



# **TOWN OF NEW HAMPTON, NH**

## **ZONING ORDINANCE**

**ADOPTED – MARCH 1986**  
**AMENDED – MARCH 1987**  
**AMENDED – MARCH 1990**  
**AMENDED – MARCH 1993**  
**AMENDED – MARCH 1994**  
**AMENDED – MARCH 1995**  
**AMENDED – MARCH 1998**  
**AMENDED – MARCH 1999**  
**AMENDED – MARCH 2001**  
**AMENDED – MARCH 2003**  
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**AMENDED – MARCH 2007**  
**AMENDED – MARCH 2008**  
**AMENDED – MARCH 2009**  
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**AMENDED – MARCH 2012**  
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**AMENDED – MARCH 2016**  
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**AMENDED – MARCH 2020**  
**AMENDED – MARCH 2021**

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**ADDENDUM - Town of New Hampton Zoning Map - Attached**

ARTICLE I PURPOSE AND AUTHORITY

In order to retain the natural beauty of New Hampton, to encourage the most appropriate use of land, to conserve its natural resources, to stabilize the value of land and buildings, to prevent overcrowding of land and undue concentrations of population and to facilitate the economical provision of future required utilities and facilities, the following Ordinance is enacted in accordance with the authority provided by Chapter 674, Sections 16 et. sec. New Hampshire Revised Statutes Annotated, as amended.

ARTICLE II TITLE

This Ordinance, comprising a text and a Zoning Map, shall be known and cited as the "Zoning Ordinance of the Town of New Hampton, New Hampshire".

ARTICLE III ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP

A. Districts

For the purpose of this Ordinance, the Town of New Hampton is divided into the following districts as shown on the Official Zoning Map:

- General Residential, Agricultural and Rural (GR)
- Business Industrial (BI)
- Mixed Use (MU)
- General Business (BC2 and BC3)
- Village (V)
- Flood Hazard (Special District)
- Pemigewasset Overlay District (PO)
- Lake Waukewan Watershed Overlay District

B. Zoning Map

The districts, as established, are shown on a map entitled "Town of New Hampton Zoning Map" and become a part of this Ordinance. The Zoning Map is on file with the New Hampton Planning Board.

C. District Boundaries

Where appropriate and unless otherwise indicated, zoning district boundaries shown on the Zoning Map are the centerlines of streets, railroads and powerline right-of-ways, the middle of the channel of waterways or other bodies of water, or the Town Line. Where a boundary is so indicated that it parallels the centerline of a street such boundary shall be considered to be parallel thereto at the distance therefrom shown on the Zoning Map.

Any boundary within 10 feet of a property line shall be considered to coincide with such property line. Where no distance is stated on the Zoning Map, the distance shall be determined by the use of the scale on the map. In any instance where there is doubt as to the location of a zoning district boundary, the Board of Adjustment shall determine the location of such boundary, consistent with the intent of the Ordinance and the Zoning Map.

The Pemigewasset Overlay District is comprised of that area of New Hampton, which lies within 500 feet of the normal high-water mark of the Pemigewasset River. As to that portion of the District, which lies north of the Ayers Island Dam, the elevation of the normal high water mark is deemed to be 453.33 feet above mean sea level.

Floodplain boundaries shall be considered as the floodplain soil areas shown in the US Soil Conservation Service's Soil Survey for New Hampton.



**ARTICLE IV DISTRICT REGULATIONS**

**A. General Residential, Agriculture and Rural District (GR)**

**1. District Description**

This District includes all property within the Town of New Hampton not otherwise specified within the other Districts outlined in this ordinance and as shown on the adopted Zoning Map.

**2. General Purpose and Characteristics**

The purpose of this District is to provide an area for residential use in a rural setting. Since public water and sewer services usually will not be available, the land should not have severe limitations for on-site sewage disposal and the lots should be of sufficient size to provide for septic tanks and drainage fields.

**3. District Property Uses**

**Table of Uses**

<b><u>USE</u></b>	<b><u>PERMITTED</u></b>	<b><u>CONDITIONAL USE</u></b>	<b><u>SPECIAL EXCEPTION</u></b>
Single-Family Dwelling	X		
Home Occupation or Professional Office	X		
General Farming & Agriculture	X		
Agritourism			X
Accessory Building incidental to the principal structure.	X		
Manufactured Homes <sup>1</sup>	X		
Yard/Garage Sales	X		
Accessory Dwelling Unit (ADU) See Article V(R)			X
Church			X
Public Use or Building			X
Hospital, Clinic or Nursing Home			X
Two-Family Dwelling			X
Multi-Family Dwelling			X
Cluster Development			X
Recreational Camping Parks <sup>2</sup>			X

**Table of Uses** – Cont.

<u>USE</u>	<u>PERMITTED</u>	<u>CONDITIONAL USE</u>	<u>SPECIAL EXCEPTION</u>
Bed & Breakfast/Tourist Home			X
Outdoor Education			X
<b><u>Notes:</u></b> <b>1</b> – Manufactured Homes: These homes must be stamped with HUD approval as defined in Title 24 – Housing and Urban Development Part 3280 Manufactured Home Construction and Safety Standards. <b>2</b> – Recreational Camping Parks: provided that all current sanitary laws and regulations are met as provided in State of New Hampshire, Division of Public Health Services, Sanitary Laws and Regulations, Recreational Camping Parks, Concord, NH, 1976, and subsequent revisions.			

4. Dimensional Standards

- i. Frontage: Every building lot shall have a minimum street frontage of 150 feet, except where 1 or 2 lots are served by a deeded private right-of-way of at least 50 feet in width or where said lots are located on curves, cul-de-sac or are affected by other such factors that sound planning justifies less frontage. In addition, every lot abutting the shore of a lake or pond or the shore or bed of any stream shall have a minimum water frontage of 150 feet for each dwelling unit that will utilize or be granted rights of use of the water frontage, measured as a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.
- ii. Front Setbacks: 35 Feet from any public or private road right-of-ways.
- iii. Side and Rear Setbacks: 20 Feet from the property line.
- iv. Minimum Land Area: See Article V, Section O.
- v. Maximum Lot Coverage: The development of any lot, including any building and/or impermeable area, shall not exceed 20 Percent of the lot.
- vi. Height Regulations: Maximum height of buildings shall be thirty-five (35) feet except for domestic radio and television antennas, silo, barns, church towers, water storage structures, chimneys or wind operated devices.

5. Special Exception:

Special Exception Uses listed above may be permitted by the Board of Adjustment, provided the following conditions have been met:

- i. The specific site is an appropriate location for such use.
- ii. There is adequate area for safe and sanitary sewage disposal.
- iii. The use will not adversely affect the adjacent area.
- iv. There will be no nuisance or hazard created.
- v. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- vi. The use will not impair the aesthetic values exhibited by the surrounding neighborhood.
- vii. The development of any lot, including any building and/or impermeable area, shall not exceed the Maximum Lot Coverage in the applicable zoning district.
- viii. Agritourism activity must not adversely affect adjacent properties, public roads, public sidewalks or have a negative impact on public safety. There must be adequate parking and other facilities to support the public traffic. There must not be a negative effect on soil or water resources.

**B. Business Industrial District (BI)**

1. District Description

This District, as shown on the adopted Zoning Map, begins 1,000 feet north of Route 104 on the western side of Route 132 North and extends northward along the western side of Route 132. The western border of the district is Interstate 93, and its northern border is the point where Interstate 93 crosses over Route 132.

2. General Purpose and Characteristics

The Business Industrial District is primarily intended for commercial and light industrial uses, which would benefit from the location in close proximity to an interchange of a State Highway and Interstate 93.

3. District Property Uses

**Table of Uses**

<b><u>USE</u></b>	<b><u>PERMITTED</u></b>	<b><u>CONDITIONAL USE</u></b>	<b><u>SPECIAL EXCEPTION</u></b>
Business	X		
Commercial	X		
Light Industrial	X		
Industrial Parks <sup>1</sup>			X
Increased height			X
<b>Notes:</b>			
<b>1 - Industrial Parks:</b> See Special Exception Setbacks, Lot Coverage and Buffer Strip rules in the Dimensional Standards section below.			

#### 4. Dimensional Standards

- i. **Frontage:** Every building lot shall have a minimum street frontage of 150 feet, except where 1 or 2 lots are served by a deeded private right-of-way of at least 50 feet in width or where said lots are located on curves, cul-de-sac or are affected by other such factors that sound planning justifies less frontage. In addition, every lot abutting the shore of a lake or pond or the shore or bed of any stream shall have a minimum water frontage of 150 feet for each dwelling unit that will utilize or be granted rights of use of the water frontage, measured as a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.
- ii. **Front Setback:**
  - a. Notwithstanding any other language in this Ordinance to the contrary, a 75-foot front setback from the right-of-way NH Route 132N shall apply to any such business, commercial or light industrial use. 50 feet of that 75-foot setback shall be in the form of a buffer to be maintained in perpetuity and comprised of native trees, shrubs, and herbs which will block the view of the use from the highway, as set forth in Article V, Section P.
  - b. Otherwise, the setback in the District shall be 35 feet from any other public or private road right-of-way.
- iii. **Side and Rear Setbacks:** There shall be a minimum distance of 50 feet between any building and side or rear lot line.
- iv. **Minimum Land Area:** See Article V, Section O.
- v. **Maximum Lot Coverage:** The development of any lot, including any building and/or impermeable area, shall not exceed 50 percent of the lot with the open area devoted to landscaping or natural growth.
- vi. **Height Regulations:** Maximum height of buildings shall be thirty-five (35) feet except for domestic radio and television antennas, silo, barns, church towers, water storage structures, chimneys or wind operated devices. The Board of Adjustment may issue a Special Exception to the height restrictions in the BI Zone for commercial and light industrial structures, not to exceed a height of forty-five (45) feet, if the following conditions have been met:
  - a. All front, side and rear yard setbacks are increased one foot for each additional foot of height;

- b. Fire and safety protection is adequately provided for;
- c. The additional height will not adversely affect the adjacent area;
- d. The specific site is an appropriate location for such use;
- e. There is adequate area for safe and sanitary sewage disposal;
- f. There will be no nuisance or hazard created;
- g. Adequate and appropriate facilities will be provided for the proper operation of the proposed use;
- h. The use will not impair the aesthetic values exhibited by the surrounding neighborhood; and
- i. The building, parking and/or driveway shall not exceed 50% of the lot.

5. Special Exception -

Special Exception Use may be permitted by the Board of Adjustment, provided the following conditions have been met:

- i. The specific site is an appropriate location for such use.
- ii. There is adequate area for safe and sanitary sewage disposal.
- iii. The use will not adversely affect the adjacent area.
- iv. There will be no nuisance or hazard created.
- v. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- vi. The use will not impair the aesthetic values exhibited by the surrounding neighborhood.
- vii. The development of any lot, including any building and/or impermeable area, shall not exceed the Maximum Lot Coverage in the applicable zoning district.

If a Special Exception is granted, Industrial Park structures may be erected as follows:

- a. Front, Side and Rear Lot Line Setback - There shall be a minimum distance between any building and the edge of any public highway, street or roadway right-of-way and of any abutting boundary lot line on which the building is located of one hundred (100) feet.
- b. Lot Coverage - The building coverage of any lot, including parking and

driveway area, shall not exceed 50 percent of the lot with the open area devoted to landscaping or natural growth.

- c. Buffer Strips - A 50-foot natural vegetative buffer of conifers or evergreen trees, shall be maintained in perpetuity along all boundaries and public roadways, measured from the right-of-way, to provide adequate screening. This buffer strip shall not be built upon nor paved nor used for parking.

## C. Mixed Use District (MU)

### 1. District Boundaries

The Mixed Use District, as shown on the adopted Zoning Map, begins at Exit 23 off Interstate 93 and extends in an easterly direction on the south side of Route 104 to Drake Road. It extends along the north side of Route 104 to the western entrance to Town House Road. The depth of the District from Route 104 is 1,000 feet on its north side and 1,800 feet on the south side of Route 104.

### 2. General Purpose and District Characteristics

Recommendations of the Master Plan for the Town of New Hampton, intended to guide growth while preserving a rural, small town character, include the establishment of a Mixed Use District with single and multi-family housing and commercial establishments on a traditional village scale, which will foster pedestrian use, promote safe traffic patterns, reduce curb cuts, and encourage shared parking and driveways wherever feasible and prudent. Within the Mixed Use District a principle structure may, itself, be mixed use. For example, a residential apartment(s) may be located on the floor above a commercial establishment. The purpose of this district is to allow increased density in a limited area and at the same time reflect a more acute understanding of the area's unique geography. Provisions for frontage or secondary access roads are required in this District to better serve the community concern for preserving scenic view sheds and an attractive rural character along Route 104 while still providing a workable venue for mixed use growth in close proximity to an interchange of a state highway and Interstate 93.

3. District Property Uses

**Table of Uses**

USE				MIXED USE WITHIN STRUCTURE Residential Use Mixed with Non-Residential Uses	
				<u>PERMITTED</u>	<u>SPECIAL EXCEPTION</u>
	<u>PERMITTED</u>	<u>CONDITIONAL USE</u> <sup>1</sup>	<u>SPECIAL EXCEPTION</u>		
Single-Family Dwelling	X				
Two-Family Dwelling	X				
Multi-Family Dwelling	X				
Accessory Dwelling Unit (ADU) See Article V(R)			X		
Cluster Development		X			X
Professional and Business Offices – excluding drive-through facilities	X			X	
Banks and Financial Offices – excluding drive-through facilities	X			X	
Commercial Service and Repair Facilities – excluding drive through facilities	X				X
Commercial Retail, Wholesale and Rental Trades	X				X
Agriculture I (see Art.IV, Section C(5))	X				X
Agritourism			X		
Accessory Building incidental to the principal structure	X				X
Home Occupations	X				X
Bed & Breakfast Houses, Hotels, Motels/Inns	X				
Restaurants – excluding drive-through facilities	X				
Medical Facilities	X				
Educational Institutions or Daycare facilities	X				
Professional and Business Offices, Banks and Financial Offices, Commercial Service and Repair Facilities and Restaurants - with drive-through facilities				X	X

**Table of Uses** (Cont.)

USE				MIXED USE WITHIN STRUCTURE Residential Use Mixed with Non-Residential Uses	
				<u>PERMITTED</u>	<u>SPECIAL EXCEPTION</u>
	<u>PERMITTED</u>	<u>CONDITIONAL USE</u> <sup>1</sup>	<u>SPECIAL EXCEPTION</u>		
Uses Exceeding 50,000 sq. ft. of disturbed area <sup>1</sup>		X			
Decrease in the required number of parking spaces		X			

**Notes:**

**1 - Conditional Use:** This designation is meant to provide flexibility, minimize adverse impacts and allow the Planning Board to participate jointly with the applicant in preparing a development proposal that is consistent with this Ordinance, Site Plan Review regulations, and the Master Plan. It is required there be a preliminary meeting with the Planning Board for guidance on the design of the proposed plan. See Article V, Section N for guidelines.

