as though followed by the words "or intended or designed to be used." The words "structure," "building," "lot," or "premises" shall be construed as though followed by the words "or any portion thereof." The word "shall" is always mandatory and not merely directory. The word "may" is permissive.

Alteration - As applied to a building or other structure, a structural rearrangement of the exterior or the interior, or an enlargement, or a moving from one location to another.

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Lot, Zoning – A portion or parcel of land occupied or intended to be occupied by a use, building, or unit group of buildings and accessory buildings, [or other structures](#), together with such open spaces as are required under the provisions of this Ordinance and meeting any other requirements of this Ordinance for a lot in the District in which such land is situated. Such zoning lot shall have frontage upon a public street or a private easement or way determined by the Selectmen to be adequate for the purpose of access, and may consist of:

- a) A single lot of record.
- b) A portion of a lot of record
- c) A combination of complete lots of record, and portion of lots of record.
- d) A parcel of land, or the air rights over a parcel of land, described by metes and bounds.

Open Space – Land not used by buildings [or other structures](#), [or for](#) parking or roads, but maintained as green space for landscaping, parks or outdoor recreation. May include pedestrian walkways.

Principal Use – The main use of the principal building [or other structure](#) or lot.

Setback – The horizontal distance between the established lot line, [right-of-way, travelled way or paved edge of street as specified in this Ordinance](#), and the nearest point of any [structure](#)~~building~~ measured at right angles to the lot line. See also Article V Supplemental Regulations.

Structure - Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including, but not limited to, buildings, walls, fences more than three (3) feet high, [tennis courts, swimming pools](#), billboards, signs, piers and floats. “Structure” does not include poles, lines, cables or other transmission or distribution facilities of utilities; [“Structure” also does not include](#) mail boxes, ~~or~~ light fixtures, [raised garden beds, walkways, or the like](#).

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Amendment No. 1 would change the following sections of Article IV as shown:

Article IV - Zoning Districts and Regulations

A) Lower Density Residential (LDR) District:

1) Development Regulations

c) Building Height

- (i) The maximum principal building height shall be 3 stories but not to exceed a maximum of 35 feet measured from the highest point on the foundation line.

~~(f) Accessory buildings and improvements shall be subject to the setback to height ratio required for principal buildings.~~

e) Setbacks

- (i) There shall be between any ~~structure~~building and the right-of-way of any street a minimum of 35 feet; with the exception of Stone Tower Lane, Boulder Way, West Branch Road (east of West Branch Bridge), and Lower Greeley Hill Road where there shall be between any ~~structure~~building and the traveled way of any street a minimum of 35 feet. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.

~~(ii) —~~

- ~~(i)~~(ii) No ~~structure~~principal building shall be located within 20 feet of any ~~side or rear~~other lot line. Exceptions: 1. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 2. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, and no accessory building within 10 feet of any other lot line.

- (iii) There shall be a 5-foot setback between any ~~structure~~building and the lot line of land designated as the White Mountain National Forest.

~~(ii) —~~

B) Higher Density Residential (HDR) District:

1. Development Regulations

c) Building Height

- (i) For multi-family dwelling buildings, and agricultural use buildings, the maximum building height from the highest point on the building foundation line shall be 45 feet.
- (ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage are one (1) story lower.

~~(iii) Accessory buildings and improvements shall be subject to the setback to height ratio required for principal buildings.~~

- ~~(iv)~~(iii) For single family dwellings, two-family dwellings and two-family residential units – the maximum building height shall be three stories but not to exceed 35 feet measured

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from the highest point on the foundation line. ~~Accessory buildings and improvements shall be subject to the setback to height ratio required for principal buildings.~~

e) Setbacks

- (i) There shall be a minimum of 35 feet between any ~~structure~~building and the right-of-way of any street. ~~Structures~~Buildings shall not be closer than 20 feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
- (ii) No ~~structure~~principal building shall be located within 20 feet of any ~~side or rear~~other lot line. ~~, and no accessory building within 6 feet of any other lot line.~~ Exceptions: 1. In cases where HDR property abuts LDR property in the LDR District, there shall be no structure~~building~~ on HDR property within 35 feet of the LDR District~~HDR lot line.~~ 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 2. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.
- (iii) There shall be a 5-foot setback between any ~~structure~~building and the lot line of land designated as the White Mountain National Forest.

