

**TOWN OF CAVENDISH
MUNICIPAL ZONING ORDINANCE**

Designating Land and/or Property on Tierney Road Residential Use Only

WHEREAS, the Town of Cavendish has, by authority granted in 24 V.S.A. § 1971 et seq., 2246, 2291, and 24 V.S.A. § 1973 the power to adopt, amend, repeal and enforce zoning ordinances; hereby adopts the following:

NOW, THEREFORE, to protect the public health, safety and well-being, to promote the general welfare and aesthetics, abate public nuisances, endorse responsible use of land and resources while protecting the environment, and maintaining the quiet rural atmosphere of the Town as identified in the adopted and duly codified Cavendish Town Plan;

To prevent pollution of air, surface water, river, stream and tributary water, residential household drinking water sourced by underground wells from explosions, chemicals, smoke, dust, noxious fumes, and other such hazards and dangers associated with non-residential usage;

To control nuisance-producing uses of land, protect private and public property from flooding and accelerated erosion, preserve historic resources, protect wetlands, ecosystems, and conserve natural beauty and open space;

To affirm thirteen (13) pre-existing and legally binding deed restrictions and covenants which by state law prohibits and binds thirteen (13) pre-existing parcels of land and their lawful owners on Tierney Road from establishing for-profit commercial businesses on such parcels of lands and/or properties;

To reinforce these legally binding, pre-existing deed restrictions and covenants which were designed, created and mutually consented to in order to protect, preserve and promote responsible land use and ensure land and/or property on Tierney Road would be used in conformity with all above stated goals ensuring property values on Tierney Road would not be adversely impacted by the establishment of any for-profit commercial businesses;

To maintain and promote property values by preventing the harmful encroachment of incompatible land uses which adversely impact the character, fabric, natural resources, and environment, which would otherwise negatively impact such property values;

To safeguard and ensure the stable tax revenue derived and collected from all land and/or property owners on Tierney Road are maintained, and town tax revenue derived from such lands and/or properties are not irreparably harmed, diminished or negatively impacted in any capacity;

To safeguard and ensure tax revenues collected from all other land and/or property owners in Cavendish do not increase due to adversely impacted property values on Tierney Road; the Board of Selectmen hereby adopts this zoning ordinance designating all land and/or property on Tierney Road as "Residential Use Only" within the Town of Cavendish.

ARTICLE I. LAND AND/OR PROPERTY DEFINITION

Land and/or property shall be defined as any land, property, acreage, parcel, plot, tract (or fractional denomination thereof), that is directly addressed on Tierney Road. This shall be limited to any land and/or property specifically addressed on Tierney Road. This shall include any land and/or property accessed by or through any easements or right-of-way(s) connected by, to, land and/or property specifically addressed on Tierney Road. This ordinance does not pertain to any other land and/or property, road, street or public way in the Town of Cavendish.

ARTICLE II. RESIDENTIAL USE DEFINITION

Residential use shall be defined as any lawful purpose relating to ordinary domestic, domiciliary, habitation, or usage manifesting from such lawful activities inside or outside of any structures or abodes fit for human habitation; activities that facilitate such usage by lawful land and/or property owners who seek to occupy, inhabit and use their land and/or property for all lawful purposes they so chose so long as such usage is in compliance with all state laws and regulations governing land usage.

ARTICLE III. ENFORCEMENT AND PENALTIES

1. A violation of this ordinance shall be a civil matter enforced in the Vermont Judicial Bureau or in the Windsor County Superior Court, at the election of the Cavendish Board of Selectmen.
2. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of in 24 V.S.A. §§ 1971 et seq., 2246, and 2291. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. For purposes of enforcement in either the Judicial Bureau or Superior Court, a civil penalty of \$500 shall be imposed for violation of this order. Each day that the violation continues shall constitute a separate violation of this order.
3. A municipal ticket will be issued 10 days after written notification of violation is mailed or delivered by the Board of Selectmen, Town Manager and/or any agent of the Town of Cavendish if the violation has not been remedied in accordance with this order. Each day that the violation continues shall constitute a separate violation of this ordinance.

4. For purposes of enforcement in the Judicial Bureau, the Town Manager, Town Constable, Windsor County Sheriff, police officer, or other law enforcement official shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

ARTICLE IV.

AUTHORITY

The Town of Cavendish has, by authority granted in 24 V.S.A. § 1971 et seq., 2246, 2291, and 24 V.S.A. § 1973 the power to adopt, amend, repeal and enforce zoning ordinances. In addition, The Town of Cavendish has, by authority granted in the following:

24 App. V.S.A ch. 109, § 25: Ordinances: Any rule, ordinance, regulation, or by-law of the Town of Cavendish may apply to a limited area and not the the whole Town, notwithstanding that the ordinance, rule, or regulation might also have been applied to another area or areas within the Town;

24 App. V.S.A ch. 109, § 24: Powers, Structure, And Authority of the Town: The Town shall have the authority to exercise all powers relating to municipal affairs conferred and granted by law, including those implied powers necessary to effectuate and execute granted powers. Without limited any of its dully vested powers and authority, the Town of Cavendish may exercise those powers conferred by law;

24 App. V.S.A ch. 109, § 7: Existing ordinances; municipal maps; regulations: (a) The Town Plan, zoning regulations, subdivision regulations, and official maps of the Town of Cavendish and Village of Proctosville, as they exist or may exist, all as contemplated by the Vermont Planning and Development Act, shall become and be the Town Plan, zoning regulations, subdivision regulations and official maps of the Town of Cavendish, as merged.

ARTICLE VI.

SEVERABILITY

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such findings shall not invalidate any other part of this ordinance.

ARTICLE VII.

JURISDICTION

Under 24 V.S.A. § 1973 this ordinance shall become effective 44 days after its adoption by the Cavendish Board of Selectmen. If a petition for a vote on this order is filed under 24 V.S.A. § 1973, that statute shall govern.