4. Dimensional Standards

- i. Frontage: Every building lot shall have a minimum street frontage of 150 feet from the Route 104 right of way, except where 1 or 2 lots are served by a deeded private right-of-way of at least 50 feet in width or where said lots are located on curves, cul-de-sac or are affected by other such factors that sound planning justifies less frontage. In addition, every lot abutting the shore of a lake or pond or the shore or bed of any stream shall have a minimum water frontage of 150 feet, measured as a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.
- ii. Front Setback:
  - a. Notwithstanding any other language in this Ordinance to the contrary, a 75 foot front setback from the right-of-way of Route 104 shall apply to any such business, commercial purposes. 50 feet of that 75 foot setback shall be in the form of a buffer maintained in perpetuity and comprised of native trees, shrubs, and herbs which will block the view of the use from the highway, as set forth in Article V, Section P.
  - b. Otherwise, the setback in the district shall be 35 feet from any other public or private road right-of-way. Provisions shall be made for frontage or shared service roads to maximize access management.



- iii. Side and Rear Lot Line Setback: There shall be a minimum distance of 25 feet between any building and side lot line; and 35 feet from the rear lot line. There shall be a 50 foot buffer zone, maintained in perpetuity, between any building or pavement abutting residential property in an adjacent zoning district of undisturbed native vegetation. Where existing vegetation in the buffer zone is not sufficient to meet the intent as a buffer for residential abutters, the Planning Board may require supplemental planting of native vegetation.
- iv. Minimum Land Area: See Article V, Section O.
- v. Maximum Lot Coverage: The development of any lot, including any building and/or impermeable area, shall not exceed 50% of the lot with the open area devoted to landscaping or natural growth, however, the maximum lot disturbance for parking, building and storm water treatment shall not exceed 50,000 square feet except as approved by Conditional Use by the Planning Board. The outdoor display or storage of any commercial product will be considered an element of lot development, and shall not exceed 25% of the remainder, to a maximum of 5,000 square feet, of the available developable lot coverage, after deducting the coverage by buildings, driveway and required parking.

**Examples**

**1 Acre = 43,560 sq'**

**assume 15,000 sq' for buildings, parking & driveway (5,000 + 5,000 [25\*200] + 5,000)**

<i>1 acre lot</i>	<i>2 acre lot</i>	<i>3+acre lot</i>
<i>(43,560 sq ft)</i>	<i>(87,120 sq ft)</i>	<i>(130,680 sq ft)</i>
<b>50% rule</b>	<b>50% rule</b>	<b>50% = 65,340 &gt; 50,000...50K rule</b>
<b>21,780 sq' available</b>	<b>43,560 sq' available</b>	<b>50,000 sq' available</b>
<b>-15,000 sq'</b>	<b>-15,000 sq'</b>	<b>-15,000 sq'</b>
<b>remainder 6,780 sq'</b>	<b>remainder 28,560 sq'</b>	<b>remainder 35,000 sq'</b>
<b>25% = 1,695 sq'</b>	<b>25% = 7,140 sq' &gt; 5,000</b>	<b>25% = 8,750 sq' &gt; 5,000</b>
<b>limited to 1,695 sq'</b>	<b>limited to 5,000 sq'</b>	<b>limited to 5,000 sq'</b>

- i. Height Regulations: Maximum height of buildings shall be thirty-five (35) feet except for domestic radio and television antennas, silo, barns, church towers, water storage structures, chimneys or wind operated devices.
- ii. Outdoor Areas:
  - a. Use of outdoor areas for product display shall be limited to the display of plants, trees, shrubs and landscape material.
  - b. Outdoor uses of space for display of products, other than as defined in (a) above, shall require a Conditional Use permit issued by the Planning Board.
  - c. Any use of outdoor areas for product display shall also be in accordance with the Maximum Lot Coverage ordinance.

5. Agricultural [1] -

- i. The following agricultural activities are prohibited in the Mixed Use District
  - a. The commercial breeding, boarding, raising, and sale, or trade, of horses and/or livestock, of more than 25 animals at one time, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk, fallow deer, red deer, and reindeer.
  - b. The raising, harvesting, and sale, or trade, of fresh water fish or other aquaculture products.
  - c. The commercial raising, breeding, or sale, or trade, of poultry or game birds of more than 25 at one time.
    - 1) Roosters are not permitted in the District
  - d. The raising of bees within 50 feet of any property boundary.
  - e. The raising, breeding, or sale, or trade, of domesticated strains of fur-bearing animals.
- ii. The following agricultural activities are permitted in the Mixed Use District
  - a. The production, cultivation, growing, harvesting for sale, or trade, of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.
  - b. The commercial sale of any agricultural, floricultural, viticultural, or horticultural crops including, but not limited to, mulch, loam, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, trees and tree products.
- iii. Adhere to Best Practices for management of manure as published by New Hampshire Department of Agriculture and Food & Markets: "Manual of Best Management Practices (BMPs)"

6. Special Exception -

Special Exception Use may be permitted by the Board of Adjustment, provided the following conditions have been met:

- i. The specific site is an appropriate location for such use.

- ii. There is adequate area for safe and sanitary sewage disposal.
- iii. The use will not adversely affect the adjacent area.
- iv. There will be no nuisance or hazard created.
- v. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- vi. The use will not impair the aesthetic values exhibited by the surrounding neighborhood.
- vii. The development of any lot, including any building and/or impermeable area, shall not exceed the Maximum Lot Coverage in the applicable zoning district.
- viii. Agritourism activity must not adversely affect adjacent properties, public roads, public sidewalks or have a negative impact on public safety. There must be adequate parking and other facilities to support the public traffic. There must not be a negative effect on soil or water resources.

D. Business Commercial District (BC-2)

1. District Description

This District begins, as shown on the adopted Zoning Map, on Route 104 at Drake Road and extends 1,000 feet in depth along the southern side of Route 104, east to the Kelley-Drake Farm Conservation Area.

2. General Purpose and District Characteristics

This district is delineated to better address traffic safety concerns unique to this commercial area along Route 104. It is intended to guide growth in a manner sensitive to historical assets in the Old Institution vicinity and the Old Brick School House. Provisions for frontage or secondary access roads are required in this District to better serve the community concern for access management and for preserving scenic view sheds and an attractive rural character along Route 104.

3. District Property Uses

**Table of Uses**

<b><u>USE</u></b>	<b><u>PERMITTED</u></b>	<b><u>CONDITIONAL USE<sup>1</sup></u></b>	<b><u>SPECIAL EXCEPTION</u></b>
Single-Family Dwelling	X		
Two-Family Dwelling			X
Multi-Family Dwelling			X
Cluster Development			X
Accessory Dwelling Unit (ADU) See Article V(R)			X
Professional and Business Offices			X
Banks and Financial Offices			X
Commercial Service and Repair Facilities excluding drive through			X
Commercial Retail, Wholesale and Rental Trades			X
General Farming or Agriculture	X		
Agritourism			X
Accessory Building incidental to the principal structure	X		
Home Occupations	X		
Restaurants			X
Medical Facilities			X
Educational Institutions or Daycare facilities			X
Uses Exceeding 50,000 sq. ft. of disturbed area.		X	
Decrease in the required number of parking spaces		X	

***Notes:***

**1 - Conditional Use:** This designation is meant to provide flexibility, minimize adverse impacts and allow the Planning Board to participate jointly with the applicant in preparing a development proposal that is consistent with this Ordinance, Site Plan Review regulations, and the Master Plan. It is required there be a preliminary meeting with the Planning Board for guidance on the design of the proposed plan. See Article V, Section N for guidelines.

#### 4. Dimensional Standards

- i. Frontage: Every building lot shall have a minimum street frontage of 150 feet from the Route 104 right of way, except where 1 or 2 lots are served by a deeded private right-of-way of at least 50 feet in width or where said lots are located on curves, cul-de-sac or are affected by other such factors that sound planning justifies less frontage. In addition, every lot abutting the shore of a lake or pond or the shore or bed of any stream shall have a minimum water frontage of 150 feet, measured as a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.
- ii. Front Setback:
  - a. Notwithstanding any other language in this Ordinance to the contrary, a 75 foot front setback from the right-of-way of Route 104 shall apply to any such business, commercial purposes. Fifty (50) feet of that 75 foot setback shall be in the form of a buffer, maintained in perpetuity, comprised of native trees, shrubs, and herbs which will block the view of the use from the highway, as set forth in Article V, Section P.
  - b. Otherwise, the setback in the district shall be 35 feet from any other public or private road right-of-way. Provisions shall be made for frontage or shared service roads to maximize access management.
- iii. Side and Rear Lot Line Setback: There shall be a minimum distance of 25 feet between any building and side lot line; and 35 feet from the rear lot line. There shall be a 50 foot buffer zone, maintained in perpetuity, between any building or pavement abutting residential property in an adjacent zoning district of undisturbed native vegetation. Where existing vegetation in the buffer zone is not sufficient to meet the intent as a buffer for residential abutters, the Planning Board may require supplemental planting of native vegetation.
- iv. Minimum Land Area: See Article V, Section O.
- v. Maximum Lot Coverage: The development of any lot, including any building and/or impermeable area, shall not exceed 40% of the lot with the open area devoted to landscaping or natural growth, however, the maximum lot disturbance for parking, building and storm water treatment shall not exceed 50,000 square feet except as approved by Conditional use by the Planning Board. The outdoor display or storage of any commercial product will be considered an element of lot development, and shall not exceed 25% of the remainder, to a maximum of 5,000 square feet, of the available developable lot coverage, after deducting the coverage by buildings, driveway and required parking. (*see Examples on next page*)

**Examples**

**1 Acre = 43,560 sq'**

**assume 15,000 sq' for buildings, parking & driveway (5,000 + 5,000 [25\*200] + 5,000)**

**1 acre lot**

**(43,560 sq ft)**

**40% rule**

**17,424 sq' available**

**-15,000 sq'**

**remainder 2,424 sq'**

**25% = 606 sq'**

**limited to 606 sq'**

**2 acre lot**

**(87,120 sq ft)**

**40% rule**

**34,848 sq' available**

**-15,000 sq'**

**remainder 19,848 sq'**

**25% = 4,962 sq'**

**limited to 4,962 sq'**

**3+acre lot**

**(130,680 sq ft)**

**40% = 52,272 > 50,000...50K rule**

**50,000 sq' available**

**-15,000 sq'**

**remainder 35,000 sq'**

**25% = 8,750 sq' > 5,000**

**limited to 5,000 sq'**

vi. Height Regulations: Maximum height of buildings shall be thirty-five (35) feet except for domestic radio and television antennas, silo, barns, church towers, water storage structures, chimneys or wind operated devices.

vii. Outdoor Areas:

- a. Use of outdoor areas for product display shall be limited to the display of plants, trees, shrubs and landscape material.
- b. Outdoor uses of space for display of products, other than as defined in (a) above, shall require a Conditional Use permit issued by the Planning Board.
- c. Any use of outdoor areas for product display shall also be in accordance with the Maximum Lot Coverage ordinance.

5. Special Exception:

Special Exception Use may be permitted by the Board of Adjustment, provided the following conditions have been met:

- i. The preliminary site plan is reasonable for the location.
- ii. The site is able to provide for safe and sanitary sewage disposal.
- iii. The proposed use will not adversely affect the adjacent area.
- iv. There will be no nuisance or hazard created.
- v. Suitable facilities for the proper operation of the use will be provided.
- vi. The appearance of the proposed use is consistent with the desired appearance and character of the Town as described in the Master Plan and Town of New Hampton Zoning Ordinance.
- vii. The development of any lot, including any building and/or impermeable area, shall not exceed the Maximum Lot Coverage in the applicable zoning district.
- viii. Agritourism activity must not adversely affect adjacent properties, public roads, public sidewalks or have a negative impact on public safety. There

must be adequate parking and other facilities to support the public traffic. There must not be a negative effect on soil or water resources.

- ix. The applicant shall present a preliminary traffic study reviewed with New Hampshire DOT for driveway permits or entrances and exits onto the state highway or an approved driveway permit granted by the appropriate town officials if the state highway is not concerned.

E. Business Commercial District (BC-3)

1. District Description:

This District, as shown on the adopted Zoning Map, is on the north side of Route 104 and begins at the eastern most entrance to Town House Road, extends 1,000 feet in depth from Route 104, and proceeds east to the Meredith Town Line. The District does not include the 50 foot buffer around the Kelley Pond outlet and adjacent wetlands.

2. General Purpose and District Characteristics:

As directed in the Town's Master Plan, this District is delineated to sensitively guide growth along the Town's eastern gateway on Route 104. The area is marked by numerous wetlands, Pemigewasset Lake, and conservation lands. Provisions for frontage or secondary access roads are required in this District to better serve the community concern for access management, and for preserving scenic view sheds and an attractive rural character along Route 104.

3. District Property Uses

**Table of Uses**

<b><u>USE</u></b>	<b><u>PERMITTED</u></b>	<b><u>CONDITIONAL USE<sup>1</sup></u></b>	<b><u>SPECIAL EXCEPTION</u></b>
Single-Family Dwelling	X		
Two-Family Dwelling			X
Multi-Family Dwelling			X
Accessory Dwelling Unit (ADU) See Article V(R)			X
Cluster Development			X
Professional and Business Offices	X		
Banks and Financial Offices	X		
General Farming or Agriculture	X		
Agritourism			X
Accessory Building incidental to the principal structure	X		

**Table of Uses** (Cont.)

<u>USE</u>	<u>PERMITTED</u>	<u>CONDITIONAL USE<sup>1</sup></u>	<u>SPECIAL EXCEPTION</u>
Home Occupations	X		
Medical Facilities	X		
Educational Institutions or Daycare facilities	X		
Uses Exceeding 50,000 sq. ft. of disturbed area.		X	
Decrease in the required number of parking spaces		X	
<b>Notes:</b>			
<p><b>1 - Conditional Use:</b> This designation is meant to provide flexibility, minimize adverse impacts and allow the Planning Board to participate jointly with the applicant in preparing a development proposal that is consistent with this Ordinance, Site Plan Review regulations, and the Master Plan. It is required there be a preliminary meeting with the Planning Board for guidance on the design of the proposed plan. See Article V, Section N for guidelines.</p>			

4. Dimensional Standards

- i. Frontage: Every building lot shall have a minimum street frontage of 150 feet from the Route 104 right of way, except where 1 or 2 lots are served by a deeded private right-of-way of at least 50 feet in width or where said lots are located on curves, cul-de-sac or are affected by other such factors that sound planning justifies less frontage. In addition, every lot abutting the shore of a lake or pond or the shore or bed of any stream shall have a minimum water frontage of 150 feet, measured as a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.
- ii. Front Setback -
  - a. Notwithstanding any other language in this Ordinance to the contrary, a 100 foot front setback from the right-of-way of Route 104 shall apply to any such business, commercial purposes in the Mixed Use District. 50 feet of that 100 foot setback shall be in the form of a buffer, maintained in perpetuity and comprised of native trees, shrubs, and herbs which will block the view of the use from the highway, as set forth in Article V, Section P.
  - b. Otherwise, the setback in the district shall be 35 feet from any other public or private road right-of-way. Provisions shall be made for frontage or



shared service roads to maximize access management.