~~f) Proximity of Buildings – Separate buildings shall not be closer than 30 feet at their closest point.~~

C) Village Commercial (VC) District

1) Development Regulations

c) Building Height

- (i) For single-family, two-family dwellings and two-family residential dwelling units, the maximum building height shall be 3 stories but not to exceed a maximum 35 feet measured from the highest point on the foundation line.
- (ii) For all other buildings, the maximum building height from the highest point on the building foundation line shall be 45 feet.
- (iii) To achieve greater architectural variety, up to 25% of the rooflines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.
- (iv) Steeples or bell towers or similar structures in this zone are exempt from height requirements.

~~(v) Accessory buildings and improvements shall be subject to the setback to height ratio required for principal buildings.~~

d) Deviation From Building Height Requirements

- (i) Upon written application and after public hearing, the Planning Board shall have the authority to grant a conditional use permit to allow deviation from the foregoing height limitations provided that the Board finds on the record presented that:

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1. The added height makes the building ~~or structure~~ more aesthetically attractive; and
 2. The added height does not unreasonably detract from the views of abutting properties.
- (ii) This authority is granted to the Planning Board as an innovative land use control pursuant to RSA 674:16, II and RSA 674:21, II.
- e) Open Space – For multi-family dwellings a minimum of one-third of any lot shall be open space. For all other ~~uses~~buildings, the minimum open space shall be one-fifth.
- f) Setbacks
- (i) There shall be a minimum of 35 feet between any ~~structure~~building and the right-of-way of any street. There shall be a 5-foot setback between any off-street parking area and the right-of-way of any street. ~~Structures~~Buildings shall not be closer than 20 feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.
- (ii) No ~~structure~~principal building shall be located within 20 feet of any ~~side or rear~~other lot line; ~~and no accessory building within 6 feet of any other lot line.~~ Exceptions: 1. In cases where VC property abuts LDR property, there shall be no ~~structure~~building on VC property within 35 feet of the LDR DistrictVC lot line. 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.
- (iii) There shall be a 5-foot setback between any ~~structure~~building and the lot line of land designated as the White Mountain National Forest.
- ~~g) Proximity of Buildings – Separate buildings shall be no closer than 30 feet at their closest point.~~

D) Special Civic (SC) District

1) Development Regulations

c) Building Height

- (i) The maximum building height from the highest point on the building foundation line shall be 45 feet.
- (ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.
- ~~(iii) Accessory buildings and improvements shall be subject to the setback to height ratio required for principal buildings.~~

e) Setbacks

- (i) There shall be a minimum of 25 feet between any ~~structure~~building and the right-of-way of any street, with the exception of Boulder Way and West Branch Road (east of West Branch Bridge) where there shall be a minimum of 25 feet between any ~~structure~~building and the traveled way of any street. There shall also be a 5-foot setback between any off-street

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parking and the right-of-way of any street. ~~Structures~~~~Buildings~~ shall not be closer than 20 feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.

~~(ii)~~ No ~~structure~~~~principal building~~ shall be located within 20 feet of any ~~side or rear~~~~other~~ lot line; ~~and no accessory building within 6 feet of any other lot line.~~ Exceptions: 1. In cases where SC property abuts LDR property in the LDR District, there shall be no structure building within 35 feet of the LDR District SC lot line. 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.

~~(iv)~~

~~(ii)~~~~(iii)~~ There shall be a 5-foot setback between any ~~structure~~~~building~~ and the lot line of land designated as the White Mountain National Forest.

f) ~~Proximity of Buildings~~ ~~Separate buildings shall not be closer than 30 feet at their closest point.~~

E) Recreational (REC) District

1) Development Regulations

c) Building Height

- (i) The maximum building height from the highest point on the building foundation line shall be 45 feet.
- (ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.

~~(iii) Accessory buildings and improvements shall be subject to the setback to height ratio required for principal buildings.~~

e) Setbacks

~~(i)~~~~(i)~~ There shall be a minimum of 25 feet between any ~~structure~~~~building~~ and the right-of-way of any street, with the exception of Boulder Way, Stone Tower Lane, and West Branch Road (east of West Branch Bridge) where there shall be a minimum of 25 feet between any ~~structure~~~~building~~ and the traveled way of any street. There shall also be a 5-foot setback between any off-street parking area and the right-of-way of any street. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.

~~(ii)~~ No ~~structure~~~~principal building~~ shall be located within 20 feet of any ~~side or rear~~~~other~~ lot line; ~~and no accessory building within 6 feet of any other lot line.~~ In cases where REC property abuts LDR property in the LDR District, there shall be no ~~structure~~~~building~~ on REC property within 35 feet of the ~~LDR District~~~~REC lot line.~~ 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.

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~~(vi)~~
~~(iii)~~ There shall be a 5-foot setback between any ~~structure~~ ~~building~~ and the lot line of land designated as the White Mountain National Forest.