- iii. Side and Rear Lot Line Setback: There shall be a minimum distance of 25 feet between any building and side lot line; and 35 feet from the rear lot line. There shall be a 50 foot buffer zone, maintained in perpetuity, between any building or pavement abutting residential property in an adjacent zoning district of undisturbed native vegetation. Where existing vegetation in the buffer zone is not sufficient to meet the intent as a buffer for residential abutters, the Planning Board may require supplemental planting of native vegetation.
- iv. Minimum Land Area: See Article V, Section O.
- v. Maximum Lot Coverage: The development of any lot, including any building and/or impermeable area, shall not exceed 30% of the lot with the open area devoted to landscaping or natural growth, however, the maximum lot disturbance for parking, building and storm water treatment shall not exceed 50,000 square feet except as approved by Conditional use by the Planning Board. The outdoor display or storage of any commercial product will be considered an element of lot development, and shall not exceed 25% of the remainder, to a maximum of 5,000 square feet, of the available developable lot coverage, after deducting the coverage by buildings, driveway and required parking.

**Examples**

**1 Acre = 43,560 sq'**

**assume 15,000 sq' for buildings, parking & driveway (5,000 + 5,000 [25\*200] + 5,000)**

<i>1 acre lot</i> <i>(43,560 sq ft)</i>	<i>2 acre lot</i> <i>(87,120 sq ft)</i>	<i>3+acre lot</i> <i>(130,680 sq ft)</i>
<i>30% rule</i>	<i>30% rule</i>	<i>30% = 39,204 &gt; 50,000...50K rule</i>
<i>13,068 sq' available</i>	<i>26,136 sq' available</i>	<i>50,000 sq' available</i>
<i>-15,000 sq'</i>	<i>-15,000 sq'</i>	<i>-15,000 sq'</i>
<i>remainder 0 sq'</i>	<i>remainder 11,136 sq'</i>	<i>remainder 24,204 sq'</i>
<i>25% = 0 sq'</i>	<i>25% = 2,784 sq'</i>	<i>25% = 6,051 sq' &gt; 5,000</i>
<i>limited to 0 sq'</i>	<i>limited to 2,784 sq'</i>	<i>limited to 5,000 sq'</i>

- vi. Height Regulations: Maximum height of buildings shall be thirty-five (35) feet except for domestic radio and television antennas, silo, barns, church towers, water storage structures, chimneys or wind operated devices.
- vii. Outdoor Areas:
  - a. Use of outdoor areas for product display shall be limited to the display of plants, trees, shrubs and landscape material.
  - b. Outdoor uses of space for display of products, other than as defined in (a) above, shall require a Conditional Use permit issued by the Planning Board.
  - c. Any use of outdoor areas for product display shall also be in accordance with the Maximum Lot Coverage ordinance.

5. Special Exception:

A Special Exception Use may be permitted by the Board of Adjustment, provided the following conditions have been met:

- v. The specific site is an appropriate location for such use.
- vi. There is adequate area for safe and sanitary sewage disposal.
- vii. The use will not adversely affect the adjacent area.
- viii. There will be no nuisance or hazard created.
- ix. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- x. The use will not impair the aesthetic values exhibited by the surrounding neighborhood.
- xi. The development of any lot, including any building and/or impermeable area, shall not exceed the Maximum Lot Coverage in the applicable zoning district.
- xii. Agritourism activity must not adversely affect adjacent properties, public roads, public sidewalks or have a negative impact on public safety. There must be adequate parking and other facilities to support the public traffic.
- xiii. There must not be a negative effect on soil or water resources.

F. Village District (V)

The New Hampton Village District consists of one General Residential and Educational District with certain exceptions for commercial areas as shown on the original Village Precinct Zoning Map dated February 1973, adopted by the Village Precinct May 31, 1973, and filed with in the Belknap County Registry of Deeds July 10, 1973, Book 30, page 3142 and on the New Hampton Zoning Map.

1. General Purpose and Village Characteristics

This village area consists of primarily private residences, public buildings and a private Boarding School and its facilities for housing the students and faculty. These areas consist primarily of those already serviced by existing water and/or sewer.

2. Permitted Uses

- i. Single-family detached dwelling
- ii. Public & Private Schools
- iii. Home Occupations
- iv. Fire, Police and Emergency Services
- v. Medical and Professional Offices
- vi. Bed & Breakfast Home

2. Permitted Uses (cont.)

- vii. Housing for the Elderly
- viii. Churches
- ix. Yard Sales
- x. Agricultural Uses (only as described in Article IV, Section F(6)vi)

Special Exceptions

- i. Multi-family dwelling
- ii. Nursing & Convalescent Home
- iii. Public Buildings
- iv. Grocery Store
- v. Two-family dwelling
- vi. Inn
- vii. Agritourism
- viii. Accessory Dwelling Unit (ADU) See Article V(R)

Special Exception Uses listed above may be permitted by the Board of Adjustment, provided the following conditions have been met:

- i. The specific site is an appropriate location for such use.
- ii. There is adequate area for safe and sanitary sewage disposal.
- iii. The use will not adversely affect the adjacent area.
- iv. There will be no nuisance or hazard created.
- v. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- vi. The use will not impair the aesthetic values exhibited by the surrounding neighborhood.
- vii. The building, parking and/or driveway shall not exceed 50% of the lot.
- viii. Agritourism activity must not adversely affect adjacent properties, public roads, public sidewalks or have a negative impact on public safety. There must be adequate parking and other facilities to support the public traffic. There must not be a negative effect on soil or water resources.

3. Setback and Height Restrictions

Front Setback	30 ft.
Side Setback	15 ft.
Rear Setback	50 ft.
Maximum Height	35 ft.

4. Frontage Requirements

- i. Sites with Precinct water AND Precinct sewer 125 ft.
- ii. Sites with Precinct water OR Precinct sewer 175 ft.
- iii. Sites with on-site water and on-site septic systems 175 ft.

5. Minimum Lot Size

With due consideration to land that lacks New Hampton Precinct water supply and sewage disposal systems and given the prevailing subsoil conditions of the land area of the Town of New Hampton, the minimum lot size shall be one acre (43,560 sq. ft.) per dwelling unit with the exceptions as stated below. Where particular conditions such as subsoil content, slope of terrain, proximity to public and/or running waterways, the aforementioned minimum lot size shall be increased to meet the requirements of the table of soil and slope factors included in the New Hampton Subdivision Regulations.

Exceptions:

- i. Sites with Precinct water AND Precinct sewer 25,000 sf.
- ii. Sites with Precinct sewer 30,000 sf.

6. General Provisions

Any proposed change in use or expansion of use of property other than single family for nonresidential uses or multi-family dwelling units, necessitates a site plan review by the Planning Board to assure compliance with the Regulations.

- i) Any building and/or structure damaged by fire, wind or other causes shall be removed completely or shall be repaired within one year. Any removal shall include removal of all debris and the filling of all excavations to ground level.
- ii) No more than one disabled or unregistered motor vehicle shall be visible from any side of the property. Said vehicles shall be repaired or properly stored away from view or removed from the property to a proper site within 12 months.
- iii) All buildings, structures, and uses in the District herein set forth, shall comply in all respects with all applicable building codes, including plumbing and electrical codes.
- iv) Home Occupations: Any home occupation shall be permitted as an accessory use, and shall be subject to the provisions in Article V, General Provisions, Section C Home Occupations/ Professional Office.
- v) Agricultural Uses
  - 1. The following agricultural activities are prohibited in the Village Precinct District:

- a. The breeding, boarding, raising, and sale, or trade, of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk, fallow deer, red deer, and reindeer.
  - b. The breeding, boarding, raising, training, riding instruction, and sale, or trade, of horses.
  - c. The raising, harvesting, and sale, or trade, of fresh water fish or other aquaculture products.
  - d. The commercial raising, breeding, or sale, or trade, of poultry or game birds.
    - 1) Roosters are not permitted in the District
  - e. The raising of bees.
  - f. The raising, breeding, or sale, or trade, of domesticated strains of fur-bearing animals.
  - g. The commercial production of greenhouse crops.
  - h. The production, cultivation, growing, harvesting for sale, or trade, of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.
2. The following agricultural activities are permitted for personal use in the Village Precinct District:
- a. The keeping of poultry for egg production for personal consumption.
    - 1) A maximum of 12 poultry per lot.
    - 2) Adhere to Best Practices for management of manure as published by New Hampshire Department of Agriculture and Food & Markets: “Manual of Best Management Practices (BMPs) for Agriculture.”
  - b. The growing of greenhouse crops.
  - c. The cultivation, growing, harvesting of any agricultural, floricultural, viticultural, or horticultural crops including, but not limited to, berries, herbs, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, trees and tree products.
  - d. All structures erected to be used in the pursuit of agricultural activities and raising of poultry shall be sited in the rear of the property;
    - 1) All structures erected to be used to house poultry shall be built above ground.
    - 2) All structures erected to be used to house poultry shall be situated on the property in a manner designed to avoid or minimize the spillage of noise, odors and other nuisances onto neighboring properties;
    - 3) All structures erected to be used in the pursuit of agricultural activities shall adhere to Section 3, (Setback and Height Requirements) of the New Hampton Zoning Ordinance.

7. Signs

See ARTICLE V, Section E (6)iii.

8. General Parking Requirements

See ARTICLE V, Section B.

9. Nonconforming Uses

- i) Any nonconforming use may continue in its present use except that any nonconforming use or building may not be:
  - a) changed to another nonconforming use;
  - b) re-established after discontinuance for one year except to a conforming use;
  - c) any change in use necessitates a review to assure compliance with regulations.

G. Flood Hazard District (Special District)

This District is intended to assure that development within the designated flood hazard area shall occur in such a manner as to minimize the danger to life and property from flooding and to minimize the potential for future flooding.

1. District Boundaries:

Definition of Flood Hazard: Those areas subject to periodic flooding and delineated as alluvial soils by the USDA Natural Resources Conservation Service in the most current Soil Survey of Belknap County, N.H.

2. Establishment of District

The limits of the Flood Hazard District are hereby determined to be areas subject to frequent periodic flooding and include all such areas as defined in Part 1 of this Section, and any additional areas delineated as Flood Hazard on the revised Flood Hazard Boundary Map for the Town of New Hampton, dated April 2, 1986, and located at the Selectmen's Office (Refer to Floodplain Ordinance).

3. Flood Hazard Incorrectly Delineated

Where it is determined that an area has been incorrectly delineated as a flood hazard or that an area not so designated was subsequently found to meet the criteria for flood hazard designation, the Planning Board shall determine whether the regulations contained herein have application. The Planning Board shall make their judgment under this section upon the determination by a qualified professional engineer on the basis of additional on-site investigation or other suitable research that the information contained on the Flood Hazard map is incorrect. Any evidence presented shall be acceptable only when presented in written form to the municipality and

stamped by a professional engineer.

#### 4. Relation to Districts

Where the Flood Hazard District is superimposed over another zoning district, the more restrictive regulations shall apply.

#### 5. Permitted Uses

The following open space uses shall be permitted within the Flood Hazard District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

- i. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- ii. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, snowmobiling and cross-country skiing.
- iii. Residential accessory uses such as lawns, gardens, parking areas and play areas.

#### 6. Special Exceptions in the Flood Hazard Area

- i. All uses other than those specified in Section G are permitted only with application to and approval by the Board of Adjustment.
- ii. Special Exception uses are allowed only if they comply with the provisions of this Section, Section G, other standards established in this Ordinance and any conditions attached by the Board of Adjustment to the issuance of any Special Exception permit.
- iii. Special Exception uses which may be permitted are:
  - a. Uses or structures accessory to open space or Special Exception Uses.
  - b. Fairgrounds and similar transient amusement enterprises.
  - c. Extraction of sand, gravel and other materials.

- d. Marinas, boat rentals, docks, piers, wharves.
  - e. Railroads, streets, bridges, utility transmission lines and pipelines.
  - f. Agritourism activity must not adversely affect adjacent properties, public roads, public sidewalks or have a negative impact on public safety. There must be adequate parking and other facilities to support the public traffic. There must not be a negative effect on soil or water resources.
- iv. Any fill or materials proposed to be deposited in the Flood Hazard area will be allowed only upon issuance of a Special Exception and a permit from the appropriate Federal and State Agencies. The fill or materials must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
- v. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulkheading.
- vi. Structures (temporary or permanent) accessory to Special Exceptions permitted in 6-c above shall be regulated as follows:
- a. Structures shall not be designed for human habitation.
  - b. Structures shall have a low flood damage potential.
  - c. The structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters and that will minimize flood damage.
    - 1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
    - 2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
  - d. Structures shall be firmly anchored to prevent floatation, collapse or lateral movement of the structure.
  - e. Use construction materials and utility equipment that are resistant to flood damage.
  - f. Service facilities such as electrical and heating equipment shall ordinarily



be constructed at or above the regulatory flood protection elevation for the particular area (if one exists).

#### H. Pemigewasset Overlay District (PO)

The purpose of this district is to provide protection for the environmentally sensitive corridor along the Pemigewasset River.

##### 1. Permitted Uses

Residential uses except as listed below in IV-H-2.

##### 2. Prohibited Uses

- i. Mobile home parks
- ii. Junkyards
- iii. Earth Excavation when a permit issued under RSA 155-a is required.
- iv. Diversion of the river.

##### 3. Dimensional Requirements

- i. **Minimum Lot Size:** See Article V, Section O for all uses except as specified below; no construction is permitted on slopes in excess of 15%.
- ii. **Frontage:** Each lot must have minimum frontage of 200 feet along the Pemigewasset River, and a minimum frontage of 150 feet along the road.
- iii. **Building Height:** a maximum of 35 feet height above grade shall be permitted.
- iv. **Funnel Development:** Each lot must have minimum frontage of 200 feet along the Pemigewasset River for the first dwelling unit and an additional 20 feet of frontage along the River for each additional dwelling unit.
- v. **Structure setback:** Structures, except septic systems, shall be set back a minimum of 200 feet horizontal distance from the normal high water mark of the Pemigewasset River.
- vi. **Front Setback:** 35 feet from public and private road right-of-ways.
- vii. **Side and Rear Setbacks:** 20 feet from the property line, with the exception of the river setback as stated above in subparagraph v.
- viii. **Septic system setback:** Septic systems shall be set back a minimum of 125 feet horizontal distance from the normal high water mark of the Pemigewasset River.

- ix. Lot size and buffer for campgrounds: A minimum area of 5 acres is required. A landscaped buffer is also required along the Pemigewasset River with a minimum width of 75 feet.
- x. Industrial Park setback: A 500-foot setback from river is required.

#### 4. Other Standards

- i. Sign Restrictions: Signs shall meet the Standards of Article V, Section E except where the following standards are more restrictive.
  - a. No off-site signs are permitted.
  - b. Signs shall not exceed 10 feet in height above grade and 8 square feet in size.
  - c. Only indirect light shall be permitted and animated signs are prohibited.
- ii. Manufactured Homes must be placed on a foundation according to the standards set forth in Article IV-A-3, note (1).
- iii. No construction shall be permitted within the riverfront setback area.
- iv. Special Exception criteria in this district are set forth in Article IV, Section A-5.

### I. Lake Waukewan Watershed Overlay District

#### 1. Purpose and Intent

- i. To promote the health, safety and general welfare of the community and specifically of those consumers that depend on Lake Waukewan as the source of public drinking water.
- ii. To prevent the degradation of water quality to Lake Waukewan and throughout the Lake Waukewan Watershed.
- iii. To protect sensitive natural resources that contributes to water quality conservation.
- iv. To guide the nature, intensity and location of development within the watershed to protect water quality.

## 2. Applicability

The provisions specified herein shall apply to those properties, or portions of properties located within the watershed of Lake Waukegan.

The limits of the Lake Waukegan Watershed are identified on the Map entitled Lake Waukegan Watershed Overlay District which is hereby adopted as part of this ordinance.

In instances where the limits of the watershed, as indicated on the map may be different than the boundary on the ground, the Board of Selectmen shall make the determination as to whether or not the ordinance is applicable.

No lot or portion thereof located within the Lake Waukegan Watershed shall be subject to the provisions of this overlay district if it is established to the reasonable satisfaction of the Planning Board that storm water runoff from such lot or portion of such lot does not drain into Lake Waukegan.

In the event that the Lake Waukegan Watershed Overlay District boundary runs through any lot, for purposes of subdivision or development of such lot, these provisions shall apply only to that portion of the lot located within the Lake Waukegan Watershed.

## 3. Minimum Lot Size/Density

The minimum gross lot area required for subdivision purposes shall be the more restrictive of the following:

- i. The required minimum lot size pursuant to the underlying Zoning District; or
- ii. Two (2) acres per lot.

In instances where lots are not created but dwelling units are created (duplexes, multi-family, condominiums), the requirement specified above shall serve as the required density per dwelling unit.

ARTICLE V GENERAL PROVISIONS

The following provisions shall apply to all districts except where listed:

A. Obnoxious Use

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

B. Off-Street Loading and Parking

Adequate off-street loading and parking shall be provided whenever any new use is established or any existing use is enlarged in accordance with the following specifications:

1. All new construction of institutional, commercial or industrial uses requiring off-street loading facilities shall provide such facilities so that delivery vehicles are parked off the traveled way.
2. All proposed new development shall provide for adequate off-street parking spaces in accordance with the following standards. A single parking space is defined as an all-weather, dustless surface, having two hundred (200) square feet in area and having additional adequate area for maneuvering.

<u>Type of Use</u>	<u>Minimum Number of Required Spaces</u>
A. One and two family dwellings	Two for each dwelling unit
B. Multi-family dwelling	Two for each dwelling unit
C. Bed and breakfast or inn	One space for each bedroom and two spaces for owner
D. Restaurant	One space for every two seats, and one space for every 300 square feet of gross floor space exclusive of seating areas
E. Elderly housing, nursing home or over-night healthcare	One space per bed, one space for every 300 square feet of gross floor space excluding bedrooms
F. Public assembly	One space for every three seats OR One space for every 40 square feet of gross floor space of the assembly area, whichever is more stringent
G. Private Kindergarten, day care or nursery school	One space for every 5 children, minimum of 2 spaces

<u>Type of Use</u>	<u>Minimum Number of Required Spaces</u>
H. Library	One space for every 300 square feet of gross floor space plus requirements defined by Public Assembly use for meeting areas (see Section F)
I. Manufacturing or industrial business	One space for every 600 square feet of gross floor space
J. Retail or service business with customer traffic	One space for every 300 square feet of gross floor space
K. Warehousing or storage business	One space for every 1000 square feet of gross floor space

Parking facilities can be adjusted to supplement or reduce the required spaces by special exception of the Zoning Board of Adjustment. In general, land must exist for fulfilling the requirements but need not be prepared for use, as allowed by special exception.

C. Home Occupation/Professional Office

1. It is conducted by or carried on under direction of the occupants of the residence and does not employ more than 2 persons other than household members;
2. It is conducted wholly within the principal and/or accessory structure;
3. There is no outward appearance of such an occupation with the exception of one sign;
4. Not more than twenty-five percent of the combined floor area of the residence and accessory structure is used for the business activity;
5. There shall be adequate provision for on-premise parking for all employees and customers and for delivering and shipping goods other than by customary home delivery services.
6. No installation or use of mechanical or electrical equipment or hazardous material that is not normally part of a domestic household shall be permitted without written approval of the Fire Chief.

D. Sewage Disposal

For all new dwellings, manufactured homes and other buildings requiring sanitary systems, such systems shall be constructed and maintained in accordance with the standards set and enforced by the N.H. Water Supply and Pollution Control Commission (WSPCC). An approval from the WSPCC for the planned subsurface sewage disposal system must be submitted with the application for the building permit. The system shall not be located within 20 feet of any property line.

1. A Special Exception may be granted by the Zoning Board of Adjustment for substandard size lots for a setback no less than 10 feet from the property line, unless the State of NH Department of Environmental Services (NHDES) grants a waiver to reduce the setback further, in which case the Zoning Board of Adjustment may consider reducing the setback to be consistent with NHDES allowable setback.

E. Signs (For permit requirements, see Art. VIII, Section D)

All signs erected in the Town of New Hampton shall require a Sign Permit with the exception of those listed under Sections E-10 and as noted in E-9 below and Article VIII, Section D, of this Ordinance. A Sign Permit may be issued by the Board of Selectmen or their designated agent upon evidence that all applicable conditions of the Zoning Ordinance are met.

If any proposed sign is located on a tract or parcel of land that is or has been before the Planning Board pursuant to the Site Plan Review Regulations, then a Sign Permit will be issued only in accordance with the approved Site Plan.

1. Prohibition of Off-Premise Signs: With the exception of temporary signs as allowed under Section 9, off-premise signs are prohibited within the Town of New Hampton.
2. Signs shall not be erected in wetlands.
3. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be focused upon or from within the sign itself.
4. Signs which are animated, flashing or with intermittent illumination are prohibited.
5. Damaged or Discontinued Signs:
  - i. Any sign which becomes in disrepair shall be removed by its owner if it is not properly refurbished or repaired within sixty (60) days following written notice from the Selectmen or their agent.
  - ii. If the Selectmen or their agent determine a use has been discontinued, notice shall be sent ordering removal of the signs within sixty (60) days.

6. Signage in Districts:

- i. General Residential, Agricultural & Rural District: One (1) on-premise sign shall be permitted and shall not exceed 9 square feet.
- ii. General Business and Commercial Districts:  
Each lot shall be permitted a free standing sign with a maximum size of 64 square feet per side and additional building signage of up to 5% of the building face including windows.
- iii. Village District:
  - a. One on premise sign shall be permitted and shall not exceed a total of 9 square feet per side. A Special Exception from the Zoning Board of Adjustment for up to 16 square feet per side may be considered.
  - b. No sign shall exceed ten (10) feet in height from the road grade at the edge of the public road.
  - c. Pemigewasset Overlay District: Refer Article IV, Section H.

7. General Provisions:

- i. Tenants and/or condominium unit owners of a property or an off-street shopping plaza or mall in the Business, Commercial, Business Industrial and Mixed Use Districts shall be treated together as one property owner and may have one kiosk. Each business within the structure may have a sign within the kiosk. They shall all be equal in size and shape.
  - a. In the General Residential, Agricultural, & Rural District: Each sign shall not exceed three (3) square feet in size and the total kiosk size shall not exceed 16 square feet.
  - b. In the General Business & Commercial Districts:
    - 1) Each sign shall not exceed six (6) square feet in size. The total kiosk size may not exceed: Fifty (50) square feet for five (5) or fewer businesses; Seventy-five (75) square feet for six (6) to ten (10) businesses; One Hundred (100) square feet for more than ten (10) businesses.
    - 2) Each business in the complex may have a sign are not to exceed 24 square feet, no one building shall exceed in total signage 5% of the building face.

- ii. If, upon Site Plan Review, unique physical conditions prove them necessary, the Planning Board may give conditional approval for up to three (3) signs, subject to the granting of a Special Exception by the Zoning Board of Adjustment. For example, a property may be located on a corner or may require a sign that is visible for each entrance/exit.
- iii. Height - The top of a free-standing sign shall be no greater than 20 feet from the road grade at the edge of the public road. (For Village Precinct see Article V, Section E(6) iii.
- iv. No privately owned sign shall project over a public or private road, be placed within the limits of a public highway, or be located in such a position as to endanger street traffic by obscuring a clear view or by confusion with official street signs and signals. No sign shall be closer than fifteen (15) feet from the side and rear property lines. A sign may be at the front property line but the other provisions of this Article shall be followed. The required setback of a sign may be increased when, in the opinion of the Selectmen, the sign will interfere with the sight vision from driveways, intersections, or along streets.

8. Signs located on Scenic Roads shall be in accordance with RSA 231:157-158.

9. Temporary Signs are allowed in all districts, however, such signage shall not exceed 6 square feet in any of the districts. Temporary signage is permitted on-premise or off-premise with landowner permission. No more than two (2) temporary signs shall be on the same parcel at any time. Temporary signs shall not interfere with the sight vision from driveway intersections or along streets.

10. Signs less than 2 square feet are exempt from these regulations in all zoning districts. Each lot may have 2 signs, unless otherwise required by law.

11. All signs erected by or posted by an agency of a government with territorial jurisdiction, warning signs marking hazards on private property, and street numbers associated with private residences are exempt.

12. The owner of any sign which is otherwise allowed under this Article may substitute non-commercial message in lieu of commercial message without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech. This provision shall not change the restrictions on off-premise signage as otherwise stated herein.



13. Sign Check List - Site plans for signs shall be drawn to scale and contain the following:

- i. Three (3) copies of a plan shall be submitted on standard white or graph paper, 8 1/2" x 11" or larger.
- ii. Boundaries of the parcel of land involved, linear footage on road(s), and names of road(s).
- iii. Locations and dimensions of buildings on property and accesses to buildings.
- iv. Location of sign(s).
- v. On separate but similar paper show sketch of sign, including height and width, also distance from ground at base of sign to top of sign.
- vi. Specify type of lighting to be used. Also show placement of lights and areas which will be illuminated.
- vii. Names of property owner(s), address, telephone number, tax map number, zoning district, name of the business or activity being advertised and the date of application.

14. Severability: If a provision or certain language of this sign ordinance becomes illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of any other provision or language of this sign ordinance.

F. Flags

A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole and/or rope. Flags are permitted on a lot in all zoning districts. The combined area of the flags are not to exceed 40 square feet and not more than two flags on a lot in the Mixed Use District, Business Commercial Districts 2 & 3 and the Business Industrial District. No flag shall obstruct the line of sight for public safety.

G. Removal of Natural Materials

The removal of clay, sod, loam, sand or gravel is permitted for private use provided that all land shall be re-graded and seeded to assure that the premises will be left in a sightly and safe condition and protected against erosion and washouts.

H. Obnoxious Use

1. Any use that may be obnoxious or injurious by reason of causing odors, dust, smoke, refuse matter, fumes, noise, vibration, or similar conditions, or that is dangerous to the health or safety, comfort, peace and enjoyment of the community or lending to its disturbance or annoyance, is prohibited.
2. No persons shall maintain or keep any hazardous or toxic materials, a dump or a junk yard so near to any street, highway, or other public place or adjoining property so as to be offensive to use and enjoyment by the public of the highway, street, public property, or offensive to the use and enjoyment of the adjoining property.

I. Manufactured Homes

1. A manufactured home may be stored on the premises of its owner during periods of non-use provided that it is not connected to sanitary facilities, water or electricity, and such storage shall not be deemed to be a second principal use of the lot.
2. Subject to the conditions set out in the Special Exception criteria set forth in each District of this Ordinance, the Zoning Board of Adjustment may grant a special exception to allow the temporary use of a manufactured home, for a period not to exceed one year, as an office, storeroom, or shop which is incidental to construction activity, or as living quarters for persons engaged in such adjacent construction activity or for whom a residence is being constructed. Such temporary use must comply with all applicable state and local laws and regulations regarding sewage disposal and other sanitary and health requirements.

Upon further application to the Zoning Board of Adjustment, and after notice and hearing, such temporary use may be extended by the Board, for good cause shown, for an additional period not to exceed one year provided construction activity is ongoing.

J. Merger of Contiguous Lots

Contiguous lots under common ownership shall be deemed merged where at least one of the contiguous lots contains less than the minimum area required under this ordinance, to the end that the resulting merged lot shall be conforming as to total area, or more nearly so. This provision is not intended, nor shall it be construed, to effect the merger of lots where each such lot has acquired a vested right to continued separate existence prior to the adoption of this provision.

K. Land spreading and/or application of Septage

To protect the surface and groundwater resources of the town, the land spreading of septage, including the liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device or similar system, is not allowed in the Town of New Hampton, New Hampshire.

L. Personal Wireless Service Facilities

1. Purpose and Intent: It is the express purpose of this Ordinance to minimize the visual and environmental impacts of personal wireless service facilities while providing quality service coverage. The Ordinance enables the review and approval of personal wireless service facilities by the Town's Zoning Board of Adjustment and Planning Board in keeping with the Town's Master Plan, existing Ordinances, and historic development patterns, including the size and spacing of structures and open spaces. This Ordinance is intended to be used in conjunction with other regulations adopted by the Town, including site plan review and other local Ordinances designed to encourage appropriate land use, to conserve natural resources, and to provide adequate infrastructure development in New Hampton.