~~f) Proximity of Buildings~~

~~(i) Separate buildings shall not be closer than 30 feet at their closest point.~~

F) Greenbelt (GB) District

1) Development Regulations

e) Setbacks

(i) There shall be a minimum of twenty (20) feet between any ~~structure~~ ~~gazebo~~ and the right-of-way of any street. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.

~~(vii)~~
~~(iii)~~ No ~~structure~~ ~~gazebo~~, including fences, walls, retaining walls and similar types of improvements, shall be located within ~~ten~~ ~~five~~ (105) feet of any side or rear lot line.

H) Commercial 1 (C1) District

1) Development Regulations

c) Building Height

(i) For all buildings, the maximum building height from the highest point on the building foundation line shall be 45 feet.

(ii) To achieve greater architectural variety, up to 25% of the rooflines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.

(iii) Steeples, or bell towers or similar buildings in this zone are exempt from height requirements.

~~(iv) Accessory buildings and improvements shall be subject to the setback to height ratio required for principle buildings.~~

d) Deviation From Building Height Requirements

(i) Upon written application and after public hearing, the Planning Board shall have the authority to grant a conditional use permit to allow deviation from the foregoing height limitations provided that the Board finds on the record presented that:

(1) the added height makes the building ~~or structure~~ more aesthetically attractive; and

(2) the added height does not unreasonably detract from the views of abutting properties.

(ii) This authority is granted to the Planning Board as an innovative land use control pursuant to RSA 674:16, II and RSA 674:21, II

e) Open Space – For all ~~uses~~ ~~buildings~~, the minimum open space shall be one-fifth (20%).

f) Setbacks

(i) There shall be a minimum of twenty (20) feet between any ~~structure~~ ~~building~~ and the right-of-way of any street. There shall be a five (5) foot setback between any off-street parking area and the right-of-way of any street. ~~Structures~~ ~~Buildings~~ shall not be closer than twenty (20) feet to the paved edge of any internal road. Exception: Signs and pedestrian amenities

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such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.

~~(ix)~~

- (ii)** No ~~structure~~principal building shall be located within twenty (20) feet of any side or rear~~other~~ lot line, ~~and no accessory building within six (6) feet of any other lot line.~~ Exceptions: 1. In cases where C1 property abuts LDR-property in the LDR District, there shall be no structure~~building~~ on C1 property within thirty-five (35) feet of the LDR District~~lot line.~~ 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet. (Note that Exception 3. will not be needed if Amendment No. 2 is approved. If Amendment No. 2 is approved the side and rear setback would then be 10 feet for all structures (except 20 from LDR). Exception 3. would be removed from Amendment No. 1.)

~~(x)~~

- (+)(iii)** There shall be a five (5) foot setback between any structure~~building~~ on C1 property and the lot line of land designated at the White Mountain National Forest.

~~g) Proximity of Buildings — Separate buildings shall be no closer than thirty (30) feet at their closest point.~~

I) Snow's Mountain Special Zoning Area (Snow's)

c) Building Height

- (i) The maximum building height from the highest point on the building foundation line shall be 45 feet.
- (ii) To achieve greater architectural variety, up to 25% of roof lines in a building may be one (1) story higher, provided that a corresponding percentage is one (1) story lower.

~~(iii) Accessory buildings and improvements shall be subject to the setback to height ratio required for principal buildings.~~

e) Setbacks

- (i)** There shall be a minimum of 25 feet between any structure~~building~~ and the right-of-way of any street, with the exception of Boulder Way, Stone Tower Lane, and West Branch Road (east of West Branch Bridge) where there shall be a minimum of 25 feet between any structure~~building~~ and the traveled way of any street. There shall also be a 5-foot setback between any off-street parking area and the right-of-way of any street. Exception: Signs and pedestrian amenities such as bike racks, bus shelters, park benches and the like may be located within these front setbacks provided a permit has been issued by the Selectboard or their designee.

~~(xi)~~

- (ii)** No ~~structure~~principal building shall be located within 20 feet of any other lot line, ~~and no accessory building within 6 feet of any other lot line.~~ Exceptions: 1. In cases where Snow's REC property abuts LDR-property in the LDR District, there shall be no structure~~building~~ on Snow's REC property within 35 feet of the LDR District~~REC lot line.~~ 2. The side and rear setback for fences, walls, retaining walls and similar types of improvement shall be 10 feet. 3. One unoccupied free-standing accessory building no larger than 150 sq. ft., no more than one story in height with a single gable roof, may be no closer to side and

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rear lot lines than 10 feet, unless abutting the LDR District in which case the setback shall be 35 feet.