The regulation of personal wireless service facilities is consistent with the purpose of the planning efforts of the Town through the Master Plan to guide growth at a rate consistent with the town's ability to absorb it, while preserving the existing rural and small town character. The Ordinance is consistent with other community goals of conservation protection, historic and agricultural preservation, and protection of the town's aesthetic values, which will assure a pleasant, attractive, and desirable community in which to live, work and play.

2. Overview: The process for application is set forth in Part 10 of this Section. The applicant is encouraged to have at least one Pre-Application Conference before the Planning Board to discuss the service facility in general terms and to clarify the filing requirements. Complete applications shall be reviewed and acted upon at one or more joint public meetings of the Planning Board and Zoning Board of Adjustment. The Planning Board or Zoning Board may contract with appropriate professionals, as necessary, to aid in the evaluation and assessment of proposals submitted for their review. All costs for such expertise shall be borne by the Applicant.

3. Definitions:

Above Ground Level (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

Antenna. The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.

Antenna Array. A collection of antennas attached to a mount to send and receive radio signals.

Average Tree Canopy Height. An average height found by inventorying the height of all trees over twenty (20) feet in height within a 150 foot radius of the proposed facility site.

Camouflaged. To conceal by such means as to create the effect of being part of the natural surroundings.

Carrier. A company that provides wireless services, also referred to as a Provider.

Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses and/or several mounts on an existing building or structure for use by more than one carrier, or the same carrier with multiple licenses.

Cross-polarized (or dual-polarized) antenna. A low mount that has three panels flush mounted or attached very close to the shaft.

Elevation. The measurement of height above sea level.

Environmental Assessment (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

Equipment Shelter. An enclosed structure, cabinet, shed, vault or box at or near the base of the mount within which are housed batteries and electrical equipment, also referred to as a Base Transmitter Station.

Fall Zone. The area on the ground from the base of a ground mounted personal wireless facility that forms a circle with a diameter equal to the height of the facility, including any antennas or other appurtenances, as set forth below. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Functionally Equivalent Services. Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

Guyed Tower. A tower that is tied to the ground or other surface by diagonal cables for lateral support.

Lattice Tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

Licensed Carrier. A company authorized by the Federal Communications Commission (FCC) to construct and operate a commercial mobile radio services system.

Mast. A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

Monopole. A type of mount that is self-supporting with a single shaft of wood, steel, concrete or other materials.

Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

- Roof-mounted: Mounted on the roof of a building.
- Side-mounted: Mounted on the side of a building.
- Ground-mounted: Mounted on the ground.
- Structure-mounted: Mounted on a structure other than a building.

Omni directional (whip) antenna. A thin rod that beams and receives a signal in all directions.

Panel Antenna. A flat surface antenna usually developed in multiples.

Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service Facilities include a mount, antenna, equipment shelter and other related equipment.

Personal Wireless Services. Mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services are the FCC personal wireless services as described in the Telecommunications Act of 1996, as amended.

Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Radio Frequency Radiation (RFR). The emissions from personal wireless service facilities.

Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

Separation. The distance between one carrier's array of antennas and another carrier's array.

4. District Regulations for New Facilities Personal wireless service facilities shall be permitted in all Zoning Districts, except as restricted by this Ordinance. A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

- i. Additional antenna(s) may be located on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, or water tower, provided that the installation of the new array does not increase the height of the existing structure except as provided below, and provided that such installation preserves the character and integrity of those structures. Such installations shall not require a Special Exception but shall require Site Plan Approval.
- ii. A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a Special Exception and Site Plan Approval. Such facilities may locate by Special Exception and Site Plan Approval in the zoning districts outlined in this Ordinance, provided that the proposed use complies with the height and setback requirements and all of the Special Exception standards criteria found in the Special Exception criteria set forth in each District (Replaced wording "Article IV, Section A (2)" due to reformatting) of the New Hampton Zoning Ordinance, the New Hampton Site Plan Approval Regulations and the standards set forth in this Ordinance.

5. Location.

If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. Applicants seeking approval for personal wireless service facilities shall comply with the following:

i. The applicant shall have the burden of proving that there are no existing structures within the region, which are suitable to locate its personal wireless service facility and/or transmit or receive radio signals. To meet this burden, the applicant shall take all of the following actions to the extent applicable.

a. The applicant shall submit to the Zoning Board of Adjustment and Planning Board a list of all contacts made with the owners of potential sites (buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, including those in surrounding towns within a 20 mile radius of New Hampton) regarding the availability of potential space for a Personal Wireless Service Facility. The Zoning Board of Adjustment and Planning Board, at its option, may provide a list of additional suitable sites. The applicant shall contact the property owner(s) of those structures.

b. The applicant shall provide copies of all letters of inquiry made to owners of existing buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities along with all rejection documentation. If letters of rejection are not provided, at a minimum, unanswered "Return Receipt Requested" forms from the US Post Office shall be provided for each owner of an existing building, water tower, existing telecommunications facility, utility pole and tower, and related facility that was contacted.

c. If the applicant claims that an existing building, water tower, existing telecommunications facility, utility poles and towers, and related facilities is not capable of physically supporting a Personal Wireless Service Facility, this claim must be certified by a NH Licensed Structural Engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the Personal Wireless Service Facility without unreasonable costs. The estimated costs shall be provided to the Zoning Board of Adjustment and the Planning Board in writing.

ii. If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.

iii. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or Special Exception and Site Plan Approval.

6. Dimensional Requirements. Personal wireless service facilities shall comply with the following requirements:

i. Height, General. In the absence of trees or vegetation, regardless of the type of mount, personal wireless service facilities shall not exceed 35 feet. In the presence of trees or vegetation, regardless of the type of mount, personal wireless service facilities shall be no

taller than 20 feet above the average tree canopy height within a 150 foot radius of the facility.

ii. Height, Side- and Roof-Mounted Facilities. Side and roof-mounted personal wireless service facilities shall not project more than ten (10) feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

iii. Height, Existing Structures. New antennas located on any of the following structures existing on the effective date of this Ordinance shall be exempt from the height restrictions of this Ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: water towers, guyed towers, lattice tower and monopoles.

iv. Height, Existing Structure (Utility). New antennas located on any of the following existing structures shall be exempt from the height restrictions of this Ordinance provided that there is no more than a ten foot (10') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in Historic Districts, within 300 feet of the right-of-way of any highway or road.

v. Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

- a. In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances, plus the required building setback for the zoning district. This setback is considered a "fall zone".
- b. In the event that an existing structure is proposed as a mount for the personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities, except as provided below.

vi. Flexibility. In reviewing the Special Exception and Site Plan application for a personal wireless service facility, the Zoning Board of Adjustment may reduce the required fall zone and/or setback distance of the zoning district by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Zoning Board of Adjustment shall consider both

the visual and safety impacts of the proposed use.

7. Special Exception and Site Plan Approval Regulations All personal wireless service facilities shall comply with the Performance Standards set forth in this section.

i. Design Standards: Visibility/Camouflage. Personal wireless service facilities shall be camouflaged as follows:

- a. Camouflage by Existing Buildings or Structures:
  - (1). When a personal wireless service facility extends above the roof height of a building on which it is mounted, the facility shall be concealed within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.
  - (2). Personal wireless service facilities, which are side mounted, shall blend with the existing building's architecture and, if over 5 square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.
- b. Camouflage by Vegetation. If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and under story vegetation in all directions for a minimum distance of one hundred fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, and screen views of the facility in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility or the proposed facility. The applicant shall submit the types of trees and plant materials and depth of the needed buffer on site. Existing tree growth and natural landforms on the site shall be preserved to the maximum extent possible. The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped unless the trees are dead or dying and present a hazard to persons or property.
- c. Camouflage by Man-made Treatment. In instances where vegetative treatments may not be sufficient to adequately buffer the visual effect of new personal wireless service facilities, the Zoning Board of Adjustment and Planning Board may require innovative treatments or design, including but not limited to imitation of native vegetation. Innovative alternative tower structures or a combination of treatments may be required in order to meet the requirements for Special Exception.
- d. Color: Personal wireless service facilities, which are side- or roof-mounted on structures or buildings, shall be painted or constructed of



materials to match or blend with the color of the building material that provides the backdrop to the facility. To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be of a neutral, non-reflective color or colors which blend with the sky and clouds.

ii. Equipment Shelters: Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

- a. Equipment shelters shall be located in underground vaults; or
- b. Equipment shelters shall be designed consistent with traditional New England architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard or shingle siding; or
- c. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board may determine the style of fencing and/or landscape buffer that is most compatible with the surrounding area.
- d. If mounted on a rooftop, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be part of the original structure.

iii. Lighting and Signage.

- a. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities shall be shielded from abutting properties.
- b. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign ordinance.

iv. Security: All ground mounted personal wireless service facilities shall be surrounded by a security barrier. Keys or means of access will be provided to Emergency Services (Police and Fire Departments).

v. Historic Buildings

- a. Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive constructive methods, or original historic materials of the building.
- b. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.

- c. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.
  - d. Any application to which this section applies may be referred to the Heritage Commission for an advisory recommendation regarding the architectural compatibility of the proposal.
- vi. Scenic Landscapes and Vistas
- a. Personal wireless service facilities shall not be located within open areas that are visible from public roads, recreational areas, residential development, or within 1,000 feet of great ponds and lakes (as defined by NHDES). As required in the Camouflage section above, all ground-mounted personal wireless service facilities which are not camouflaged by existing buildings or structures, shall be surrounded by a buffer of dense tree growth.
  - b. Existing entrances and driveways to serve a personal wireless service facility shall be utilized unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic and environmental impact. New driveways to serve a personal wireless service facility shall not exceed twelve (12) feet in width and require a 1 1/2" gravel surface.
  - c. Any antenna array placed upon an existing or proposed ground mount, utility pole or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount. A larger diameter array may be permitted after a finding by the Planning Board that the visual impacts of a larger array are negligible.

8. Environmental Hazards. Personal wireless service facilities shall not be located in wetlands. Locating wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized. Specific natural resource characteristics may be present throughout the Town of New Hampton that are fundamentally incompatible with new tower construction. Personal wireless service facilities shall be located and designed so as to avoid or mitigate impacts to these natural resources.

- i. No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- ii. Storm water run-off shall be contained on site.
- iii. Ground-mounted equipment for personal wireless service facilities shall not generate

noise in excess of 50 db at the property line.

iv. Roof-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

9. Safety Standards, Radio Frequency Radiation (RFR) Standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), as amended.

#### 10. Application Procedures

i. Pre-Application Conference. Prior to the submission of an application for a Special Exception and Site Plan Approval under this regulation, the applicant is encouraged to meet with the Planning Board at a public meeting to discuss the proposed personal wireless service facility in general terms and to clarify the filing requirements. The Planning Board shall meet with an applicant under this ordinance within thirty-five (35) days following a written request submitted to the Town Office. If the Planning Board fails to meet with an applicant who has requested such meeting within thirty-five (35) days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a Special Exception and Site Plan Approval application under this ordinance.

ii. Pre-Application Filing Requirements. The purpose of the conference is to inform the Planning Board as to the preliminary nature of the proposed personal wireless service facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the location of the proposed facility, as well as its scale and overall design.

iii. Application Filing Requirements. The applications for the Special Exception and Site Plan shall be filed concurrently and the applications shall be reviewed and acted upon in joint public meetings of the Planning Board and Zoning Board of Adjustment. The following shall be included with an application for a Special Exception and Site Plan for all personal wireless service facilities:

#### iv. General Filing Requirements

- a. Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- b. Co-applicants may include the landowner of the subject property, licensed carrier and tenants for the personal wireless service facility.
- c. A licensed carrier shall either be an applicant or co-applicant.
- d. Original signatures for the applicant and all co-applicants applying for the Special Exception and Site Plan Approval. If the applicant or co-applicant

will be represented by an agent, an original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo-reproductions of signatures will not be accepted.

v. Location Filing Requirements

- a. Identify the subject property by including the name of the nearest road or roads, and street address, if any,
- b. tax map and parcel number of subject property,
- c. zoning district designation for the subject parcel,
- d. a plat to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown,
- e. a town-wide map showing the other existing personal wireless service facilities in the Town and outside the Town within twenty miles of its corporate limits, and
- f. the proposed locations of all existing and future personal wireless service facilities in the Town and within a twenty-mile radius of its corporate limits on a Town-wide map for this carrier.

vi. Site Filing Requirements.

- a. No smaller than one-inch-equals-40-foot vicinity plan showing the following:
  - (1) Property lines for the subject property.
  - (2) Property lines for all properties adjacent to the subject property within 300 feet.
  - (3) Tree cover on the subject property and adjacent properties within 300 feet by dominant species and average height, as measured by using standard forestry procedures.
  - (4) Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
  - (5) Proposed location of antenna, mount and equipment shelter(s).
  - (6) Proposed security barrier, including type and extent as well as point of controlled entry.
  - (7) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
  - (8) Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.

- (9) Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
- (10) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- (11) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
- (12) Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below.
- (13) Sight lines and photographs as described below:
- (14) Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest façade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn no smaller than one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.
- (15) Existing (before condition) photographs. Each site line shall be illustrated by one four inch by six inch color photograph of what can currently be seen from any public road within 300 feet.
- (16) Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.
- (17) Siting elevations, or views at-grade from the north, south, east and west for a 50 foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:
- (18) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
- (19) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
- (20) Any and all structures on the subject property.
- (21) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- (22) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

b. Design Filing Requirements

- (1) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (2) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (3) Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cable as well as cable runs, and security barrier, if any.
- (4) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barriers, if any.
- (5) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth. Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- (6) Within 35 days of the pre-application conference, or within 35 days of filing an application for a Special Exception and Site Plan Approval, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 10 days, but not more than 21 days prior to the test. An alternate date shall be included in the event of weather delay.
- (7) If lighting of the site is proposed, the applicant shall submit a manufacturer's computer generated point to point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

c. Noise Filing Requirements. The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

- (1) Existing, or ambient: the measurements of existing noise.

- (2) Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Ordinance.
- d. Radio Frequency Radiation (RFR) Filing Requirements. The applicant shall provide a Certification, signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio Frequency Radiation Standards sub-section of this Ordinance.
  - e. Federal Environmental Filing Requirements.
    - (1) The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:
      - Wilderness areas,
      - Wildlife preserves,
      - Endangered species habitat,
      - Historical site,
      - Indian religious site,
      - Flood Plain,
      - Wetlands,
      - High intensity white lights in residential neighborhoods,
      - Excessive radio frequency radiation exposure.
    - (2) At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC.
    - (3) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.
  - f. The Zoning Board of Adjustment and the Planning Board may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

11. Co-location. Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless facilities that are stand-alone facilities. All applications for a Special Exception and Site Plan Approval for a personal wireless service shall demonstrate a good faith effort to co-locate with other carriers.

Such good faith includes:

- i. A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
- ii. Contact with all the other licensed carriers for commercial mobile radio services operating in the Municipalities within twenty miles of New Hampton borders; and
- iii. Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- iv. In the event that a co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify if a co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such technical expertise will be at the expense of the applicant. The Town may deny a Special Exception and Site Plan application to an applicant that has not demonstrated a good faith effort to provide for co-location.
- v. If the applicant does intend to co-locate or to permit co-location, drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out shall be provided.
- vi. If the Zoning Board of Adjustment and the Planning Board approves co-location for a personal wireless service facility site, the Special Exception and Site Plan Approval shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Exception and Site Plan Approval shall require no further approvals. However, the addition of any facilities not specified in the approved Special Exception and Site Plan Approval shall require a new Special Exception and Site Plan Approval.

12. Modifications. A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a Special Exception and Site Plan Approval when the following circumstances apply:

- i. The applicant and/or co-applicant wants to alter the terms of the Special Exception and Site Plan Approval by changing the personal wireless service facility in one or more of the following ways:
  - a. Change in the number of personal wireless service facilities permitted on the site;
  - b. Change in technology used for the personal wireless service facility.
- ii. The applicant and/or co-applicant want to add any equipment or additional height not specified in the original design filing.



13. Monitoring and Maintenance.

- i. After the personal wireless service facility is operational, the applicant shall submit, within 90 days of beginning operations, and at annual intervals from the date of issuance of the Special Exception and Site Plan Approval, existing measurements of RFR from the personal wireless service facility. Such measurements shall be signed and certified by an RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio Frequency Standards section of this Ordinance.
- ii. After the personal wireless service facility is operational, the applicant shall submit, within 90 days of beginning operations existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Ordinance.
- iii. The applicant and co-applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.
- iv. All towers must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless the controlling authority mandates more stringent compliance. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for removal, in accordance with this Ordinance, of the tower and/or antenna, at the owner's expense through the execution of the posted security.
- v. Security for Removal. The Town shall determine the form and amount of security that represents the cost of removal and disposal of abandoned facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility. The amount of the security shall be based upon the removal cost plus fifteen percent (15%), provided by the applicant and certified by a professional structural engineer licensed in New Hampshire. The owner of the facility shall provide the Zoning Board of Adjustment and Planning Board with a revised removal cost estimate and structural evaluation provided by a professional structural engineer licensed in New Hampshire every five (5) years from the date of the Zoning Board of Adjustment and Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%), then the owner of the facility shall provide additional security in the amount of the increase. In any event the owner of the personal wireless service facility shall be required to notify the Town of New Hampton no less than ninety (90) days prior to the expiration of the security instrument in order to extend said security.

14. Abandonment or Discontinuation of Use.

- i. At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified US mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- ii. Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - a. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - c. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
  - d. If the owner of a personal wireless service facility fails to remove the facility within 90 days from the date of abandonment or discontinuation of use, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The carrier and owner shall be subject to the civil penalty provided under RSA 676:17.

M. Lighting

Statement of need and purpose: The benefits of good outdoor lighting are increased safety, energy efficiency, enhancement of the Town's evening character, and improved security. New technologies have created extremely powerful lights, which can inadvertently lead to excessive glare, light trespass, and higher energy use. Concerns resulting from excessive glare and light trespass include safety issues, loss of privacy and increased energy costs for everyone. The goal of this lighting ordinance is to recognize the benefits of outdoor lighting and provide clear guidelines for its installation. Appropriately regulated and properly installed outdoor lighting will maintain and complement the Town's character and contribute to the safety and welfare of the residents of the town.

The intent of this regulation is to reduce the problems created by improperly designed and installed outdoor lighting by establishing regulations which limit the area that certain outdoor lighting luminaires can illuminate and by limiting the total allowable illumination of lots located in the Town of New Hampton.

1. Definitions: For the purposes of this section, terms used shall be defined as follows:

Direct Light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Fixture: The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Flood or Spot Light: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Glare: Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Height of Luminaire: The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.

Lamp: The component of a luminaire that produces the actual light.

Light Trespass: The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen: (A unit of luminous Flux.) One foot-candle is one lumen per square foot. For the purposes of this Ordinance, the lumen output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire: This is a complete lighting system, and includes a lamp or lamps and a fixture.

Outdoor Lighting: The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Temporary Outdoor Lighting: The specific illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a period of less than 30 days, with at least 180 days passing before being used again.

2. Regulations: All public and private outdoor lighting installed in the Town of New Hampton shall be in conformance with the requirements established by this section.

3. Control of Glare – Luminaire Design Factors: Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of MORE than 900 lumens, shall not emit more than 3% direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire. Exceptions:

- i. If any spot or flood luminaire is aimed, directed, or focused so as to cause direct light

from the luminaire to be directed towards residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

- ii. Luminaires used for public roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.
- iii. All temporary lighting required for construction projects, related to road construction and repair, installation of sewer and water facilities, and other public infrastructure.
- iv. All temporary emergency lighting needed by the police or fire departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.
- v. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
- vi. Luminaires used primarily for sign illumination may be mounted at any height to a maximum of 20 feet, regardless of lumen rating.

4. Temporary Outdoor Lighting: Any temporary outdoor lighting that conforms to the requirement of this section shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the Board of Selectmen after considering the following: the public and/or private benefits that will result from the temporary lighting; any annoyance or safety problems that may result from the use of the temporary lighting; and the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming light to the Board of Selectmen, who shall consider the request at a duly call meeting of the Board of Selectmen. Prior notice of the meeting of the Board of Selectmen shall be given to the applicant. The Board of Selectmen shall render its decision on the temporary lighting request within two weeks of the date of the meeting. A failure by the Board of Selectmen to act on a request within the time allowed shall constitute a denial of the request.

5. Effective Date and Grandfathering of Non-Conforming Luminaires:

- i. This ordinance shall take effect immediately upon approval by voters of the Town of New Hampton and shall supersede and replace all previous ordinances pertaining to outdoor lighting.
- ii. Except for those causing a public safety hazard or public or private nuisance, all luminaires lawfully in place prior to the date of the section shall be grand-fathered. However, any luminaire that replaces a grand-fathered luminaire, or any grand-fathered luminaire that is moved, must meet the standards of this section.

6. Notification Requirements:

- i. The Town of New Hampton building permit shall include a statement asking whether the planned project will include any outdoor light.
- ii. Within 30 days of the enactment of this ordinance, the Board of Selectmen or designated agent(s) shall send a copy of the Outdoor Lighting Ordinance, with cover letter, to all local electricians and local electric utility (including at least those in the surrounding towns as listed in the Yellow pages).

N. Conditional Use Permits

The purpose and intent of a Conditional Use Permit is to allow certain uses that are not normally permitted under conventional zoning provisions, provided that these uses are determined by the Planning Board to be of benefit to the Town and consistent with the Master Plan.

1. Specifically authorized conditional uses appear in Article IV for each district. A conditional use is determined to be of benefit to the Town if the application is found to be in compliance with the approval criteria in Part 8 of this section.
2. Further conditions may be placed on the Conditional Use Permit by the Planning Board to ensure that the Conditional Use Permit will have a positive economic, fiscal, public safety, environmental, aesthetic, and social impact on the Town.
3. The Planning Board shall make findings of fact, based on the evidence presented by the applicant, Town staff, and the public, that the conditional use is or is not of benefit to the Town and consistent with the Master Plan in a specific case as defined by location and the details of the specific plan.
4. No structure, building or land requiring a Conditional Use Permit shall be used, constructed, altered or expanded unless a Conditional Use Permit specifically required by this section has been authorized by the Planning Board.
5. Any use that was lawfully established prior to the adoption, extension or application of this section and is now permitted subject to a Conditional Use Permit may continue in the same manner and to the same extent as conducted prior to said adoption of this Section. A Conditional Use Permit shall be secured from the Planning Board before the use or structure or building in which said use is conducted may be altered, added to, enlarged, expanded or moved from one location to another on the lot on which said use is located.
6. Structures or buildings devoted to any use which is permitted under the terms of this section subject to the securing of a Conditional Use Permit, may not be altered, added to, enlarged, expanded or moved from one location to another on the lot without securing a new Conditional Use Permit.

7. Procedures.

i. Application.

- a. Application for a Conditional Use Permit may be made by the owner of the affected property, or his designated agent, on a form obtainable from the Town Offices.
- b. The completed application and fee shall be submitted to the Town Administrator. Said fee is nonrefundable.

ii. Procedure for Consideration.

- a. The Planning Board shall review and evaluate the completed application and shall set a public hearing date. A notice which advertises the public hearing shall be published in a newspaper of general circulation. Public notice and notice shall be sent to abutters in accordance with RSA 676:4.
- b. A sign measuring two by three (2 x 3) feet shall be placed on the property by the applicant not less than ten (10) calendar days prior to the time of the public hearing by the Planning Board. The sign shall remain on the property until the conclusion of the public hearing. This sign shall be visible from the most heavily traveled street right-of-way adjacent to the property. The sign shall state the date of the public hearing, the time, the location and the action to be considered.
- c. Where development approval for a conditional use includes subdivision or site plan approval by the Planning Board, the application and review procedure for a Conditional Use Permit shall be made concurrently and in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development.

iii. Approval of Application and Granting of Conditional Use Permit: At least five (5) members or designated alternates must vote in favor of the issuance of a Conditional Use Permit for an application to be approved. Upon rendering a decision to grant a Conditional Use Permit with conditions of approval that must be adhered to by the applicant, the Planning Board shall issue a Conditional Use Permit with the conditions of approval referred to and itemized in brief on the face of the permit. The application and all subsequent information, correspondence, evaluations, recommendations and decisions shall then be placed on permanent file. The Conditional Use Permit application and Findings of Fact and Conditions of Approval shall be recorded at the Belknap County Registry of Deeds.

iv. Revocation: In the event of a violation of any of the provisions of these regulations or amendments thereto or in the event of a failure to comply with any prescribed condition of approval or stipulations placed upon such approval, the Planning Board or Board of Selectmen shall suspend any Conditional Use Permit immediately, and the Planning Board shall set a date for a hearing to determine if such suspensions shall be lifted or if the Conditional Use Permit shall be revoked. The Planning Board shall be the

hearing body. In the case of a revocation of a Conditional Use Permit, the determination of the Planning Board shall be final, unless recourse is sought in a court of competent jurisdiction.

v. Termination and Transferability: Once granted, a Conditional Use Permit, with its terms and conditions, shall:

- a. Run with the lot, building, structure or use and shall not be affected by changes in ownership.
- b. Terminate twelve (12) months from the date of authorization if the authorized use has not begun:
  - (1) Unless otherwise spelled out in the conditions of approval; or
  - (2) Unless the applicant can demonstrate good reason(s) at a public hearing before the Planning Board why the permit should be extended.
- c. Terminate after twelve (12) consecutive months of nonuse.

vi. Denial of application: In the event that an application is denied by the Planning Board, no re-submittal of an application for a Conditional Use Permit for the same or similar use may be made for one (1) year from the date of said denial, unless sufficient new evidence or conditions are offered to demonstrate that the circumstances have altered and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

#### 8. Approval Criteria.

i. Planning Board Decision Based on Findings: Every decision of the Planning Board pertaining to the granting, denial or amendment of a request for a Conditional Use Permit shall be based upon findings of fact and conditions of approval. The findings of fact and conditions of approval shall be supported in the records of its proceedings. The criteria enumerated in subsection iii below, are required to be met in any matter upon which the Planning Board is required to pass under these regulations. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific fact shall be deemed not to be in compliance with these regulations.

ii. Burden on applicant: The applicant shall bear the burden of persuasion, through the introduction of sufficient evidence, through testimony, or otherwise, that the development, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the ordinance.

iii. Criteria Required for Consideration of a Conditional Use Permit: A Conditional Use Permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following Conditional Use Permit criteria:

- a. Consistency with the Master Plan: The proposed use is consistent with the vision for the area as set forth in the Master Plan.
- b. Site suitability: The site is suitable for the proposed use. This includes:
  - (1) Adequate vehicular and pedestrian access for the intended use.

- (2) The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.
  - (3) The absence of environmental constraints (floodplain, steep slope, etc.).
  - (4) The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.
- c. Internal impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.
  - d. Character of the site development: The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood. This shall include, but not be limited to, the relationship of the building to the street, the amount, location, and screening of off street parking, the treatment of yards and setbacks, the buffering of adjacent properties, and provisions for vehicular and pedestrian access to and within the site.
  - e. Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, the architectural treatment of the front or street elevation, the location of the principal entrance, and the material and colors proposed to be used.
  - f. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and view sheds.



- g. **Impact on property values:** The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.
- h. **Availability of Public Services & Facilities:** Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured, to the end that the use will be capable of proper operation. In addition, it must be determined that these services will not cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.
- i. **Fiscal impacts:** The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the fiscal impact of the project on the Town. The Planning Board may commission, at the applicant's expense, an independent analysis of the fiscal impact of the project on the Town.

iv. **Conditions of Approval:** Conditional Use Permit approvals shall be subject to appropriate conditions where such conditions are shown to be necessary to further the objectives of this ordinance and the Master Plan, or which would otherwise allow the general conditions of this article to be satisfied. Conditions of approval shall be stated in writing in the issuance of a permit. The conditions may include, but are not limited to, the following:

- a. Front, side, and rear setbacks in excess of the minimum requirements of this Ordinance.
- b. Screening of the premises from the street or adjacent property in excess of any minimum requirements of this Ordinance.
- c. Landscaping in excess of any minimum requirements of this Ordinance.
- d. Modification of the exterior features of buildings or other structures.
- e. Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance.
- f. Footprint or lot coverage less than the allowed maximum of this Ordinance.
- g. Limitations on the number of occupants and methods and times of operation.
- h. Grading of the premises for proper drainage.

- i. Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.
- j. Off-street parking and loading spaces in excess of, or less than, the minimum requirements of this Ordinance.
- k. Other performance standards as appropriate.