~~(xii)~~

~~(iii)~~ There shall be a 5-foot setback between any structure~~building~~ and the lot line of land designated as the White Mountain National Forest.

~~f) Proximity of Buildings~~

~~(i) Separate buildings shall not be closer than 30 feet at their closest point.~~

J) Uses

USES	LDR	HDR	VC	C1	SC	REC	Snow ² s	GB	WMNF
7) ACCESSORY USES AND <u>STRUCTURES</u>BUILDINGS									
a) Any other <u>structure</u> building or use on the same site with the principal use, incidental and accessory thereto, and necessary for the operation of the principal use.	a	a	a	a	a	a	a	a	a

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Amendment No. 1 would change the following sections of Article V as shown:

Article V - Supplemental Regulations

A) Principal and Accessory Uses

2) Location - All accessory uses and ~~structures~~~~buildings~~ must comply with required setbacks as provided in Article IV.

3) Fences, Hedges, Walls - For the purpose of minimizing hazards at town or state road intersections by improving visibility for converging vehicles, no fence, hedge, wall or retaining wall over 36 inches above the adjacent street elevation shall be permitted to be placed, planted, or erected on any corner lot within the triangular portion of such lot measured from the point of intersection of the lot lines abutting the streets a distance of 30 feet along each such lot line. No barbed wire or electrically charged fence shall be erected or maintained. ~~Any fence, wall, retaining wall or similar type of improvement over 3 feet high shall be subject to a 10 foot setback and otherwise shall be subject to the setback to height ratio required for principal buildings.~~

P) Construction Site Clean-Up

All sites on which buildings or other structures are being constructed shall be maintained in the following manner:

- 1) The site must be kept in an orderly and slightly manner at all times.
- 2) A suitable container for solid waste must be on site at the start of structural construction. All employee food waste must be deposited in this container.
- 3) Storage of construction waste must be centralized and screened by appropriate means from public view and removed from the site on a weekly basis.

Q) Landscaping and Property Maintenance

- 1) From April 15 to November 1, substantial grading and landscaping must be completed around all ~~structures~~~~buildings~~ within ninety (90) days of the basic finish of the exterior of the ~~structure~~~~building~~.
- 2) For all ~~structures~~~~buildings~~ constructed or completed between November 1 and April 15, grading and landscaping must be completed no later than the next July 15.
- 3) All solid waste containers and exterior mechanical/electrical equipment must be screened.
- 4) All developments which make use of dumpsters for solid waste, must conform to specifications in the Manual of the Municipal Services Department (MSD).
- 5) The grounds and the exterior appearance of buildings and landscaping shall be maintained in conformance with the general standards of the community.
- 6) At least 20% of the area of each lot shall retain its existing plantings or be replanted with native species and/or species hardy to the local plant zone.

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Amendment No. 1 would change the title and introductory language for Article VI A) as shown:

Article VI - Non-Conforming Uses, ~~Structures~~Buildings and Signs

- A) Non-Conforming Uses – Any non-conforming use, building, ~~or~~ sign or other structure may continue in its present use and form, except that any non-conforming use, building, ~~or~~ sign or other structure may not undergo change in any of the following ways:
- 1) Building Alteration – Altered for use for a purpose or in a manner substantially different from the use to which it was put before alteration.
 - 2) Sign Alteration – Relocated, enlarged or altered in a manner which increases its degree of nonconformity.
 - 3) Change – Changed to another non-conforming use; or, once changed to a conforming use, revert to a non-conforming use.
 - 4) Re-Establishment – Re-established after use has been abandoned for one (1) year and/or a building for two (2) years, except to a use and building conforming to the district in which it is located.
 - 5) Increase – A building enlarged and the use extended or a use of land extended.
 - 6) Restoration – Rebuilt after damage exceeding 75 percent of its gross physical valuation as determined by the local assessors, except in accordance with this Ordinance.

Amendment No. 1 would change Article VII B) as shown:

Article VII - Administration and Enforcement

B) Permit Required - After passage of this Ordinance, it shall be unlawful to change the nature or extent of the use of any building or lot, erect and use any building, ~~or~~ sign or other structure, or alter any existing sign or the size of any building or other structure, or relocate any building or other structure in any district without first obtaining a permit from the Selectmen or their agent, but subject to the provisions of Article VII, A. above.

Amendment No. 1 would also change the punctuation of the following terms:

1. Throughout the Ordinance – change “two family” to “two-family”
2. Article V. C.2)a) – change “300 foot” to “300-foot”
3. Article III.C)84) – change “self supporting” to “self-supporting”
4. “Snows” to “Snow’s” throughout