9. Appeals.

Any persons aggrieved by a Planning Board decision on a Conditional Use Permit may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment. (RSA 676:5 III)

O. Minimum Land Area:

With due consideration to the lack of municipal water supply and sewage disposal systems and the prevailing subsoil conditions of the land area of the Town of New Hampton, minimum lot size shall be one acre (43,560 sq. ft.) per dwelling unit, other than an accessory apartment, unless community water supply and/or sewage disposal systems are provided, in which cases the minimum lot size may be modified by the Board of Adjustment. An accessory apartment shall not require any additional lot size. Where particular conditions such as subsoil content, slope of terrain, proximity to public and/or running waterways, the aforementioned minimum lot size shall be increased to meet the requirements of the table of soil and slope factors included in the New Hampton Subdivision Regulations.

<b>District</b>	<b>Minimum Area</b>
General Residential, Agricultural and Rural	one acre (43,560 sq. ft.)
Business Industrial	one acre (43,560 sq. ft.)
Mixed Use	one acre (43,560 sq. ft.)
General Business (BC2 and BC3)	one acre (43,560 sq. ft.)
Village	As set forth in current village regulations
Pemigewasset Overlay	Two acres (87,120 sq. ft)

*Waukewan Watershed Overlay District – see Art.IV, Section I.3 for minimum land area.*

P. Buffers

Buffer strips between nonresidential uses in the mixed use district and residential uses in adjoining districts shall be in perpetuity and at least 50 feet wide and shall contain vegetation that will screen nonresidential uses from sight of the residential uses during winter months.

Where appropriate, existing growth shall be incorporated into the buffer strips and landscaping design. A landscaping plan shall be submitted showing the types and locations of vegetation to be retained or established. Planted vegetation shall be a low maintenance mix of native trees, shrubs, and herbs.

Q. Residential Wind Turbine Ordinance

1. **Purpose:**

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

2. **Definitions:**

**Meteorological tower (met tower).** Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

**Modification.** Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

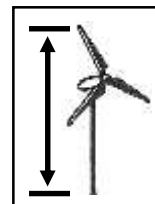
**Net metering.** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

**Power grid.** The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

**Shadow flicker.** The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

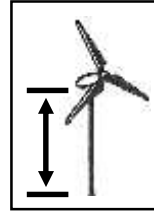
**Small wind energy system.** A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

**System height.** The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



**Tower.** The monopole, guyed monopole or lattice structure that supports a wind generator.

**Tower height.** The height above grade of the fixed portion of the tower, excluding the wind generator.



**Wind generator.** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

1. Procedure for Review:

- i. **Building Permit:** Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the Board of Selectmen, Building Inspector or authorized agent. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.
- ii. **Application:** Applications submitted to the Board of Selectmen, Building Inspector or authorized agent shall contain a site plan with the following information:
  - a. Property lines and physical dimensions of the applicant's property.
  - b. Location, dimensions, and types of existing major structures on the property.
  - c. Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
  - d. Tower foundation blueprints or drawings.
  - e. Tower blueprints or drawings.
  - f. Setback requirements as outlined in this ordinance.
  - g. The right-of-way of any public road that is contiguous with the property.
  - h. Any overhead utility lines.
  - i. Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
  - j. Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
  - k. Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
  - l. Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
  - m. Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
  - n. List of abutters to the applicant's property.

- iii. **Abutter and Regional Notification:** In accordance with RSA 674:66, the Board of Selectmen, Building Inspector or authorized agent shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the Board of Selectmen, Building Inspector or authorized agent prior to the issuance of the building permit. The Board of Selectmen, Building Inspector or authorized agent shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Board of Selectmen, Building Inspector or authorized agent shall follow the procedures set forth in RSA 36:57, IV.

2. Standards:

The Board of Selectmen, Building Inspector or authorized agent shall evaluate the application for compliance with the following standards;

- i. **Setbacks:** The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.5	1.5

- a. Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
  - b. Guy wires used to support the tower are exempt from the small wind energy system setback requirements.
- ii. **Tower:** The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.
- iii. **Sound Level:** The small wind energy system shall not exceed 50 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- iv. **Shadow Flicker:** Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

- v. Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- vi. Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- vii. Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- viii. Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
  - a. The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
  - b. The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
  - c. A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.
- ix. Approved Wind Generators: The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- x. Utility Connection: If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
- xi. Access: The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

- xii. Clearing: Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

3. Abandonment:

- a. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the Board of Selectmen, Building Inspector or authorized agent by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
- b. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Board of Selectmen, Building Inspector or authorized agent. "Physically remove" shall include, but not be limited to:
  - i. Removal of the wind generator and tower and related above-grade structures.
  - ii. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
- c. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the Board of Selectmen, Building Inspector or authorized agent may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the Board of Selectmen, Building Inspector or authorized agent shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Board of Selectmen, Building Inspector or authorized agent shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.
- d. If the owner fails to respond to the Notice of Abandonment or if, after review by the Board of Selectmen, Building Inspector or authorized agent, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the Board of Selectmen, Building Inspector or authorized agent may pursue legal action to have the small wind energy system removed at the owner's expense.

4. **Violation:**  
It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.
5. **Penalties:**  
Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

R. Accessory Dwelling Unit

1. **Definitions:** As used in this section, the following term shall have the meaning indicated: Accessory Dwelling Unit. An "accessory dwelling unit" (or "ADU") is a residential living unit that is within or attached to a single-family dwelling or accessory building, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit.
2. **Provisions.** An accessory dwelling unit shall be permitted by Special Exception in all zoning districts that permit single family dwellings, subject to the following:
  - i. Only one (1) ADU shall be permitted, either in a single-family dwelling or an accessory building, (ie. garage, barn).
  - ii. The ADU must provide independent living facilities for one or more persons containing the four elements of sleeping, eating, cooking, and sanitation.
  - iii. The ADU shall have an independent means of ingress and egress or shall have ingress and egress through a common space such as a shared hallway to an exterior door.
  - iv. The ADU shall be attached to or within the principal dwelling unit or accessory building. In order to be considered an attached ADU there must be a common wall, floor or ceiling between the ADU and either the single family home or accessory building. Detached accessory dwelling units are prohibited.
  - v. Either the ADU or the principal dwelling unit is the owner's principal residence and legal domicile. The owner shall provide proof, satisfactory to the Town Administrator or designee, that the dwelling unit is owner occupied.
  - vi. An ADU in the principal dwelling shall not exceed 800 square feet in habitable floor area.
  - vii. An ADU in an accessory building shall not exceed 45% of the square footage of the floor area of that accessory building, to a maximum of 800 square feet.
  - viii. The ADU shall have no more than two (2) bedrooms.



ix. An ADU shall be provided a minimum of two (2) off-street parking spaces, in addition to primary dwelling unit parking requirements.

x. An ADU shall make provision for adequate water supply and sewage disposal service in compliance with RSA 485-A:38 and regulations adopted by the New Hampshire Department of Environmental Services.

3. Minimum Lot Dimension Requirements: An ADU shall not be required to meet additional lot area requirements other than already provided for the principal dwelling unit. An ADU shall comply with all lot setback requirements.

S. Accessory Structure

One accessory structure per lot shall be permitted without a principal structure on the same lot provided that it is compatible with the principal permitted uses that are authorized in that District and it complies with all other regulations, including site plan regulations if applicable.

ARTICLE VI NON-CONFORMING USES

A. Any lawful use of land or of a building or part thereof at the time of the adoption of this Ordinance may be continued, although such use does not conform to the provisions of this Ordinance, provided, however, that:

1. Change of Non-conforming Use by Special Exception: An existing non-conforming use may be changed to another non-conforming use by special exception, subject to the following criteria and any conditions that may be attached to the special exception by the Zoning Board of Adjustment.

To grant a special exception, the Zoning Board of Adjustment must find that the applicant satisfies each of the following criteria:

- i. the new non-conforming use will be equally or more conforming with the purposes of the ordinance and the intent of the use restrictions applicable in the particular zoning district;
- ii. the applicant must surrender all rights to continue the previously existing non-conforming use;
- iii. there will not be an adverse impact on the surrounding neighborhood;
- iv. the proposed replacement would not result in an increase in noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;
- v. the numbers and kinds of vehicular trips to the site will be comparable to, or lower than, those associated with the existing use;
- vi. the replacement will not place increased demand on the amount and nature of outside storage or loading requirements, and there will be no net loss in the number of existing off-street parking spaces servicing the existing uses(s);
- vii. the visual appearance of the site and structure will either remain unchanged or will be improved;
- viii. the proposed hours of operation for the use will result in an equal or lesser impact on the neighborhood;
- ix. non-conforming characteristics including, but not limited to, signs, off-street loading and parking, lighting, landscaping, of the previously existing use shall be brought into conformance with the ordinance to the extent feasible;

- x. the non-conforming use area of the lot will not be increased;
- xi. the gross square foot floor area of the building housing the existing non-conforming use will not be expanded as a result of the replacement;
- xii. the replacement will be equally or more compatible with the neighborhood, will contribute to neighborhood socioeconomic needs, or will otherwise be in the public interest.

- 2. A structure which is dimensionally non-conforming, but which is part of a conforming use, may be enlarged by special exception if the applicant satisfies the general special exception criteria set forth in Article IV, Section A-5.

B. Non-conforming buildings destroyed by fire or other natural disaster may be repaired or replaced if the degree of non-conformity is not altered.

C. A junkyard may continue as a non-conforming use, provided that it complies with existing State Statutes.

ARTICLE VII SPECIAL EXCEPTIONS

In addition to the Special Exceptions listed under each District, the following are permitted:

A. The removal of natural materials in the Business Industrial District (BI). It shall conform to RSA 155 E and the Earth Excavation Regulations as approved by the Planning Board and will meet the following criteria:

1. The excavation will not cause a diminution in area property value or unreasonably change the character of the neighborhood;
2. The excavation will not unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof;
3. The excavation will not create any nuisance or create health or safety hazards; and
4. The excavation complies with such other special exception criteria as set out in Article IV, Section B(5) of this ordinance.

B. During time of emergency, the Town may draw upon sources of gravel and other road building materials for purpose of public use within the Town without the above hearing and permit; however, the provision for restoration shall apply.

ARTICLE VIII ADMINISTRATION AND ENFORCEMENT

A. Administration

The Board of Selectmen or their agent is hereby given the power and authority to enforce the provisions of this Ordinance and to control the issuance of any building permits.

B. Permits

1. On and after the effective date of this Ordinance, it shall be unlawful to change the nature or extent of any structure, use or lot, or erect any structure, or alter the size of or relocate any building in any district without first obtaining a permit from the Board of Selectmen or their designated agent.

The following exceptions apply:

- a. A building permit shall not be required for any accessory structure that is less than or equal to 192 square feet.
- b. Ordinary repairs which are non structural and do not include ANY alteration to ANY part of an existing building are exempt from this requirement.

2. A copy of the building permit shall be posted in a visible location prior to commencement of any construction and shall remain posted until construction covered by the permit is completed.

3. All work shall be in compliance with all applicable State of New Hampshire Building and Life Safety codes. It is the joint responsibility of the landowner and the person performing the work to ensure that this requirement is met.

4. Installation or reinstallation of any fossil fuel, propane, electrical or interior wood fired heating systems, regardless of the size of the building, shall require a building permit, inspection and approval by the New Hampton Fire Department.

5. All building permits are valid for 18 months from the date of issuance. If the project will not be completed and ready for its intended use within the 18-month allotment a new permit must be obtained.

C. Certificate of Occupancy

1. No person shall be permitted to occupy any building, structure or premises, or part thereof, hereby erected, relocated, altered, converted or extended until a Certificate of Occupancy has been issued by the Board of Selectmen or their agent provided the structure is in one or more of the following categories:

- i. New Structure
- ii. Expansion or change of use
- iii. Substantial Improvement (See definitions)

2. To apply for a Certificate of Occupancy the construction, repair, remodeling, erection etc. must be completed and the Building Permit returned with the Certificate of Occupancy application with documentation attesting to the installation of the following systems:

- i. State of New Hampshire approval for operation of a septage disposal system or other permitted system in accordance with RSA 147:8.
- ii. Water supply, either private or public.
- iii. Adequate power source for Electrical System (i.e., electric, solar, wind)
- iv. Fire Department inspection results for fossil fueled, propane or interior wood fired heating system (if required i.e., year round use).
- v. Installation of Hard Wired Smoke Detectors
- vi. Installation of Carbon Monoxide Detectors
- vii. Driveway in accordance with either State or Town permits.

#### D. Signs

A permit shall be required for all signs pursuant to Article V, Section E General Provisions.

#### E. Fees

The Board of Selectmen shall determine and update the format for applications for building permits and the required fees on a regularly scheduled basis.

#### F. Enforcement and Penalty

The Board of Selectmen or their agent is given the power and authority to enforce the provisions of this Ordinance. Upon receiving any credible information that this Ordinance is being violated and upon an affirmative vote of a majority of the Board of Selectmen, the Selectmen are authorized to enforce the provisions of this Ordinance by seeking appropriate relief in the Superior Court or by taking any other legal action.

Any violator of any provision of this Ordinance shall be punished by a civil fine in accordance with State of New Hampshire Statute for each day that such violation is found by the court to continue after the date on which the violator has received written notice, return receipt requested, from the Board of Selectmen that the violator is in violation.

In addition, the municipality may recover its costs, which may include but are not limited to inspection fees, expert fees and investigatory expenses, as well as reasonable attorney's fees actually expended in pursuing the legal action if it is found to be a prevailing party in the action.

ARTICLE IX EXISTING ORDINANCES

A. Nothing contained in this Ordinance shall be construed as repealing or modifying any other ordinance or regulation of this Town, except as may be specifically repealed or modified by this Ordinance, but shall be in addition thereto.

Nor shall anything in this Ordinance be construed as repealing or modifying any private restrictions placed upon property by covenant, deed or other private agreement, or any restrictive covenants running with the land to which the Town is a party, but shall be in addition thereto.

B. Whenever the provisions of this Ordinance differ from those prescribed by any statutes, other ordinance or other regulation or restriction, that provision which imposes greater restriction or the higher standard shall apply.

ARTICLE X BOARD OF ADJUSTMENT

A. Creation and Appointment

The Board of Adjustment shall be appointed by the Selectmen and function in accordance with Chapter 673, 674, 676, and 677 of the New Hampshire Revised Statutes Annotated, and any subsequent revisions or any applicable statutes.

B. Special Exceptions

The Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards, shall grant permits for uses permitted as special exceptions as set forth in this Ordinance. If the special exception is not utilized within a two (2) year period it shall expire.

C. Variances

The Board of Adjustment may authorize a variance from the terms of this Ordinance when the Board finds that the variance will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. If the variance is not utilized within a two (2) year period it shall expire.



ARTICLE XI AMENDMENTS

This Ordinance may be amended in accordance with the procedure provided by Chapter 675:3, New Hampshire Revised Statutes Annotated, and subsequent revisions.

ARTICLE XII SAVING CLAUSE

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision.

ARTICLE XIII WHEN EFFECTIVE

This Ordinance shall take effect upon its passage.

ARTICLE XIV DEFINITIONS

Abandoned Signs - signs shall be considered abandoned if:

- The use being advertised has been discontinued for one year.
- One year has passed following notification of disrepair by the Selectmen without replacement or refurbishment of the sign by the owner.

Accessory Dwelling Unit (ADU) – A residential living unit that is within or attached to a single-family dwelling or accessory building, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies. As there is potential for an ADU to become a rental unit the property owner must comply with State of New Hampshire statute 153:10-a as amended relative to compliance with NFPA Life Safety Code, the National Fire Alarm and Signaling Code, and the Standard for Installation of Carbon Monoxide (CO) Detection and Warning Equipment.

Accessory Building or Use - A building or use subordinate to the main building or use and customarily incidental to the main purpose of such building or use.

Accessory Structure - A use or a structure subordinate to the principal use of a lot, or of a principal building on the same lot, and serving a purpose clearly incidental to a permitted principal use of the lot or of the building and which accessory use or structure is compatible with the principal permitted uses or structures authorized under zoning regulations applicable to the property.

Agritourism - The marketing or selling at wholesale or retail of any products from the farm, on-site and off-site where not prohibited by local regulations. Marketing includes agritourism, which means attracting visitors to a farm to attend events and activities that are accessory uses to the primary farm operation. The purpose of agritourism is to contribute to the economic viability and long-term sustainability of the primary agricultural activities of New Hampshire. Agritourism is the direct sale of agricultural products, offering educational experiences, B and B accommodations, and providing entertainment to the public. Some examples are Educational Experiences are farm tours, garden/nursery tours, historic exhibits, hands-on experience with farm activities, lectures/presentations. B and B (Bed and Breakfast) accommodations as defined in Zoning Ordinances. Entertainment could be hay ride, mazes, petting zoo, or pick your own produce.

Bed & Breakfast/Tourist Home - A single dwelling where transient accommodations for sleeping or living purposes for not more than six (6) persons are provided for a fee. As this is considered a rental unit the property owner must comply with State of New Hampshire statute 153:10-a as amended relative to compliance with NFPA Life Safety Code, the National Fire Alarm and Signaling Code, and the Standard for Installation of Carbon Monoxide (CO) Detection and Warning Equipment.

Building - Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

Building Face - Shall be the exterior surface of the building, which is parallel to or is at an angle of 45 degrees or less to a public right of way, extending between ground level, the roof line and between two adjacent vertical ends.

Business and/or Commercial - Means the operation of any activity for profit other than those defined as industrial below. In general, this term shall include activities normally confined to retail and wholesale trades and distribution to the exclusion of manufacturing processes.

Campground - A parcel of land with one or more specific sites, with or without water, electricity and sewage hookups, that has provisions for the pitching of a tent or the parking of any recreational vehicle or trailer for use as sleeping quarters on a temporary basis.

Commercial Services and Repair facilities excluding drive thru - means a building or portion thereof which is used for general business, retail, wholesale sales and nonprofit administrative purposes involving sale of inventory or provision of services involving manual skills or mechanical processes.

Conditional Use - Those uses which because of peculiar characteristics or because of size, technological processes or equipment or because of the exact location with reference to surroundings, streets and existing improvements or because of demands upon public facilities, require a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same area.

Conditional Use Permit - An authorization to conduct a conditional use when such authorization is required by these regulations and when established according to the procedures outlined in Article V, Section N of these regulations.

Conventional Home - A dwelling unit that is built on a permanent foundation and is not designed to be transported or could not be construed as being a manufactured home as defined in this Ordinance.

Discontinued Signs - Signs shall be considered discontinued if:

- The use of the property has been discontinued for one year.
- 60 days has passed following notification of disrepair by the Selectmen without replacement or refurbishment of the sign by the owner.

Dwelling Unit - An independent housekeeping unit having its own cooking, sleeping and sanitary facilities.

Dwelling, Single-Family - A single residential dwelling designed for and occupied by one family only.

Dwelling, Two-Family - A single residential building containing two primary dwelling units designed for occupancy by not more than two families.

Dwelling, Multi-Family - A residential building designed for or occupied by three or more families, with

the number of families in residence not exceeding the number of dwelling units provided.

Family - One or more persons occupying a single unit, provided that unless all members are legally related, no such dwelling unit shall contain more than five unrelated persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Flags - A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole and/or rope.

Frontage - The distance along a lot line on a street or on a body of water.

Grocery Store – Within the Village District a Grocery Store is a retail establishment which primarily sells food, but also may sell other convenience and household goods, and which occupies no more than 3,000 square feet of gross floor area. “Grocery Store” includes the term “General Store”.

Home Occupation/Professional Office - Any use conducted entirely within a dwelling and/or within any accessory building which is clearly incidental and secondary to the use of the premises for dwelling purposes and does not adversely affect or undermine the residential character of the neighborhood, and in connection with which there is no outside storage or display except a permitted sign.

Impermeable Material - includes any surface that does not allow water to drain, seep, filter or pass through into the ground below, forcing it to run off, and include, any modified surface that cannot effectively absorb or infiltrate water. Examples of impermeable surfaces include, but are not limited to, roofs, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways unless designed to effectively absorb or infiltrate water.

Industrial Park - Area of land used and buildings erected, altered or used for any of the uses defined as light industrial.

Inn - A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to 10 lodging rooms, with or without meals, are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Meals may include any combination of breakfast, lunch and dinner served only to guests (and guests of guests) who are provided overnight lodging. “Inn” includes such terms as “guesthouse,” “lodging house,” and “tourist house.”

Junkyard - means any place of storage or deposit, whether in connection with a business or not, where two or more unregistered, or old, motor vehicles, no longer intended or in condition for legal use on the highways are held.

Kiosk - A freestanding structure erected on a suitable foundation and designed to provide advertising space for two or more activities or businesses on a single premise or group of contiguous premises. Each business sign shall be identical in size and shape. A kiosk shall count as one sign.

Light Industry - A use involving essentially an industrial process or activity that can be carried on totally within the industrial building itself. Large structures for storage or other use outside the principal structure shall not be permitted. Industrial buildings shall not exceed the maximum height requirement contained in this Ordinance. Such industrial use shall not require heavy, noisy or otherwise objectionable machinery or generate excessive traffic conditions.

Lot - A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public street and with ascertainable boundaries established by deed or by lot boundary lines on a subdivision plan filed with the Registry of Deeds.

Manufactured Home - shall mean any structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674:31(a). All manufactured homes must be stamped with HUD approval as defined in Title 24, Housing and Urban Development-Part 3280 Manufactured Home Construction and Safety Standards.

Manufactured Home Park - means any parcel of land under single or common ownership or control which contains or is designed, laid out or adapted to accommodate two or more manufactured homes. Nothing herein shall be construed to apply to premises used solely for storage or display of manufactured homes.

Maximum Height - indicates the maximum height of any building or structure above mean ground level not to include basements below ground level. These restrictions shall not apply to chimneys, church steeples, silos, antennas, or other similar features appurtenant to buildings usually carried above roofs and not utilized for human occupancy.

Maximum Lot Coverage - indicates the percentage of the lot area which may be covered by a building or other impermeable material.

Medical Facility - for the purpose of this Ordinance Medical facility means a building or portion of a building containing an office or offices of Medical Professionals, including but not limited to, medical doctors, dentists, psychiatrists, chiropractors, physical therapists and other members of the medical profession which provide facilities and services for outpatient care, diagnosis, treatment, and observation of individuals suffering from illness, injury or other conditions requiring medical or therapeutic services. This definition does not include facilities providing patient beds for overnight care.

Minimum Side and Rear Yards - is the minimum distance from the lot lines which a building must be located.

Minimum Building Setback - indicates the minimum distance from a public and private road right-of-ways a new building or structure must be located.

Minimum Dimension - includes the minimum dimension permitted for any lot.

Mixed Use - Residential and Non-residential permitted uses in the same principal structure on a single lot. Any use of an accessory structure must be subordinate to the principal structure.

Nonconforming use means a building, structure or use of land existing at the time of enactment of this Ordinance and which does not conform to the regulations of the district in which it is situated.

Off-Premise Sign - A sign that displays a message related to an activity, business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where the sign is located. For the purpose of this ordinance, “off-site sign” shall have the same meaning.

On-Premise Sign - A sign that displays a message related to an activity, business, commodity, service, entertainment or attraction sold, offered or existing upon the same lot where the sign is located. For the purpose of this ordinance, “on-site sign” shall have the same meaning.

Outdoor display – An arrangement of objects, items, products or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product or service, beyond the perimeter of the primary structure as defined by the roof edge.

Outdoor Education - The process of teaching or training certain principles, practices, or subjects that are better taught outdoors, which may include overnight stays in tents, yurts or other similar temporary shelters.

Pemigewasset River - For the purposes of the Pemigewasset Overlay District, the Pemigewasset River is defined as the main channel of the river and also includes any inlet, outlet or other segment contiguous to the main channel which exists by virtue of the naturally occurring spread of the normal high water level from the main channel.

Primary structure - A structure that houses the primary use on a property or lot. It shall not include accessory structures (e.g., garages, barns, or sheds).

Professional Office - Of or engaged in a professional occupation which requires advanced academic training and or licensing such as medicine, law, engineering, etc.

Right-of-Way - means and includes all town, state and federal highways and the land on either side of same as covered by laws to determine the width of rights-of-way.

Sign - Any structure, device or representation that is designed or used to advertise, display or call attention to anything, person, business, activity, idea or place, whether for commercial or



noncommercial purposes. The size of the area of a sign shall be the surface area, and shall be considered to include all lettering or elements of a sign, accompanying designs and symbols, together with background, whether open or closed, on which they are displayed, but not including any supporting framework or bracing that is incidental to the sign and not designed to attract attention. Where the sign consists of letters, symbols, or devices affixed to the surface of a building, the area shall be measured by the smallest quadrangle which encloses the extreme limits of all the letters, symbols or devices. The area of one (1) side of the double-faced sign shall be regarded as the total area of the sign. "Sign" includes the term "attention getting device" which includes, but is not limited to, any streamer, banner, spinner, pennant, costumed character, light, balloon, continuous string of pennants, or fringe, or similar device or ornamentation used primarily for the purpose of attracting attention for promotion or advertising a business or commercial activity which is visible by the general public from any public right-of-way or public area.

Street - A public thoroughfare, highway, street, road or avenue, including the full width of its right-of-way, lawfully existing to the Town of New Hampton.

Structure – That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground. Structure includes but is not limited to a building, swimming pool, manufactured home, billboard, pier, wharf, septic system, parking space/parking lot and deck. Structure does not include a minor installation such as a fence six (6) feet high or less in height, a mailbox, or a flagpole. For setback purposes, moveable shelters erected for the sole purpose of storage and remaining for more than 14 days must meet setback regulations.

Substantial Improvement - means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Temporary Signs - Signage, that is portable by design or not permanently affixed to the structure. Temporary signs shall include, but are not limited to, signs that are readily moved from place to place by hand, or are mounted on wheels or a trailer.

Yard/Garage Sale - the sale of household goods from a dwelling, provided that no sales shall continue for more than 3 consecutive days, and there shall be no more than 3 sales held on the same property in any calendar year.

## **ADDENDUM TO THE TOWN OF NEW HAMPTON ZONING ORDINANCE**

### **New Hampshire Floodplain Development Ordinance For Communities with Special Flood Hazard Areas Meets the Minimum Requirements of Section 60.3(b) of the National Flood Insurance Program Regulations**

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Rate Maps dated April 2, 1986, which are declared to be a part of this ordinance and are hereby incorporated by reference.

#### **Item I**

Definition of Terms: The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of New Hampton.

"Area of Special Flood Hazard" is the land in the floodplain within the Town of New Hampton subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as Zone A.

"Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.

"Basement" means any area of a building having its floor subgrade on all sides.

"Building" - see "structure".

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

"FEMA " means the Federal Emergency Management Agency.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of New Hampton.

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

"Floodway" - see "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1) By an approved state program as determined by the Secretary of the Interior,

2) Directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.

"Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

"100-year flood" - see "base flood"

"Recreational vehicle" means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

"Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, A0, A1-30, AE, A99, AH, V0, V1-30, VE, V, M, or E. (See – "Area of Special Flood Hazard")

"Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Start of Construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

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

"Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or

improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

## **Item II.**

All proposed development in any special flood hazard areas shall require a permit and if necessary, shall require review by the Zoning Board of Adjustment.

## **Item III.**

The Board of Selectmen or designated agent shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

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

**Item IV.**

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Board of Selectmen or designated agent with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

**Item V.**

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Board of Selectmen or designated agent:

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

The Board of Selectmen or designated agent shall maintain for public inspection, and shall furnish such information upon request.

**Item VI.**

The Board of Selectmen or designated agent shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal, state law, or any municipal ordinances, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

**Item VII.**

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board Division of Water Resources of the New Hampshire Environmental Services Department and submit copies of such notification to the Board of Selectmen or designated agent, in addition to the copies required by the RSA 483-A:1b.

Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen or designated agent, including notice of all scheduled hearings before the Wetlands Board.

2. The applicant shall submit to the Board of Selectmen or designated agent, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. The Board of Selectmen or designated agent shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

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

### **Item VIII.**

1. In unnumbered A zones the Board of Selectmen or designated agent shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

2. The Board of Selectmen or designated agent's 100-year flood elevation determination will be used as criteria for requiring in zone A that:

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

b. that all new construction or substantial improvements of



non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:

(i) be floodproofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;

c. all manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

d. for all new Construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: (1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total

net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

e. recreational vehicles placed on sites within Zones A1, A1-30, AH, and AE shall either:

- (i) be on the site for fewer than 180 consecutive days,
- (ii) be fully licensed and ready for highway use, or
- (iii) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "Manufactured homes" in Paragraph (c) of Section 60.3.

### **Item IX.**

Variances and Appeals:

1. Any order, requirement, decision or determination of the Board of Selectmen or designated agent made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

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

(a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

(b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.

(c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases

risks to life and property. Such notification shall be maintained with a record of all variance actions.

4. The community shall (i) maintain a record of all variance actions, including their justification for their issuance, and (ii) report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ADOPTED: TOWN MEETING MARCH 1990

AMENDED: TOWN MEETING MARCH 1994

AMENDED: TOWN MEETING MARCH 2003